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11/3/2020
For Immediate release

Statement on The Riseling Group Report on the June 2nd Police Call

On June 2nd, the Monona Police Department (MPD) responded to a non-emergency call regarding a “suspicious person” at a residence reported to be vacant. During their response to the call, the MPD briefly handcuffed and detained an African American male, who was later determined to be there with the permission of the property’s tenant.

On June 15th, the Monona City Council committed to five specific action steps in response to the incident, including having the incident investigated by an independent, outside organization. The city council hired The Riseling Group from Madison, WI on July 20th to conduct an independent review of the incident and the police department’s response. The Riseling Group has now completed their review and released their final report to the city.

In the interest of full transparency, the city makes this report public, consistent with its earlier, prompt, public release of the body camera footage and other materials from the June 2nd incident. Personally identifying information has been redacted for privacy reasons.

The city and the MPD view this incident and corresponding Riseling Group report as an opportunity to improve our training, policies, and procedures, to ensure that all members of our community feel safe, valued, and protected. We intend to undertake an intensive review of the Riseling Report and incorporate their recommendations into our practices as appropriate.

To this end, the MPD staff and the city’s Public Safety Committee have already taken steps to update MPD policies regarding use of force and other areas to be consistent with Campaign Zero’s “8 Can’t Wait” Use of Force Policies and also incorporate policy recommendations from Legal Action Wisconsin, Inc. The city and MPD will continue to review and update its policies as appropriate.

POLICE DEPARTMENT
5211 Schluter Road
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COMMUNITY CENTER
1011 Nichols Road
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MONONA SENIOR CENTER
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FIRE DEPARTMENT
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Monona has also partnered with the Nehemiah Center for Urban Leadership to provide assistance in facilitating ongoing community conversations on issues of systematic racism and implicit bias as well as provide recommendations on an MPD training plan.

As the city is currently subject to litigation regarding this incident, we are unable to provide any additional statements or comments regarding the June 2nd incident or the Rising Group report at this time. However, as we continue to update our policies and procedures, we will make them publicly available on the city's website.

We have a high-quality police department, with committed professionals whom we support. We will use what we have learned since June 2nd to make structural changes for the betterment of the Monona community.

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The Riseling Group



Independent After-Action Review June 2, 2020 Incident

October 2020

Chief (retired) Susan Riseling
Assistant Chief (retired) Debra J. Hettrick
Deputy Secretary (retired) Deirdre A. Morgan

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EXECUTIVE SUMMARY

On June 2, 2020, the Monona Police Department received on its non-emergency line a resident's call asking the police to check on a person sitting on a stoop outside of a reportedly vacant home. An officer responded and eventually determined the owner had given permission to a couple and child to stay in the home for two months. The couple had an adult friend staying with them, although the owner was unaware of this.

The individual who was the subject of the police response and a neighbor raised questions about the way the call was handled. The City of Monona requested the situation be investigated, and hired The Riseling Group, LLC to conduct an after-action review of the response and assess the appropriateness of agency policies and training.

The complainant, owner, initial caller, and next-door neighbors declined to be interviewed by The Riseling Group, LLC for this review and investigation.

FINDINGS

1. The officers did not know the race of the individual until they confronted him in the living room of the home.

The investigation revealed the initial caller did state the race of the individual seen on the stoop, however neither the call taker nor the dispatcher ever informed the responding officers of the individual's race. Nor did the individual's race appear in the computer aided dispatch notes. Another next-door neighbor, who met the officer when he arrived did not mention the individual's race to the officer.

2. Exigent circumstances did not exist when the first officer opened the door to the home.

While checking the residence, the first officer turned the front doorknob and as a result the door cracked open, but no part of the interior was visible. At that time, the officer did not know anyone was in the home. While an unlocked door on a vacant home warrants greater investigation it does not create exigent circumstances. The officer then chose to open the door and 24 seconds later while awaiting back-up the officer heard someone talking inside the home. The officer did not have a warrant or consent to open the door.

3. The handcuffing of the individual inside the home was legal but not required.

The first officer stated he handcuffs all detained persons as a matter of practice. The courts have sided with the police on these matters. However, as a matter of policy and practice "always" handcuffing should be revisited. In this case in particular, the individual was respectful and compliant, and provided the officer with the homeowner's information right away. The second officer cordially recognized the individual. There was very little chance the individual could have escaped from the officer's presence.

4. The officers were polite, professional, and apologized for the misunderstanding.

The two officers that entered the home were professional in their tone and efficient in their actions. Both officers apologized for the misunderstanding. They allowed the individual to return to a bedroom to locate an item without following him. The second officer had a conversation with the individual that was friendly and at times avuncular.

5. Both officers that entered the home are experienced veterans.

The first officer has 11 years of experience with the Monona Police Department. The second officer has 13 years of experience with Monona. Both have letters of praise in their personnel files. The first officer also has military experience and has served as a police instructor. The second officer is usually assigned to the Monona Grove School District as a school resource officer. The second officer has exceptional interpersonal skills.

6. The Department policies are out of date.

The Department policies are four to five years old. The Department purchased policies and then tweaked the documents to better fit the organization. Better model policies are available that could help the agency incorporate best practices.

7. Prior to this incident the Department did not train in cultural competency, cultural awareness, inclusivity, preventing bias policing, or racial sensitivity.

Limited training courses touched on these topics and the department was not engaged in any related initiatives prior to the incident. While the first responding officer did have some exposure to this training, these topics require periodic refresher and repetition to be effective.

8. Many people who are subject to a traffic stop, cited or arrested in Monona list another city as their home.

Over sixty percent of the individuals cited or arrested in Monona show a home address outside of Monona. Therefore, it is difficult to make direct comparisons between arrest statistics and city population without a more extensive analysis of the data.

9. The leading cause of arrest in Monona is a warrant or a probation and parole violation.

These two categories comprise over 33 percent of all of Monona custodial arrests. Retail theft and shoplifting comprise over 11 percent.

INTRODUCTION

The City of Monona Wisconsin is located on the shores of Lake Monona, adjacent to the City of Madison. The city has a population of 7,921 (2020) and is 93.28 percent Caucasian (white), 1.89 Black, 1.96 Asian and 2.37 percent mixed race (5.1 percent are Hispanic and are included in the previous statistics).¹ The city operates the Monona Police Department (MOPD), which is staffed with 14 officers, 1 detective, 1 detective sergeant, 2 patrol sergeants and 3 command staff. The department has one court clerk. While the department does have a communications center with 5 full-time and 3 part-time dispatchers, it does not operate a public safety answering point (PSAP), also known as a 911 center. 911 calls are routed to the Dane County 911 Center. All 911 calls go to Dane County Communications and are then relayed to MOPD dispatchers. The Monona dispatchers answer calls made to the department's non-emergency line, which is publicized throughout the city.

On June 2, 2020, a "check person" call was received for 5111 Arrowhead Drive. The caller saw an African American male sitting on the front stoop of the house that she believed should have been vacant. Ultimately four officers responded to the call and detained the male who was inside the residence, handcuffing him for a brief period. After listening to the man's explanation and verifying it with another neighbor, the officers left the residence. About an hour later the owner of the house confirmed to officers that people were staying in the residence, although he noted he did not give the individual detained permission to be there. The owner did acknowledge that the authorized person may have given permission.

The actions of the neighbor who reported the initial observation to the police, the police officers themselves and the actions they took, and the owner of the property's actions all came into question immediately following the incident.

The City of Monona contracted with The Riseling Group, LLC (TRG) to investigate the incident, the policies, training and procedures related to the incident. The investigation should determine if policy was followed and if those policies follow state-of-the-art practices.

¹ www.areavibes.com/monona-wi/demographics

PROJECT DESIGN AND METHODS

The Riseling Group (TRG) conducted ten interviews with members of the Monona police department, two interviews with neighbors and one interview with a Madison College Culture Competency instructor. Mr. Keonte Furdge (the compliant), Toren Young (resident of 5111 Arrowhead), Mark Rundle (homeowner), Rory Lipke (resident of 5109 Arrowhead), and Raquel Schaaf (frequent guest at 5109 Arrowhead) declined to be interviewed. Information within this report related to these five individuals who declined to be interviewed was found through existing documents related to the case. TRG also spoke briefly to the attorney representing Mr. Furdge requesting that his client speak with us.

In addition to the interviews, TRG reviewed the following items:

- all police reports filed for this incident
- all body worn camera footage from the incident
- department policies involving use of force, search and seizure, bias based policing, arrest procedures, and mobile audio/video recording equipment
- random body camera footage from a week in May to see how officers Schneider, Wunsch and Wedig, involved in the June 2nd incident, responded to calls and interacted with individuals
- crime statistics, and the arrests summaries for January of 2020 to July of 2020
- use of force summaries for 2019 and 2020
- all training records of the officers involved and the department for bias-free, cultural awareness, diversity, sensitivity, inclusiveness, when they existed
- documents sent to Alder Goforth Schilling drafted by Mary Delany of the Legal Action of Wisconsin

The project report presents the findings and analysis of TRG. The report is organized into six sections:

SECTION ONE: This section of the report provides a verbatim account of the June 2 incident, drawing upon telephone calls, dispatch tapes, CAD messages, and body worn camera footage.

SECTION TWO: In this section, TRG provides an interpretation and analysis of the incident based on the transcripts and current standards of police practice.

SECTION THREE: This section is a summary and analysis of the complaint lodged by Mr. Furdge with the MPD.

SECTION FOUR: This section includes a review of body worn camera footage of incidents prior to June 2 for the two officers involved. In addition, the section includes an analysis of department-wide arrests and uses of force.

SECTION FIVE: This section focuses on department policies and the direction they provide to officers. The section includes recommendations.

SECTION SIX: This final section is a review of the basic, specialized, and in-service training received by MOPD officers including those who were involved in the incident. The section includes recommendations.

ACKNOWLEDGEMENTS

TRG would like to acknowledge Monona Police Chief Walter Ostrenga for his assistance with this after-action review. The chief was always available, expedited requests for documents, and was forthcoming in his opinions and assessments. He quickly helped with scheduling needs and facilitated having a WPPA representative present for the interviews of the officers.

We would also like to thank Mayor Mary O'Connor and Mr. Bryan Gadow for their leadership and availability to the team.

DISCLAIMER

This report is based on data made available to The Riseling Group, LLC (TRG). As noted above, key individuals involved in this incident declined to be interviewed. While we have made every attempt to ensure that the information contained in this report has been obtained from reliable sources, TRG is not responsible for any inaccuracies or omissions, or for the results obtained from the use of this information. TRG provides this report without warranty of any kind, express or implied, including, but not limited to warranties of performance, merchantability, and fitness for a purpose. The authors' opinions, findings, conclusions, and recommendations are intended solely for the use and benefit of the City of Monona Wisconsin. Nothing herein shall constitute legal advice or to any extent substitute for the independent investigations and the sound technical and business judgment of the City of Monona. In no event will TRG or its partners, affiliates, or agents be liable to the City of Monona, partners, affiliates, employees, or agents for any decision made or action taken in reliance on the information in this report or for any consequential, special, or similar damages. TRG is not responsible for any statements made or opinions expressed by individual members of the team outside of this report.

SECTION ONE

The Incident Timeline

Background

Mr. Richard Rundle passed away October 22, 2015. His wife, Marjorie Rundle passed away August 15, 2019. Prior to their deaths the Rundles lived together in their home at 5111 Arrowhead Drive in Monona, Wisconsin. Mr. Rundle had been a coach in several sports, most notably football (1962-89) at the local high school for years before his retirement. The Rundles have one son, Mark, and three daughters.²

At the time of his mother's death, Mark decided not to sell the property at 5111 Arrowhead right away, instead leaving it furnished but vacant.³ In the fall of 2019 while cleaning up the yard Rundle mentioned to neighbors Rory Lipke and Raquel Schaaf, at 5109, that the house would be vacant.⁴ Both Schaaf and Lipke believed Rundle asked them to call the police if they saw anything suspicious.⁵

(~May 30, 2020~) Three days before the June 2, 2020 incident, Carol Rubin, a neighbor across the street from the Rundle residence at 5112, saw Mark Rundle who informed her the house had been rented.⁶

May 30 - June 1, 2020: Toren Young and Keonte Furdge move into 5111 Arrowhead Drive.⁷

(~June 1~) Peter Litchfield, a neighbor at 5113 Arrowhead Drive, stated he had spoken with his new neighbors at 5111 Arrowhead (Mr. Toren Young and his girlfriend as well as Mr. Keonte Furdge) before the June 2nd incident. Prior to the incident Mr. Rundle had never asked Mr. Litchfield to call the police if he saw anything suspicious.⁸

June 2, 2020

June 2, 2020 was a sunny day with average June temperatures for Monona. At the time of the incident Ms. Carol Rubin (5112 Arrowhead) was home on her porch. She was awaiting a window contractor. Ms. Rubin saw a young man sitting on the front stoop at 5111 speaking on his phone. She described him as wearing flip flops, tank top and shorts. She exchanged waves with him from across the street.⁹ Shortly after she waved, the contractor arrived and the two discussed the work needing to be done.

Mr. Litchfield was not at home (5113 Arrowhead) at the time of the incident.¹⁰

Time of the Call 10:52 a.m.

Ms. Raquel Schaaf,¹¹ a frequent overnight guest at 5109 was backing out of the driveway on her way

2 Madison eobits

3 Interview with Rory Lipke June 2, 2020

4 Bomkamp supplement report #8 of Schaaf 6/8/2020, Losby supplement report of Lipke 6/15/2020, Reynolds supplement report of Rundle 6/8/2020

5 Bomkamp sup report of Schaaf 6/8/2020 and Losby sup report of Lipke 6/15/2020

6 TRG interview of Rubin 9/4/2020

7 Wiegel report of Young's complaint 6/2/2020, BWC Wedig – Furdge stating he moved-in June 1, 2020

8 TRG phone call with Litchfield 9/2/2020

9 Losby sup report of Rubin 6/9/2020 TRG interview of Rubin 9/4/2020

10 TRG phone call with Litchfield 9/2/2020

11 Schaaf was emphatic about stating she was a Latina and understood discrimination and strongly stated she called police because of Rundle's instructions, not because the individual she saw was an African-American. Bomkamp Recording of Schaaf 6/8/2020

to her residence when she noticed an African American male sitting on the front stoop of the house at 5111 Arrowhead Drive. She thought that was odd as she believed the house to be vacant, and the screen door and the wooden front door were closed. She recalled being told by the owner, if she saw anything suspicious, she should notify the police. She did so via her cell phone by calling the non-emergency number of the MOPD.¹²

Ms. Schaaf's call was answered by Detective Lieutenant Sara Deuman. Detective Lt. Deuman was covering dispatch at the time the call came in. She reported to TRG that citizens call the non-emergency number knowing it is answered 24/7 and the call comes in directly to the MOPD. Calling directly to MOPD is often faster for residents. Lt. Deuman reported the caller (Schaaf) had an accent and was difficult to understand. The caller relayed that she lives [part-time] at 5109 Arrowhead, was on her way to her home when she saw someone sitting on the steps of the neighbor's house at 5111 Arrowhead; the caller said the house should be vacant as the owner had died and no one was living there. The caller described the person as an African American male, and provided a clothing description, that Lt. Deuman was unable to understand due to the caller's accent. Lt. Deuman confirmed the identity of the caller through Caller ID and began entering information into the Department's call log in the computer aided dispatch system. She went back to the recording to review the description when Dispatcher Katie Dahm entered the area and saw and heard Lt. Deuman listening to the call.¹³

Dispatcher Dahm was early for her 11 am shift but brought herself up to speed as soon as she entered and realized something was going on. Dispatcher Dahm picked up bits and pieces of what was happening, began to voice dispatch directions and information, while Lt. Deuman was reviewing the recording of the call.¹⁴

This portion of the report includes transcribed communications between the dispatch center and responding officers. Communications include electronic text messages to officers' in-car computers (CAD), and voice radio transmissions between officers and dispatchers (radio):

CAD 10:51.25 typed into computer and transmitted to the police cars: Resident at 5109 advising that she saw someone sitting on the front step at 5111 Arrowhead. Caller thinks this is suspicious because the neighbor passed away and the house is vacant.

CAD 10:51.34 Would like an officer [sic] to check on the subject

It is important to draw attention to the CAD message "the neighbor passed away and the house is [emphasis added] vacant."

Radio 10:52.37 Dispatcher Katie Dahm (Dahm hereafter) – "33" (33 is Officer Wedig's call number)

Officer Jared Wedig – "33 Go ahead"

Dahm – "Instead of Ferchland check person do you want to head over to 5111 Arrowhead Drive. There's a resident at 5109 advising she saw someone sitting on the front steps of 5111. Caller thinks this is suspicious because the house may be vacant."

Wedig 33 – "Copy. Did you clear the Ferchland one then?"

Dahm – "Negative. I'll just re-assign you."

Wedig 33 – "Copy. I'll go to Arrowhead first."

¹² Bomkamp Recording of Schaaf 6/8/2020

¹³ Transcript of call June 2, 2020, TRG interview with Deuman 9/3/2020

¹⁴ TRG Interview with Deuman 9/3/2020, and interview with Dahm 9/3/2020

Dahm – “10-4”

In her interview on 9/3/2020 Dispatcher Dahm stated she did not know the race of the person in question when she voice-dispatched the information. In fact, she did not have any description of the subject at that point. All that she knew, she stated on the radio.¹⁵ It is important to draw attention to the transmission of Dahm as it differs from the CAD notes which state that the house is vacant: “caller thinks this is suspicious because the house may be vacant.”

Things continue:

Officer Kevin Schneider 31 – “Go ahead and clear Ferchland as beat info now.”

Dahm – “31 can you 10-9?” (repeat what was stated)

Schneider 31 – “Clear Ferchland as beat info but I’ll swing down that way and take a gander.”

On June 2nd, Officer Schneider was on a call regarding a citizen falling off a bike. When he completed that call, he went to the high school and was at the high school when the call came in on Arrowhead Drive.¹⁶

Dahm – “10-4”

Radio 10:58.27

Wedig 33 – “I’m 10-23.” (on scene)

Dahm – “Copy 33.”

Officer Wedig arrives at 5111 Arrowhead Drive.

Body Worn Camera 11:00.52 (hereafter BWC) Officer Wedig (33) is out of his car (his foot is visible on the ground). He has contact with Rory Lipke, (Lipke) the neighbor to the north. Some words can be seen coming from Mr. Lipke, but the camera’s audio is off. He encounters neighbor Rory Lipke in Lipke’s driveway at 5109 Arrowhead Drive. The two speak for approximately two minutes.

Officer Wedig does not turn on his body worn camera audio (BWC) when talking with Lipke. He admits this when asked by TRG and says he should have activated it.¹⁷

At this point Ms. Carol Rubin across the street is dealing with the window contractor and does not see or hear the interaction of Officer Wedig and Mr. Lipke.¹⁸

While speaking to Mr. Lipke, Officer Wedig establishes that Lipke was not the original caller, but the original caller was Lipke’s girlfriend. Mr. Lipke explained to Officer Wedig the residence at 5111 had been vacant for approximately a year since the owners had passed away. The owner’s son maintains the property. Officer Wedig inquired whether the person could be a realtor. Mr. Lipke stated the home wasn’t for sale. Mr. Lipke describes the male who had been sitting on the stoop as 6-foot tall, wearing gray sweatpants and a blue sweatshirt. Mr. Lipke did not know where the subject went. Mr. Lipke stated that a black car left the premises earlier that morning and believed it to be a Pontiac Grand Am.¹⁹

Later when asked directly by Sgt. Losby if Mr. Lipke had mentioned the race of the subject to Officer Wedig, Mr. Lipke stated he did not.²⁰

¹⁵ TRG interview with Dahm 9/3/2020

¹⁶ TRG interview with Schneider 9/1/2020

¹⁷ TRG interview with Wedig 9/1/2020

¹⁸ TRG interview with Carol Rubin 9/4/2020

¹⁹ Wedig police report MO20-05110

²⁰ Losby sup report of Lipke 6/15/20

As Officer Wedig leaves Mr. Lipke in the driveway of 5109, Wedig heads across the front lawn of 5111 Arrowhead. The body worn camera system is recording at all times, however the video and audio are only retained once a button has been activated on the unit by the officer or the squad car's emergency lights or siren are activated.²¹ When activated the recording captures the previous thirty seconds of video but no audio. While Officer Wedig did not activate the audio on his camera until he finished speaking with Mr. Lipke and he is on the stoop of 5111, the last few seconds of his interaction with Lipke were silently captured, along with his walk to the house.

BWC 11:01.05 The home at 5111 Arrowhead has two sets of casement windows in the front of the house. Both sets of windows are closed and intact; there is no sign of forced entry in the front of the house. Officer Wedig approaches an intact large picture window on the front of the house and leans against it to see inside. The BWC captures an orderly furnished living environment, styled with traditional furniture. He does not see anyone inside. He walks a few steps to his left, climbs the one step to the front stoop of the house. The porch light is on and illuminated.

Officer Wedig notes there is no car in the driveway.²²

BWC 11:01.18 At this point the audio on the BWC is still not on.

Officer Wedig opens the storm door (he does not knock or ring the doorbell) and tries the handle on the main door. He finds it unlocked and cracks the door an inch but does not open the main door.

It should be noted the CAD times, Radio times are not synchronized with the Body Worn Camera unit times.

Radio 11:01:32

Wedig 33 – “I got an open door.”

Dahm – “Copy. Open door. 11:01.”

It is important to note Officer Wedig stating he had an open door, not an unlocked door. At the time he radios this, he has barely cracked open the main door to the house.

BWC 11:01.24 Wedig turns on the audio on his camera and opens the inner door.

BWC 11:01.26 Wedig says in a loud voice, “police department”

There is a blanket tossed over the edge of a living room chair and there are lights on in the kitchen area. No one is visible. There are framed photographs just inside the door. All the photographs are of Caucasian individuals.

CAD 11:01:32 MO6886 (This # is Dispatcher Katie Dahm) 8533 - Open door at 11:01

BWC 11:01.35 Wedig asks, “Anyone here?”

Wedig stands on the stoop at the door for 24 seconds, while standing there he transmits over the radio.

Radio

Wedig “31 (Schneider) are you close?”

BWC 11:01.48 Wedig remains outside the house, in the doorway. From the inside, a voice is heard saying, “What the fuck are you looking at? Stop looking at me.” Remainder is “unintelligible.”

²¹ TRG interview with Chief Ostrenga 8/27/2020

²² TRG interview with Wedig 9/1/20

BWC 11:01.52 Wedig asks, "You wanna come out here?" "What's that?"

BWC 11:01.56 Wedig is still outside the door and the person inside says something unintelligible then, "I don't know what the motherfuck you're saying." Then some singing can be heard. No person is visible.

Radio 11:02.03

Wedig – "Whoever's close come here. We got someone inside the house."

School Resource Officer PO Luke Wunsch (22 hereafter) – "Copy." {*Wunsch is reassigned to patrol because COVID has closed the school system where he is normally posted.*}

At this point Officer Wunsch leaves headquarters and heads to 5111 Arrowhead. Within seconds Lt. Curtis Wiegel leaves his office at headquarters and heads out to serve as back up.²³ When asked if this was a normal thing for the Lt. to leave his office to back up a call, he said it was not, but when he heard Officer Wedig had an open door, he thought it was important for him to respond. He noted the location was close to headquarters and he felt he could get there quickly.²⁴ Officer Schneider noted Officer Wunsch and Lt. Wiegel were headed to the scene. Schneider drove directly from the high school to Arrowhead Drive²⁵

Schneider 31 – {radios that he is headed to Arrowhead} "From the high school."

BWC 11:02.08 Rory Lipke is seen in his yard at 5109 Arrowhead, the north side of 5111, it appears that PO Wedig waves him off and says, "OK." Lipke can then be seen retreating to the north, across his own yard.

BWC 11:02.14 Wedig can be heard unholstering his weapon. Some singing can still be heard from inside the house and Wedig then points his weapon (at the low ready, meaning pointed low rather than straight on which is tactically correct) into the entrance of the house. Wedig still remains outside the house.

Once he heard someone inside a house that was supposed to be vacant, as he was alone awaiting back up, Wedig thought it prudent to draw his weapon and keep it at the low ready position. He was unsure if the person heard him and was being noncompliant, or whether the person simply had not heard the officer call out.²⁶

Dahm CAD 11:02:14 MO6886 8533 - Someone inside of the house.

Radio 11:03.08

Lt. Wiegel (Wiegel 03 hereafter) – "Jared, my computer's down. You on Arrowhead?"

Wedig 33 – "Affirm"

Dahm – "The address is 5111 Arrowhead Drive."

Wiegel 03 – "Copy."

BWC 11:03.31 Rory Lipke reappears, still in his own yard and Officer Wedig waves him off three additional times. Wedig whispers or mouths to Mr. Lipke "Go inside" at least twice. Loud singing can be heard from inside the house. No person has yet been visible.

Radio 11:04.41

²³ TRG interviews Wunsch 9/1 and Wiegel 9/3/2020

²⁴ TRG interview Wiegel 9/3/2020

²⁵ TRG interview Schneider 9/1/2020

²⁶ TRG interview with Wedig 9/1/2020

Wunsch 22 – “I’m out.” (Meaning Officer Wunsch is on scene at 5111 Arrowhead.)

Dahm – “Copy, 23” (meaning 10-23, arrived on scene.)

Reminder for the reader: radio and BWC times are not synchronized.

BWC 11:04.43 A second marked squad car can be seen arriving and parks in front of 5109 Arrowhead (Lipke residence). Ofc. Wunsch exits the marked car and Wedig motions for him to come to his location near the front door.

BWC 11:04.56 A third car, an unmarked squad car, arrives and parks directly behind Wunsch’s vehicle in front of 5109 Arrowhead.

*Wunsch noticed as he approaches that Wedig has his weapon out. Wunsch also took note of the large picture window and felt vulnerable, so he unsnapped his holster.*²⁷

BWC 11:05.04 Wunsch approaches from the north and as he steps into the yard at 5111 Arrowhead, he removes his weapon from the holster, but holds it facing down to the ground.

Radio 11:05.07

Wiegel 03 – “03 I’m on the scene.”

Dahm – “Copy 03, 10-23 (arrived on scene).”

BWC 11:05.12 Lt. Wiegel exits his vehicle.

*It is approximately at this time when the neighbor, Ms. Carol Rubin across the street notices the police cars and becomes concerned for her new neighbor.*²⁸

BWC 11:05.17 Wunsch asks Wedig if he wants Lt. Wiegel to go around back and they both motion him to go to the back of the residence at 5111 Arrowhead. Lt. Wiegel can be seen walking down the driveway to the rear of the house and he has no weapon drawn.

BWC 11:05.19 Wunsch reaches the door and Wedig whispers to him, “The owners died, so it should be vacant, but he’s in the back, I can hear him talking”.

BWC 11:05.23 [The next sentences could not be completely understood.] Wedig whispers to Wunsch, “Do you want one of us to go...” Wunsch shakes his head and motions toward the door, says, “We’ll both...” Wedig then whispers, “Right now, I can hear him talking to himself.” Wunsch then makes the radio transmission below.

Radio 11:05.37

Wunsch 22 – “22 We’re making entry from the front.”

Dahm – “Copy making entry at 11:05 is affirm.”

*At the same time, Lt. Wiegel was getting into position toward the back of the house. He had unsnapped his holster and he had his hand on the weapon which remained in the holster. As he heard on the radio that the two officers were entering the front, he noticed an open window. He saw the window screen intact and deduced it was not forced open or the screen would not be in place. He doesn’t communicate this to the other officers as they are already making entry.*²⁹

²⁷ TRG interview with Wunsch 9/1/2020

²⁸ TRG interview with Carol Rubin 9/4/2020

²⁹ TRG interview with Wiegel 9/3/2020

BWC 11:05.41 Wedig whispers, “Ready?” and the two officers begin to enter the house directly into the living room. As they enter neither officer knocks, rings the doorbell, or announces himself.

BWC 11:05.50 Wedig enters first with his gun at the ready (pointed straight out, two-handed grip), then switches to a one-handed grip. Wunsch enters with his gun at his side, pointed at the floor (in just his right hand). Wunsch silently guides the screen door shut.

CAD 11:05.51 MO6886 8522 – Making entry from the front @ 11:05

BWC 11:05.57 Officer Wedig moves toward the kitchen at the back of the house to look in, but never leaves the living room, his gun now is in both hands at the ready. Wedig sees no one in the kitchen. Officer Wunsch moves a few steps into the living room but remains closest to the front door. Wunsch’s gun is at the ready now but pointed slightly down. Both guns are pointed toward the darkened hallway on the opposite side of the living room. Both officers are standing straight up. There is a china cabinet or hutch along the living room wall that leads to the kitchen. This is a few feet from Wedig’s position. Wedig blades his body alongside the narrow portion of the cabinet. Wunsch is standing behind a chair but is completely exposed from the waist up to his head.

BWC 11:05.58 Wedig whispers to Wunsch, “I’ll make announcements” and then says in a loud voice, “police department, come out with your hands up.” Both officers remain standing.

BWC 11:06.04 A voice from the west rear of the home says, “Huh?” Wedig repeats, “Come out with your hands up.” A person responds, “OK.”

Radio 11:06.06

Schneider 31 – “31’s out.” (meaning Schneider has arrived on scene)

Neighbor Lipke approaches Officer Schneider as he exits his vehicle. Mr. Lipke tells Officer Schneider, “Some guy is in there and I think he doesn’t want to come out.” Officer Schneider notes he did not hear raised voices coming from the house.³⁰

Neighbor Carol Rubin is crossing the street and according to her, she speaks with “the second officer” Schneider. (Officer Schneider was the fourth officer on scene.) She tells him that the man inside the house is renting it and is allowed to be there.³¹

Dahm – “Copy 31 10-23 (arrived on scene)”

Schneider spoke briefly with Ms. Rubin and headed for the house to assist the other officers. His weapon remained holstered and untouched. He never felt any threat or reason to touch or draw his weapon.³²

Meanwhile back in the house...

BWC 11:06.13 The man later identified as Mr. Keonte Furdge enters the room with his hands in the air.

BWC 11:06.15 Wedig says, “Keep walkin’ here. Who else is here?” Mr. Furdge responds, “This is me.”

BWC 11:06.18 Wedig responds, “Okay, okay, come on out here.” Furdge proceeds further into the living room with his arms up, palms up, elbows bent position. Both officers still have their guns in two-handed grips; Wedig’s pointed straight out at Mr. Furdge, Wunsch’s in the direction of Mr. Furdge, but slightly lowered (it had remained that way since he first stepped away from the front door). Both officers remain standing.

³⁰ Schneider report of 6/2/2020

³¹ TRG interview of Carol Rundle 9/4/20

³² TRG interview of Schneider 9/1/2020

BWC 11:06.20 Wunsch says, "You don't live here," in a question-like tone.

Mr. Furdge: "My coach's house, coach Rundle."

Officer Wedig: "OK."

Mr. Furdge: "He let me and Toren stay here. You can call and ask him."

BWC 11:06.25 Wedig says, "Okay, go ahead and just, for right now, go ahead and just turn around and put your hands behind your back."

BWC 11:06.29 As Mr. Furdge begins to turn around, Officer Wunsch asks, "Is it Keonte?" Mr. Furdge replies, "Yes, it's Keonte."

BWC 11:06.31 Mr. Furdge is wearing tank top and sweatpants and Wedig does not pat him down. Wedig says, "OK, put your hands behind your back for a second, we're just going to detain you." Furdge does as he is asked and puts his hands behind his back. Wedig re-holsters his weapon and the handcuff container on Wedig's duty belt can be heard opening.

BWC 11:06.34 At this time, Officer Wunsch also holsters his weapon.

BWC 11:06.36 Mr. Furdge asks, "What am I being detained though?" Wunsch answers, "Because you don't live here and the person who lived here passed away. So..."

BWC: 11:06.40 As Officer Wedig is putting on the handcuffs, Mr. Furdge says, "That's okay. I think you gotta call coach Rundle."

Officer Wedig: "That's what we're gonna do."

Officer Wunsch: "We'll deal with that. Nobody else is here, Keonte?"

Mr. Furdge responds, "No, Toren's gone."

BWC 11:06.47 At this time the cuffs are still being applied and Mr. Furdge asks Wedig, "Can you loosen the cuffs a little, my wrists?" Officer Wedig responds, "Yeah, hold on a second. Is that better?" Mr. Furdge responds, "Yeah."

Radio 11:06.49

Wunsch 22 – "22 we got one detained. We're 10-2 (everything is OK)."

Dahm – "Copy one detained at 11:06."

BWC 11:06.51 Mr. Furdge turns around and Wedig begins to explain why they are there. Wedig says, "This is the reason why we're here. Someone called because they...". Mr. Furdge says, "I know, I know. Cuz I'm a black man and it's that lady right there (nodding his head in the direction of Carol Rubin's house across the street, 5112 Arrowhead), even though she waved at me."

BWC 11:07.00 Officer Wedig begins, "That wasn't who..." and Officer Wunsch interrupts, "It was because the person that lived here passed." Mr. Furdge replies, "Okay." At the same time, Ofc. Schneider (31) can be seen entering the front door.

CAD 11:07.02 MO6886 1 detained @ 11:06

BWC 11:07.03 Wedig says, "They were concerned that it got broken into or something. So..." Mr. Furdge scoffs and then dismissively laughs.

BWC 11:07.10 Wedig says, "So we'll.... Do you know...Do you have a phone with his number in it, that

we can call him?" Mr. Furdge responds, "Yes, I do." Wedig says, "Mark?"

BWC 11:07.12 Schneider (31) asks, "Mark Rundle?" Wedig asks, "Do you know him?" Schneider responds, "Yeah."

BWC 11:07.16 Schneider says, "She just... the lady across the street just said that you're living here for like two months or something like that?"

BWC 11:07.20 Furdge responds, "Yes."

BWC 11:07.21 Wedig says, "Someone else..." Wunsch says, "She wasn't the one that called."

BWC 11:07.23 Wedig says, "Another neighbor called, said you should not be here." Schneider says, "Yeah."

BWC 11:07.27 Wunsch says "I know who he is, you can take 'em off," (meaning the handcuffs) pointing toward Furdge. Wedig then says, "Yeah, turn and I'm gonna take 'em off for you quick."

BWC 11:07.29 Furdge turns so Wedig can remove the handcuffs, Wedig says to everyone, "We'll go grab your phone and get on the phone with Mark, okay?" Schneider says, "I'll give him a call." Wedig replies, "Oh, you got his number?" Schneider says, "Yes."

BWC 11:07.40 Wedig begins to remove the handcuffs. As he is uncuffing him, Wedig says, "So a neighbor called, a different neighbor, not her, and said that nobody should be in this house."

BWC 11:07.45 Wunsch asks, "You still working, Keonte?" Furdge responds, "Yeah." Wunsch says, "Were you, are you still, you were at Covance the last time I talked to you."

BWC 11:07.49 Furdge replies, "I'm a welder for Sub Zero now." Wunsch says, "Welder, good for you." Wedig says, "Oh nice, that's a good job over there."

BWC 11:07.59 Wedig, removing the last handcuff, asks, "What shift are you?" Furdge replies, "First, I'm on vacation, we just started back up, I took vacation."

BWC 11:08.02 Wedig says, "Oh they got, you guys have got, you guys, they have you guys laid off too for a while for this stuff or what?" Furdge responds, "Yeah."

While this is occurring Schneider heads back to his car to try to contact Coach Mark Rundle. He calls a friend who has the coach's number.³³

BWC 11:08.06 Wedig asks Wunsch, "Do you have his info, or..." Wunsch replies, "I got it from the school records, but you can just grab it from him."

BWC 11:08.14 Wedig asks, "Do you have any ID by chance?" Furdge responds, "No, I was in the other room." Wedig asks, "Do you want to grab it quick? And then come back out." Neither officer accompanies Furdge into the back bedroom.

Officer Wunsch and Wedig both allowed Keonte to go to the back bedroom unaccompanied. Tactically this is unusual but fits with the situation they encountered. They believed Keonte did not have a weapon on him, he was cooperative, calm, and had articulated a believable reason why he was in the home.³⁴

BWC 11:08.26 While they are waiting, Wunsch asks Wedig, "Was this Rundle's mom that was living here?" Wedig replies, "Yeah, mom and dad. I asked if it was up for sale, but he's like, 'No, they're holding on to it' (believed he is referring to his earlier conversation with Lipke), so, he's a coach?"

³³ TRG interview with Schneider 9/1/2020

³⁴ TRG interview with Wedig 9/1/2020 and TRG interview with Wunsch 9/1/2020

BWC 11:08.40 Wunsch says, "Coach Rundle, yeah, he's like the offensive line coach or something for varsity football. It's named, the field is named after his dad." Wedig says, "Oh, okay."

BWC 11:08.56 Wunsch says in a loud voice, "Keonte, if you can't find it, it's not a big deal, man." Furdge replies, "Yeah, I left it in Toren's car." Wunsch says, "That's all right, I've got your info in records."

BWC 11:09:07 Furdge returns from the back room. During all the following conversation, Furdge is standing in the middle of the living room, Wunsch is standing in the entrance way to the house, behind a chair, between it and the north wall and Wedig remains in the area of the south wall. Wunsch asks, "You got a, what's a phone number for ya?"

BWC 11:09.09 Furdge replies, "[REDACTED]." Wunsch begins to remove his notebook from his pocket, and then says, "Okay and repeats [REDACTED]." Furdge continues, "[REDACTED]." Wunsch repeats as he's writing in his notebook, "[REDACTED]." Furdge continues, "[REDACTED]." Wunsch repeats, "[REDACTED], okay."

BWC 11:09.21 Wedig says, "We'll let Mark, or tell Mark, to let his neighbors know that what is it, you and one other person that's stayin' here?" Furdge replies, "Toren." Wunsch says, "Toren Young."

BWC 11:09.28 Wedig continues, "That you guys are stayin' here, so they don't call in and do this again, okay? Furdge responds, "All right."

BWC 11:09.34 Wedig asks, "So, um, you guys have a vehicle or no?" Furdge replies, "Toren's have a vehicle." Wedig asks, "What vehicle is it?" Furdge replies, "Toren have a Ford Focus, not a Ford Taurus."

BWC 11:09.45 Wedig asks, "What color, do you know?" Furdge responds, "It's black." Wedig says, "Okay, so I'll let them know what vehicle, so they know what vehicle's gonna be here and stuff, so this crap doesn't happen again cuz I don't want to put you through it again." Furdge responds, "Yeah."

BWC 11:09.55 Wedig continues, "But yeah, he said that, that nobody should be here and such, so there's a... Mark must notta told him that you guys were stayin' here and he was concerned."

BWC 11:10.06 Wedig says, "When I opened the door, and I could hear you talking [Wedig laughs]. Furdge says, "Yeah, I was on the phone." Wedig says, "Back on your cell, okay, we just gotta wait for Officer Schneider to get ahold of Mark quick and then we'll get outta here for ya."

BWC 11:10.15 Wunsch says, "Do you wanna go talk to Kevin?" as he looks towards Schneider's squad car on the other side of the street. Wedig responds, "Yeah, I'll go talk to Kevin quick, that's fine."

While Officer Wedig leaves the house, Officer Wunsch stayed with Mr. Furdge and they have a conversation. Relevant portions are below. To hear a complete version view Wunsch BWC.

Wunsch BWC 11:10:22 Wunsch states: "Sorry man, not what you want to be goin' through, especially with all this... not what we want to be goin' through either." Mr. Furdge responds: "Right."

Immediately following that Officer Wunsch talks to Mr. Furdge about a picture on social media of Keonte with a gun. Furdge informs Wunsch he has a license for the gun. Wunsch tells Furdge that it is good he has the license. Wunsch cautions Mr. Furdge that pictures on social media might have unintended consequences. The rest of the conversation was a series of small talk. For details of the conversation, view and listen to the BWC of Officer Wunsch.³⁵

Meanwhile

BWC 11:10.34 As Wedig walks toward Officer Schneider's vehicle, Rory Lipke can be seen in his front

³⁵ TRG interview with Wunsch 9/1/2020, BWC Wunsch 6/2/2020

yard, with his cell phone to his ear. Officer Wedig asks, "Are you on with Mark?" Lipke replies, "No" and Wedig responds, "Ok."

BWC 11:10.39 Wedig exits the home and as Wedig approaches Schneider's vehicle, he turns the microphone off on his body worn camera.

Officer Schneider had believed he had Coach Rundle's number, but he did not. Schneider was attempting to call a friend who knew Coach Rundle and asked him for the number. Schneider then tried Rundle but did not receive an answer. Schneider then gave the number to Wedig.³⁶

BWC 11:11.53 Wedig turns from Schneider's squad, begins to walk across the street toward Lipke, who is still in his front yard, and turns the audio for his body worn camera back on. Wedig asks Lipke, "Do you have, you got Mark's number?" Lipke replies, looking at his phone, "No, I should."

BWC 11:12.02 Lipke says, "I don't. I know, um..." pointing to the south. Wedig says, "He's got it, I just didn't know if you had it, that maybe he'll answer your phone since ours usually are blocked or unknown." Lipke says, "Ah Pete uh..." Wedig says, "We've got it, he just called him and left a voicemail."

BWC 11:12.18 At this time, Lt. Curtis Wiegel appears from behind 5111 Arrowhead Drive, where he had been watching the rear of the home. Wedig says, "We're good, Curt".

Earlier in the incident, Lt. Wiegel had been sent to the back of the house to watch in case of an attempted escape, as the other officers made entry, had heard the officers had one in custody but had never heard the all clear transmission (there wasn't one). Eventually seeing Wedig out front and having waited over ten minutes, he walked back toward the front yard.³⁷

BWC 11:12.20 Wedig says, "So we're just trying to verify, but it sounds like, um..." Lipke says, "He's a football player that he gave permission to. That's what the neighbor was tellin' me," and points in the direction of Carol Rubin's house.

BWC 11:12.27 Wiegel can be seen emerging from the rear of the home at 5111 Arrowhead and walking toward the street in the driveway of 5109. He says, "Mark gave two guys permission to stay here so there's a black Ford Focus or something that the other guy drives, so they been staying for like two months."

BWC 11:12.38 Lipke says, "They have?" Wedig says, "Yeah." Lipke says, "They been keepin' a low profile, cuz..." Wedig says, "Yeah, just for future..." Lipke says, "Yeah, Mark should tell us."

BWC 11:12.44 Wedig says, "Yeah, my partner who's a sch... who's an SRO that works in the schools knows him, so, um, has verified him and stuff. We just want to verify him with Mark."

BWC 11:12.56 Lipke says, "Yeah, cuz the last time he, I was tellin' him, hey you gonna put the house on the market, no... unintelligible." Wedig interrupts, "Maybe that's part of it, is to let these guys get on their feet and stuff, so..." Lipke says, "Well it would have been helpful if he said, 'Oh by the way, I got two guys who're gonna be stayin' here."

BWC 11:13.07 Wedig says, "Yeah, I'm gonna, I'm gonna tell him too that there's, to maybe let other neighbors know so they don't call it in. Cuz I'm sure he knows, I'm assuming that his parents lived here for quite a, some time, so know everybody." Lipke says, "Yeah, before I did, and I been here twenty-four years."

BWC 11:13.23 Wedig says, "Yeah so hopefully he can let the other neighbors know that they're staying

³⁶ TRG interview with Schneider 9/1/20, TRG interview with Wedig 9/1/2020

³⁷ TRG interview with Wiegel 9/3/2020

here so we don't get called and this happen again, cuz he seemed kind of, pretty frightened with us, with our weapons out and stuff." Lipke says, "Considering what's going on right now?"

BWC 11:13.35 Wedig says, "Yeah, I agree, and we explained everything to him, and everything too, took him out of cuffs right away as soon as we found out who he was and what he was saying, and everything, everything lines up, we just want to verify with Mark is all. That's the biggest thing is all." Lipke says, "Okay, right."

BWC 11:13.49 Wedig says, "We'll get out of you guys' hair, so appreciate it." Lipke responds, "Yeah. If you need to get ahold of him and he's not answering, your calls, cuz it might be blocked, next door (pointing to the south) is Pete, and his car..." Wedig asks to himself, "What's Pete's last name?" Lipke asks to himself, "What's Pete's last name?" Wedig says, "Oh yeah, I know who you're talking about." Lipke says, "I can't think of his last name" and Wedig says, "Litchfield?" Lipke responds, "Yeah, Litchfield, right. Yeah, his dad used to be the mayor, way back when. Um, looks like he's home, too."

BWC 11:14.20 Wedig says, "Well, we'll just get ahold of Mark" and Lipke says, "I'm just saying if he's not answering." Wedig says, "I can just swing over to his house too. Appreciate it." Wedig then walks back south toward the house at 5111 Arrowhead Drive.

BWC 11:14.34 Wedig re-enters the house at 5111 Arrowhead Drive and remains near the front (east) door inside the living room. Wunsch and Furdge are both standing in the living room and Wunsch is heard talking to Furdge, just the last couple of words, "...all the other shenanigans." Furdge says, "Yeah."

BWC 11:14.37 Wedig says, "He didn't answer but..." Wunsch asks, "He didn't answer?" Wedig continues, "but sounds like the, another neighbor knows that you guys are here..." Wunsch says, "That would be like Mark to let both these guys stay here, too." Furdge says, "Yeah."

BWC 11:14.46 Wedig says, "Yeah, so it's a, it's a misunderstanding, he, I told him you've been staying here for two months, he's like, 'First time I ever seen you guys here', so..."

BWC 11:14.55 Furdge says, "So, so we are going to be staying here for two months..." Wedig says in a surprised voice, "Oh". Furdge continues, "We just started, yesterday, Toren brought his stuff in..."

BWC 11:15.01 Wedig says, "Oh crap, cuz I was going to say, otherwise, he's like, you guys flew under the radar for two months...". Wunsch says, "And they're both big black guys." Furdge says, "Yeah."

BWC 11:15.08 Wunsch continues, "So the neighbors over here..." Wedig says, "Yeah, it makes sense now, we get it. Sorry for the misunderstanding on our part..."

Wedig and Wunsch both acknowledged they understood the impact pointing a gun at someone can have. Wedig made this acknowledgement to Mr. Lipke at 11:13:23 when he was explaining to Lipke what had occurred in the house. Wedig apologizes to Mr. Furdge at 11:15:08. Officer Wunsch had apologized to Mr. Furdge at 11:10:22. Additionally, both officers mentioned they understood pointing their weapon at someone was a use of force, it was reported up their chain of command and they knew it would be reviewed by higher authorities. Wunsch said "It is a big deal. [to point his service weapon at someone], I don't like having to do it. If you look on my BWC you can see I re-holstered before the handcuffs were secured."³⁸

BWC 11:15.13 Furdge says, "It's all good." Wedig continues, "It's just, you know, we had to check it out and make sure because people do, are squatting in peoples' houses that are not here..." Furdge nods and says, "Yeah." Wedig continues, "...and been burglarizing them and whatever, so, so, but we'll get ahold of Mark, otherwise, you got Mark's number, just have him call us..."

³⁸ TRG interview of Wedig 9/1/2020, TRG interview of Wunsch 9/1/2020

BWC 11:15.30 Furdge says, "Yeah, I can try to reach him now, if y'all want me to" (pointing toward the rear of the house). Wedig says, "Yeah, why don't you do that, cuz my partner (pointing out toward the street) called and I don't know if he's not answering numbers he don't recognize." Furdge starts toward the back bedroom and says, "All right, just hold on a second." He is allowed to go to the back bedroom unaccompanied as Wedig says, "Yeah," and Wunsch says, "Go ahead."

Radio 11:15.39

Schneider 31 – "31 to 22."

Wunsch 22 – "Go ahead."

Schneider 31 – "Left a message for Mark and if you're satisfied everything's 10-2 (OK), we can be good."

Wunsch 22– "Yeah, we're just going to have Mr. Furdge try him once here, then we'll clear. So, if you want to head out, you can."

Schneider 31 – "Copy."

BWC 11:15.51 Mr. Furdge emerges from the back bedroom carrying and looking at his phone. While Mr. Furdge is trying his phone, Wunsch says to Wedig, "You probably remember Toren". Wedig asks, "Toren?" Wunsch replies, "Toren Young. Yeah, used to be a star running back for MG football." Furdge is still working on his phone. Wedig says, "That's why the name sounds familiar."

BWC 11:16.16 Wunsch says, "Plays for the Iowa Hawkeyes now." Wedig says, "Yes." Wunsch continues, "Well, used to, I guess he graduated now."

BWC 11:16.24 Furdge's phone can be heard ringing on speakerphone. Wedig asks a question about the draft and Wunsch replies, "Well everybody did, got screwed up with all the draft stuff this year." Wedig says, "Oh he just graduated," and Wunsch replies, "Yeah, he just graduated, so he's training." Furdge's phone continues to ring in an attempt to reach coach Rundle.

BWC 11:16.37 Furdge is still on the phone and Wunsch says, "He's trying again." Wedig says, "Boy it's warm out." Wunsch says to Furdge, "Not a big deal, Keonte." Furdge says, smiling, "Geez, yeah he's..."; looking at the phone. Wedig says, "That's fine." Furdge is smiling.

BWC 11:16.45 Wunsch says, "We'll get out of your hair, man. (Then smiling) ...sorry to ruffle your feathers this morning." Furdge says, "Ah, that's cool, that's cool." Both Furdge and Wunsch are smiling and laughing.

The neighbor Carol Rubin was not present in the house at any point during this incident. However, after watching the officer's video that was posted on-line, she complained that Wunsch's statement about "We'll get out of your hair, man. Sorry to ruffle your feathers this morning." She claimed this was offensive to "a Black man."³⁹ Prior to this line being said, Wunsch had sympathized with Keonte on two occasions within 15 minutes. This was the third attempt at acknowledging their actions had been disruptive and frightening. When asked about this, Wunsch thought this statement was conversational as a lighter way to conclude what had been a tense situation. He used two cliches that he thought were in keeping with the lighter mood of his small talk with Keonte that had just occurred.⁴⁰

BWC 11:16.53 Wunsch says, pointing at Furdge, who is smiling, "So, all right now, you keep working out, stay healthy." Furdge says, "I will." Wunsch continues, "Tell Toren Officer Luke says hi."

39 Losby interview of Rubin 6/9/2020, TRG interview 9/4/2020

40 TRG interview with Wunsch 9/1/2020

BWC 11:16.56 Furdge replies, "I will. You have a nice one." Wunsch turns to go out the door from the living room. Wedig says, "Good luck with Sub Zero, man, that's a good company." Furdge replies, "Thank you." Wedig says, "It was good talking to ya, see ya," and Wedig's body camera is turned toward the door as Wunsch exits the door.

BWC 11:17.02 As they exit the door, Wedig says, "I'll go talk to the neighbor again, just to let him know."

BWC 11:17.07 As Wedig walks toward Rory Lipke's home at 5109 Arrowhead, and Wunsch toward his vehicle, Wedig turns off the audio on his body worn camera.

This ends Officer Wunsch's involvement in the case.

BWC 11:17.20 Wedig knocks on the storm door of 5109 Arrowhead, turns his audio back on and gets his notebook and pen out. Lipke comes to the door, opens the storm door and Wedig asks, "Do you mind if I step in for a second?" Lipke says, "Yeah, come on in." Wedig steps in.

BWC 11:17.31 Wedig says, "So, I just wanna clarify with you real quick. So, they, we talked to him, but they started yesterday and they're gonna be living there for two months". Lipke responds, "Oh, they started yesterday." Wedig says, "So just so you know..." Lipke continues, "I was gonna say, I don't think he's been living there two months." Wedig says, "He actually said he's living there for two months, so we just misinterpreted it." Lipke replies, "Oh, so two months from now, or yesterday."

Radio 11:17.36

03 – "03 I'm 10-8." (clear from the call)

D – "Copy 10-8."

BWC 11:17.51 Wedig asks, "So can I just get your name real quick?" Lipke replies, "Yeah, Rory, R-o-r-y". Wedig asks, "Middle initial or not?" Lipke replies, "R," then, "Lipke, L-i-p-k-e." Wedig says, "And, date of birth." Lipke replies, "██████". Wedig says, "Phone number for ya." [personal information withheld] Lipke asks, "And you're..." Wedig says, "Officer Wedig," and Lipke says, "Yeah."

BWC 11:18.08 Wedig say, "Yeah, but so Keonte tried calling. Got [unintelligible], couldn't get ahold of him, here, so, we'll just keep working on, working on, um, getting ahold of him or whatever. We already left him a message and stuff, but, um, we'll see what happens." Lipke says, "Alright."

BWC 11:18.30 Lipke says, "Thanks a lot," and elbow-bumps Wedig. Wedig says, "Appreciate it," and Lipke says, "Yeah." Wedig then says to the dog, who is blocking the door, "Hey, bud, can I scoot past you?" Wedig reaches his hand out to the dog and says, "Probably smell all my dogs, dontcha?" The dog continues to stay in front of Wedig and he says, "Okay, excuse me."

BWC 11:18.43 Lipke says, "Ok, well, thanks for the quick response." Wedig says, "Yeah, no problem." Lipke says, "De-escalated the situation." Wedig says, "Yeah, we had a chit-chat with him and de-escalated because he, um, because he, you know, kind of was a little frightened and stuff..." Lipke says, "Oh, yeah." Wedig says, "And with the stuff going on too..." Lipke says, "Oh yeah." Wedig says, "Luckily" and hesitates, then Lipke says, "Nobody over-reacted."

BWC 11:19.08 Wedig says, "No, um, I just waited for my partner cuz I could hear him talking in the house and I didn't want to go alone. It's just easier, my partner knew him from high school, I guess he was a football player and, uh, the other gentleman was a star and actually played for, oh, what was it? The Buckeyes or something? Or Iowa Hawkeyes?" Lipke says, "Yeah." Wedig continues, "And was one of their star running backs? So, he's the other guy, and there'll be a black Ford Focus, I think. So, you'll see 'em and stuff like that, so. Okay?"

BWC 11:19.43 Lipke says, “Yup.” Wedig says, “Take care, man,” as he is leaving the home at 5109 Arrowhead and Lipke says, “Yes,” and Wedig closes the door behind him.

BWC 11:19.51 After Wedig leaves the home, he turns off the audio on his body worn camera and the recording ends.

CAD 11:20:58 MO6886 8522 Keonte D. Furdge [personal information withheld]

Radio 11:21.22

Wunsch – “22.”

Dahm – “22.”

Wunsch 22 – “The subject that was detained was released. 33 is gonna add some more from us and we’ll be 10-8.” (clear from the call)

Dahm – “10-4.”

CAD 11:21.41 MO6886 Detained subject released @ 11:21

CAD 11:22.04 8533 17: Rory R. Lipke [personal information withheld]

CAD 11:24.12 8533 Mark A. Rundle [personal information withheld]

Radio 11:24.22

Wedig – “33.”

Dahm – “33.”

Wedig 33 – “10-8 (clear from the call) with a short report.”

Later on, June 2nd, the owner, Mr. Mark Rundle, called and spoke with Ofc. Wedig. In the conversation Mr. Rundle advised Wedig that permission was granted to Toren Young to stay and according to Wedig’s report, Rundle said Keonte must have gotten permission from Toren to stay. He went on to tell Wedig that Toren and Keonte had a close friendship.⁴¹

⁴¹ Wedig report MO20—5110, TRG interview with Wedig 9/1/2020

SECTION TWO

Analysis of the Incident

Dispatch Response

Immediately after the call was completed with Schaaf, Lt. Deuman referred back to the recording of the initial call to gain information that she initially could not understand. Her actions were in keeping with best practice to ensure she had the correct details.

Dispatcher Dahm's early arrival at work, getting herself up to speed and handling radio traffic while the Lieutenant was getting more detail was in keeping with best practice.

Dispatcher Dahm's redirecting officers from lower priority calls to the "check person" call was in keeping with best practices.

Dispatcher Dahm's keeping tabs on the call and repeating verbally the important transmissions is in keeping with best practices.

Patrol Response

Officer Wedig's approach by car to the call and speaking with Rory Lipke upon his arrival is standard procedure. Not turning on his BWC audio system to record the Lipke conversation was a violation of the Department's BWC.⁴² Wedig took responsibility for this minor infraction during his interview.

Wedig's approach to the property was standard procedure. There were no signs of forced entry to the front of the house, and the front porch light was illuminated which is unusual for a house vacant for over nine months, on a bright sunny day at 11 a.m. Wedig noted there was no car in the driveway. Wedig turned the doorknob, found it was unlocked and this action cracked the door slightly. Visually looking and trying doorknobs is standard patrol practice.

Wedig's radio transmission of an "open door" versus an "unlocked door" (although the two terms are often interchangeable in common conversation), has a different meaning to dispatchers and police officers. For example, Lt. Wiegel stated what prompted him to respond from his desk was the term "open door." He made a point of this distinction in his interview,⁴³ although neither the Lieutenant nor Officer Wunsch started their response to 5111 Arrowhead until a minute later when it was known there was someone inside.

Wedig's transmission does not specifically request backup, although it is inferred when he asked if officer Schneider is close.

Instead of continuing to walk the perimeter of the house to see if there were any signs of forced entry, in his interview Wedig said it is his practice to not continue to search once he has an open door, rather he stays there to secure it.⁴⁴

Instead of knocking on the door, using the doorbell or just remaining on the stoop of the house while waiting for backup, directing the dispatcher to contact the owner, or backing away from the door and out into the yard gaining some distance while still keeping the door under observation, Wedig chose to open the door further. This action potentially placed him at personal greater risk, would legally require a warrant but for exigent circumstances, and does not conform with best practices.

Once the door is open, the officer violated MOPD policy 1.11 I.A – which states in part "... searches of

⁴² Mobile Audio/Video Recording Equipment 9.03 D.7(d)

⁴³ TRG interview with Wiegel 9/3/2020

⁴⁴ Ibid

persons, places and things will be accomplished in a manner that provides protection of constitutional rights, minimizes intrusion..." Opening a door into a residence is akin to entry.

The officer stated that he believed he was authorized to open the door without a warrant because there were exigent circumstances to justify entry.⁴⁵

Entering the Home without a Warrant

In our analysis the officer was not justified by exigent circumstances to open an unlocked door to gain access into a private residence without a warrant or consent during the investigation of potential criminal activity.

In accordance with the Fourth Amendment of the U.S. Constitution and Article I, Section 11 of the Wisconsin Constitution, it is the right of the people to be secure in their persons, houses, papers and effects against unreasonable search and seizures.⁴⁶ As such, warrantless searches of home are presumptively unreasonable.⁴⁷

Probable Cause

In order to protect persons against unnecessary invasions into their private homes, there must be **probable cause** to support every search or seizure in order to "safeguard the privacy and security of individuals against arbitrary invasions by government officials." Typically, a court will evaluate the existence of probable cause objectively, concerned with whether law enforcement acted reasonably. Probable cause requires only a probability or substantial chance of criminal activity, not an actual showing of such activity, which means that at times, innocent behavior may be the basis for a showing of probable cause.

A determination of probable cause also requires consideration of the totality of the circumstances.⁴⁸ "Probable cause to arrest is the quantum of evidence within the arresting officer's knowledge at the time of the arrest which would lead a reasonable police officer to believe that the defendant probably committed or was committing a crime."⁴⁹ Like reasonable suspicion, probable cause is an objective standard that is based upon the information available to the officer. *State v. Kutz*, 267 Wis. 2d 531, 671 N.W.2d 660.

The following facts were known to the officers at the time they initiated their investigation into the alleged criminal activity:

- a. Original report indicates that there is a suspicious person on the front stoop of a home that "is" or "may" be vacant because the owners are deceased.
- b. Upon arrival to the scene, officer receives additional information from next door neighbor that the house is vacant (reporting party knew this because the owner's son had notified him of this) and that the owner's son had asked the neighbors to report any observed suspicious behavior or activity at the home.
- c. Officers obtain a detailed description of the person who had been seen sitting on the front stoop from the reporting party and the neighbor (who had received this information secondhand from the reporting party).
- d. Neighbor also reported an unknown black car that had been seen leaving the vacant home earlier.

⁴⁵ TRG interview with Wedig 9/1/20

⁴⁶ U.S. Const. amend IV; Wisconsin. Const. art. 1, Section 11.

⁴⁷ *Welsh v. Wisconsin*, 466 U.S. 740 (1972).

⁴⁸ *State v. Lange*, 317 Wis. 2d 383 (2009).

⁴⁹ *State v. Secrist*, 224 Wis. 2d 201 (1999).

- e. When the officer looked into the window of the vacant home, he saw furniture placed in a way that indicated the house was furnished (which could have been the furniture left from the deceased owners or their son).

Based on these factors, a court of law would likely find that the officers had probable cause to justify an investigation. In other words, there was a probability or substantial chance of criminal activity. Probable cause does not require actual criminal activity.

Exigent Circumstances

In addition to probable cause, a warrant is required for police to enter a person's private residence for the purpose of a search or an arrest. A search or seizure carried out on the suspect's premises without a warrant is per se unreasonable unless the police can show the presence of exigent circumstances.⁵⁰ It is the government's burden to demonstrate **exigent circumstances** to overcome the presumption of unreasonableness.⁵¹

Per the doctrine of exigent circumstances, there are special circumstances, when there is an urgent need coupled with insufficient time to obtain a warrant. Under such circumstances, it would be unrealistic and contrary to public policy to bar law enforcement officials at the doorstep." It is the state that bears the burden to show that a warrantless entry is both supported by probable cause and justified by exigent circumstances to overcome the presumption of unreasonableness.

According to both U.S. Supreme Court and Wisconsin court decisions in the interpretation of the Fourth Amendment of the U.S. Constitution as well as the Wisconsin Constitution, Article 1, Section 11, exigent circumstances exist when there are special circumstances of an urgent nature along with insufficient time to obtain a warrant which make it unrealistic and contrary to public policy to prevent the police from entering a residence.

Courts have consistently identified four factors that constitute the exigent circumstances required for a warrantless entry: an arrest made in "hot pursuit"; a threat to the safety of a suspect or others; a risk that evidence would be destroyed; or a likelihood that the suspect would flee.⁵² Another way that courts have described these necessary factors include whether the officer reasonably believes that a delay in procuring a warrant would gravely endanger life or risk destruction of evidence or greatly enhance the likelihood of the suspect's escape.⁵³

A court will balance the urgency of a police officer's need to enter against the time needed to obtain a warrant.

The existence of exigent circumstances justifying the warrantless entry into a home turns on considerations of reasonableness and involves an objective test:

Whether a police officer under the circumstances known to the officer at the time of entry reasonably believes that delay in procuring a warrant would gravely endanger life or risk destruction of evidence or greatly enhance the likelihood of the suspect's escape. Smith, 131 Wis.2d at 230, 388 N.W.2d 601.

In considering whether a warrantless entry is justified by exigent circumstances, the U.S. Supreme Court also has considered whether the underlying offense is a jailable or non-jailable offense. As in most Fourth Amendment cases, courts are hesitant to set a bright-line rule, but rather, will examine each case

50 Payton v. New York, 445 U.S. 573 (1980); Coolidge v. New Hampshire, 403 U.S. 443 (1971).

51 Welsh v. Wisconsin, 466 U.S. 740 (1984).

52 State v. Richter, 235 Wis.2d 524 (2000); State v. Smith, 131 Wis.2d 220 (1986).

53 State v. Smith, 131 Wis.2d 220 (1986).

under its particular facts and circumstances.

The U.S. Supreme Court has also held that the extent to which the police are permitted to rely on exigent circumstances for a warrantless entry of a home has a relationship to the seriousness of the offense. If the underlying offense for which probable cause rests is for a minor offense (jailable vs. non-jailable sentence), the “reasonableness” of a warrantless search is lessened.⁵⁴ As the United States Supreme Court explained in *Welsh*, where “the underlying offense for which there is probable cause to arrest is relatively minor,” courts should be very hesitant to find exigent circumstances.

Application of court rulings to case at hand

In the case at hand, the investigation involved a report of an unknown and suspicious person who was on the front stoop of a home that had been reported as being vacant, which could potentially be criminal activity such as trespass or a burglary in progress. The officers had probable cause to be at the scene to investigate whether criminal activity had or was occurring. The following information was available to the officer prior to the time in which entry was made into the home without a warrant:

- a. There was credible information that the house was owned by a deceased couple and it was supposed to be vacant.
- b. A person unknown to the reporting party had been seen sitting on the front stoop of the house earlier in the day and an unknown vehicle had been seen leaving the driveway of the house recently.
- c. The front door was unlocked even though the house was supposed to be vacant.
- d. There had been a burglary of a local business the night before and there had been daytime burglaries in the past.
- e. The house contained personal items in the home, such as furniture, that could be taken during criminal activity (trespass and burglary).

Applying the facts at hand to the controlling court decisions, there is one potential basis under which a court of law might find that exigent circumstances existed in this case in order to justify a warrantless entry into the home - **the prevention of the destruction of evidence.**⁵⁵

At the time the officer made entry into the home (which occurred when the officer turned the knob of the unlocked front door and pushed it slightly open), the only information available at the time was generally that a suspicious person had been seen at the home which was reported as being vacant early in the daytime. Such factors would support a belief that criminal activity in the form of trespass may be occurring.

As far as a reasonable belief that a warrantless entry was necessary in order to prevent the destruction of evidence, the officer did not know whether there was a person inside the home until he had already entered the home (by turning the knob of the unlocked door and pushing it open slightly). If the officer

⁵⁴ As the United States Supreme Court explained in *Welsh v. Wisconsin*, where “the underlying offense for which there is probable cause to arrest is relatively minor,” courts should be very hesitant to find exigent circumstances. *Welsh v. Wisconsin*, 466 U.S. 740. That is, when the government’s interest is only to arrest for a minor offense, ... the government usually should be allowed to make such arrest only with a warrant issued upon probable cause by a neutral and detached magistrate. *Id.* At 750. The rationale for this holding is that the general presumption that police conduct accompanied by probable cause is reasonable is lessened when the underlying offense is minor. *Id.* at 750.

⁵⁵ Courts have generally found exigent circumstances to exist in cases where there is credible evidence of illegal drug activity in the home in question which could easily result in the destruction of the drugs if the officers do not move quickly to search and premises, or the officers are aware that a known suspect is in the home and will likely flee.

had discovered a person inside the house prior to his entry (pushing the door slightly open), it might be reasonable for an objective officer to believe that a burglary may be in progress and therefore, create a reasonable belief that evidence of a crime would be destroyed if the officer delayed further investigation until a warrant was obtained. In this case the officer did not have those specific facts at the time they made entry and therefore, a court of law would likely hold that the officers did not have exigent circumstances to enter the home at the time the officer turned the knob of the unlocked door and pushed it slightly open.

Further, based on the actions of the officer and the information known at the time of entry, there was a lack of urgency in this matter to overcome the home occupant's protections under the Fourth Amendment. This conclusion is based on the fact that upon hearing a person inside the house through the opened doorway, the officer retreated from the doorway to obtain police backup, directed an officer to go to the back of the house to secure the back entryway in case a person attempted to flee, and had sufficient information to attempt to contact the person who was known to be in control of the home (the son of the deceased owners). The house was secured by police surveillance, there was no known threat to life or property nor a risk that a person could in fact flee without being seen by police.

As such, there is insufficient evidence to support the belief that there was criminal activity of a nature that would create a reasonable belief that evidence would be destroyed if a delay occurred to obtain a warrant nor was there an urgency at hand that would result in the destruction of evidence if the officer took the time to procure a warrant to enter the home. Therefore, the officer was not justified by exigent circumstances to open the unlocked door to gain access into the private residence without a warrant during the investigation of potential criminal activity.

If the officer had knocked first and announced himself before turning the knob and pushing the door open, and then, heard the loud voice that seemed to be confrontational in nature, and the subject did not respond to the officer by coming to the doorway, the Court's ruling in *State v. Robinson* might have justified the officer's warrantless entry at that point because the officer now knew that there was a person inside what was supposed to be a vacant home and the person was not responding to the officer. However, the officer did not hear any voices inside until after he pushed the door slightly open, thereby officially entering the home without a warrant.

The announcement and entry

Wedig verbally announced himself, "police department" and asks, "anybody here?" Again, he did not knock or ring the doorbell. Knocking and announcing is standard practice in law enforcement and doing it more than once is a best practice.

From his vantage point he could see lights on in the kitchen area toward the back of the house and a blanket tossed over the back of a chair. There is silence for twenty-four seconds.

In his interview, he said he was aware of an overnight burglary of a business in Monona and he had responded to residential burglaries before in his career.⁵⁶ He also recalled a case in which a home was broken into in the City of Madison and the owner was forced at gun point to accompany the assailant to a bank in Monona to withdraw money. Wedig stated he did not know if someone might be a hostage inside.⁵⁷ Wedig's analysis of the situation progresses from a person sitting on a stoop call, to vacant house possibly being burglarized, to a possible hostage situation in a matter of minutes. While Wedig should be commended for thinking through possible scenarios, it is important that his actions be guided more by the facts of the specific situation.

⁵⁶ TRG interview of Wedig 9/1/2020

⁵⁷ Ibid

Wedig then heard someone in the house talking, then singing. He attempted to verbally engage the person and radioed “anyone close” to respond as he has someone in the house. It is at this point that he drew his weapon and held it in a low ready position which is tactically correct.

Wedig maintained some situational awareness at this time, visually directing with his left arm and hand, and mouthing to Lipke to return to his home and not to remain outside. Keeping the welfare of others in mind is a best practice.

When Officer Wunsch arrives, he approached the house with a very different understanding of the circumstances than Wedig had when he arrived. Wunsch was told the house was supposed to be vacant by Wedig (Wunsch would find Wedig to be a credible source). Wunsch saw an open door but had no idea that Wedig opened it. Wunsch sees Wedig has drawn his weapon.

When Lt. Wiegel arrived, he was directed by Wedig’s arm motions to go around to the back of the house. Before Wiegel can fully check out the back of the house, he noted an open window with the screen intact on the side of the house. He never went as far as the back yard before the officers made entry. He did not share his open window observation as he heard over the radio that the officers were entering the house.⁵⁸

Wunsch radioed they were making entry, but both Wedig and Wunsch failed to check with Wiegel to ensure he is in place and that he didn’t encounter anything as he made his way to cover the back of the house. It is not tactically sound to enter unless and until all officers are in place and they have communicated any concerns or developments that would change the calculus before entry.

Both officers entered the front of the house without knocking or announcing. While Wedig had verbally announced himself once, that had occurred over four minutes earlier. It is standard practice in law enforcement to knock and verbally announce. Best practice is to do this continuously upon entry into a residence under these circumstances. To enter a home silently as these officers did is not a current standard of practice.

The drawing of firearms by both officers, given the manner they entered, is standard practice. Seeking concealment as Wedig does is a smart tactic. Wunsch keeps his weapon at the ready position and keeps the weapon pointed in a downward direction for most of the encounter. Wunsch also has in front of him a low buffer area of the upholstered chair, giving him more space between himself and the darkened hallway where logically he is assuming the individual will be coming out.

The body language and motions of Mr. Furdge are slow, calm, cooperative, and submissive. He immediately states the owner’s name, “Rundle,” which Lipke had told to Wedig in the driveway a few minutes earlier. Wedig stated in his interview Furdge didn’t look like he was dressed to be committing a burglary. However, Wedig placed Furdge in handcuffs because he was detaining him. Wedig stated in his interview he always places detained people in handcuffs.

The use of handcuffs during an investigation is considered a seizure under the Fourth Amendment of the U.S. Constitution. Whether that seizure is considered reasonable and thereby lawful under the Fourth Amendment is determined by whether the police officer had probable cause to investigate the activity that leads to the temporary detention of a person while the investigation occurs.⁵⁹ Such detention and use of handcuffs have been found to be reasonable under the Fourth Amendment as long as the officer had a legitimate interest based on articulable facts to support the detention, such as preventing flight if incriminating evidence is found and/or in minimizing the risk of harm to the officer.⁶⁰

58 TRG interview of Wiegel 9/3/20

59 Adams v. Williams, 407 U.S. 143 (1972).

60 Michigan v. Summer, 452 U.S. 692 (1981); Ybarra v. Illinois, 444 U.S. 85(1979); State v. Vorburger, 255 Wis. 2d 537 (2002).

In the case at hand, the officers were on the scene in response to a report of a suspicious person sitting on the front stoop of a home that was known to be vacant. Upon further inquiry of the facts, there was a possibility that criminal activity may be occurring at the home. Therefore, as already determined above, the officers had probable cause to be conducting the investigation, but again, not to enter the home. Once inside the home, the officers continued their investigation. When they found the subject inside the home, they engaged in an investigatory detention of the subject by placing the subject in handcuffs for a brief period. As soon as the officers had information from a neighbor that the subject had the authority to be in the home, the officers removed the handcuffs from the subject.

In this case, when the officers encountered Mr. Furdge, two officers were present, both possessed service weapons and electronic control devices, and there was an officer securing the back of the house. Based on these facts, the situation did not automatically require the use of handcuffs. It created an unnecessary seizure under the circumstances and was likely humiliating for the person being handcuffed. .

Once the handcuffs were removed the officers involved made reasonable attempts to contact the owner, apologized to Mr. Furdge, explained their actions, shared their frustration with the situation and made suggestions to prevent this situation from reoccurring. Wedig also explained the situation to the neighbor (Lipke) who had provided some of the initial information.

SECTION THREE

Keonte Furdge Complaint

Later on, June 2, 2020, Mr. Keonte Furdge, accompanied by Mr. Toren Young, went to the Monona Police department to file a complaint. They were interviewed by Lt. Wiegel who wrote up the complaint for Mr. Furdge. Mr. Furdge never signed the actual complaint. TRG requested to speak to Mr. Furdge as part of our investigation, but Mr. Furdge through his attorney, declined to speak with us. Therefore, we are basing our findings on Lt. Wiegel's version of Keonte's complaints. The numerical excerpts are taken directly from Wiegel's write up.

1. Several officers surrounded his home, for a call of a suspicious black male sitting on the front step of his house in his pajamas on the phone at 11 a.m. and to think that is how a burglar would behave is ridiculous.
 - a. Mr. Furdge is correct, a neighbor did call the police and report an African American male sitting on the front step of the house just before 11 a.m. Although hard to understand, she did describe the clothing.
 - b. The initial dispatch of the call was not made by the call taker. In the dispatches to officers the race of the person is not mentioned, nor is the clothing.
 - c. In the call notes, the race of the person is not mentioned.
 - d. The call was initially a check persons call, not a suspicious person call. Later that day the dispatcher changed the type of call from check to suspicious.
 - e. Mr. Furdge is correct, eventually four officers responded to the house. One went toward the back of the house, two entered the front door. One came following entry, spoke briefly to neighbors and then entered the house to explain what the neighbors had told him.
 - f. A burglar sitting on the front stoop would be unusual, however the initial call was for a check person on the stoop at a house that was believed to be vacant.
2. "Officers entered his home, when doors were closed and did not have a warrant."
 - a. Mr. Furdge is correct.
3. "He (Furdge) did not hear the Officers knock or announce until they were already inside his home, and the doorbell is quite loud, so clearly it was not used."
 - a. There is no evidence to suggest Mr. Furdge heard Officer Wedig when Wedig called into the home while Wedig stood on the stoop.
 - b. The officers did not knock.
 - c. The officers did not ring the doorbell.
4. "He (Furdge) was called out of his bedroom by two Officers inside his home, with guns pointed at him."
 - a. Mr. Furdge is correct.
5. "He (Furdge) was handcuffed unnecessarily, with two pair, inside his home."
 - a. Mr. Furdge was handcuffed, with one pair of handcuffs inside his home.
 - b. The handcuffing of Mr. Furdge, while a regular practice for Officer Wedig, is optional in this situation. Mr. Furdge was cooperative, wearing flip flops, identified the homeowner's name with an offer to contact the owner, and was recognized by Officer Wunsch.
6. "He (Furdge) was handcuffed even though an Officer was told by a neighbor that he lived there."

- a. The information from Ms. Schaaf and Mr. Lipke was that the house was vacant. This information is what was available to the officers inside the home at the time of the handcuffing.
 - b. Ms. Rubin did tell Officer Schneider that Mr. Furdge had permission to be inside the home. When Schneider learned this, he went immediately inside and informed Wedig. Upon hearing the information Wedig removed the handcuffs.
7. "Officers did not check with the homeowner prior to making entry, taking someone else's word that a black male did not belong there."
 - a. The officers did not check with the homeowner before making entry into house.
 - b. The officers did take direction from the dispatcher, who never mentioned the race of the check person.
 - c. The officer did take the information from the next-door neighbor. That neighbor never mentioned the race of the male.
8. "That it took a white neighbor to verify he belonged there before he was believed."
 - a. Ms. Schaaf (the caller) is Latina, Mr. Lipke is white, Ms. Rubin is white, and the owner Mr. Rundle is white.

SECTION FOUR

CONTEXT

Incidents happen in a context. This situation is no different. TRG reviewed a sampling of BWC footage from the two officers involved to see if there is any pattern to how the officers treat people of different demographics. TRG also reviewed all the use of force cases January 1, 2019 to July 1, 2020. TRG reviewed the arrest statistics and crime statistics for this same period as well.

Police Calls Summary May 15-31, 2020 as Viewed on Body Worn Camera

Ofc. Jared Wedig

TRG reviewed Ofc. Jared Wedig's body worn camera footage of seven (7) incidents in which he was involved during the month of May 2020. These calls included two (2) reported domestic disturbances, a threats call, a traffic accident, two (2) traffic stops, and a call regarding suspected prostitution.

The calls included contact with both men and women of various ages. They also involved people of color and a developmentally disabled person. In each case, the person contacted was upset, some exceedingly so and, in each case, the person was treated with respect and dignity. Ofc. Wedig was calm, patient, friendly, and helpful in all situations.

Ofc. Luke Wunsch

TRG reviewed Ofc. Luke Wunsch's body worn camera footage of eight (8) incidents in which he was involved during the month of May 2020. These calls included a call for a person reportedly running a business out of his home, theft from vehicle that included credit card fraud, two (2) calls for warrants (one looking for a person with a warrant and one on a traffic stop with the driver having a warrant), a domestic dispute, a photo identification line-up, an accident, and a dog complaint.

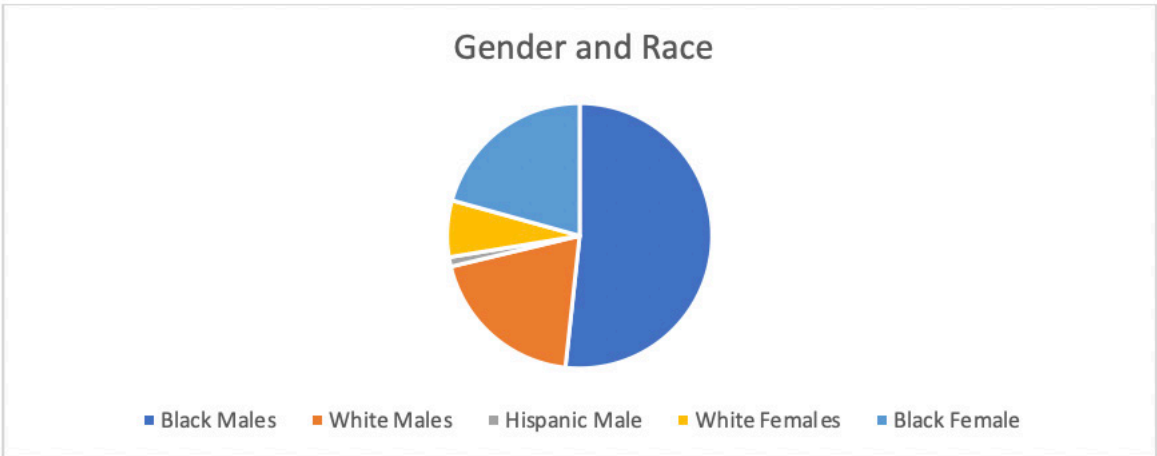
The calls included contact with both men and women of various ages. They also involved people of color, a person with dementia and anger issues, and another person who was admittedly struggling with mental health issues. In three (3) of the cases, the person contacted was upset and, in each case, the person was treated with respect and dignity. Ofc. Wunsch was calm, patient, friendly, and helpful in all situations.

Department-wide Use of Force January 1, 2019 to July 1, 2020

In the policing profession, placing handcuffs on someone who is compliant should be noted in the officer's report. Additionally, handcuffing a compliant person does not trigger a separate use of force report. During the period of January 1, 2019 to July 1, 2020, TRG found ninety-six (96) incidents of use of force above the level of compliant handcuffing. Vehicle pursuits were responsible for 53 of the 96 incidents. Of the 53 vehicle pursuits, 38 were terminated before gender and race were known (or reported). The 38 terminated pursuits have been removed from the analysis so the remaining 58 incidents can be deciphered.

Some of the 58 incidents involved more than one person, so the total of people impacted totaled 87: 45 Black males, 18 Black females, 17 White males, 6 White females and 1 Hispanic male.

Nineteen of the cases involved retail theft, often at Walmart, and were responded to at the request of the business.



There was one case in which a Black male suspect fired shots. The police did not discharge their firearms in any of these instances. The police drew and pointed their firearms 15 times, pointed their tasers nine times, pointed a firearm and a taser at suspect(s) twice and tased four people. There was one case in which a White male suspect had a knife, another where a White male suspect had a razor blade. There were two other instances where Black male suspects had handguns. Two of the instances when officers pointed their firearms involved Black females, the remaining were males. Four Black males were tased.

In the incidents reviewed by TRG, the proportion of Black males subject to use of force (more than 50%) is far higher than the percentage of the Black population of Monona. Without knowing whether these 58 incidents are representative of all encounters, and without knowing the racial composition of individuals in all police encounters, it is difficult to draw firm conclusions about bias.

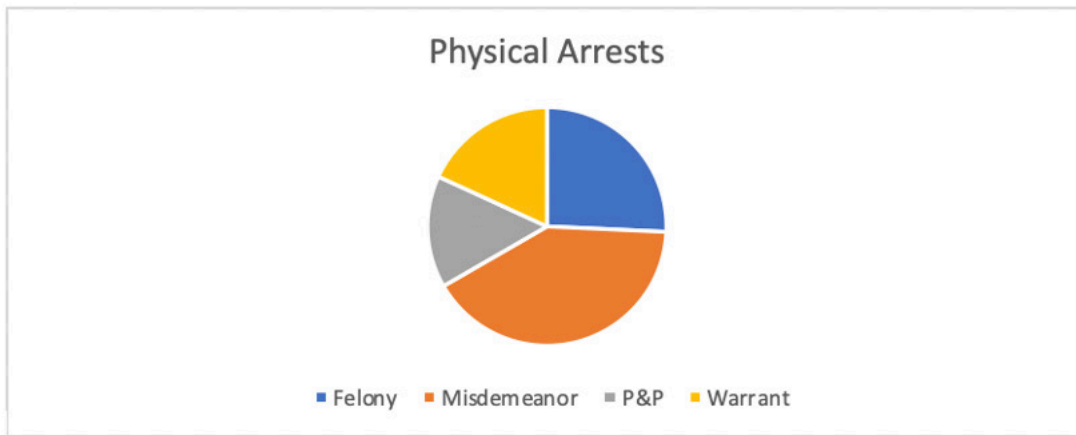
One of the key factors in assessing bias in policing is how people are treated once their race is known to police. If a behavior, for example driving 15 m.p.h. over the speed limit, is an offense for which an officer will write a citation—does the officer cite regardless of the race of the individual speeding? Or are Whites ticketed less often than people of color? This after-action review was not intended to conduct an analysis of officers’ motivations and thought processes. Throughout the nation, such reviews are occurring far more often than was once the case. This analysis can be time-consuming and costly. However, a less expensive and less time-consuming option would be random sampling of traffic stops, arrests and other citations offers to gain better insight to the issue of bias.

Arrests, Traffic Citations and Traffic Warnings

TRG reviewed arrest, traffic citation and traffic warning data from January 1, 2020 to August 1, 2020. Before presenting the findings, it is useful to understand how these situations begin. There are two types of call origination—officer-initiated, and citizen-initiated. Typically arrests result from a citizen-initiated call (80%), while traffic citations and warning actions are officer-initiated actions (84%).⁶¹

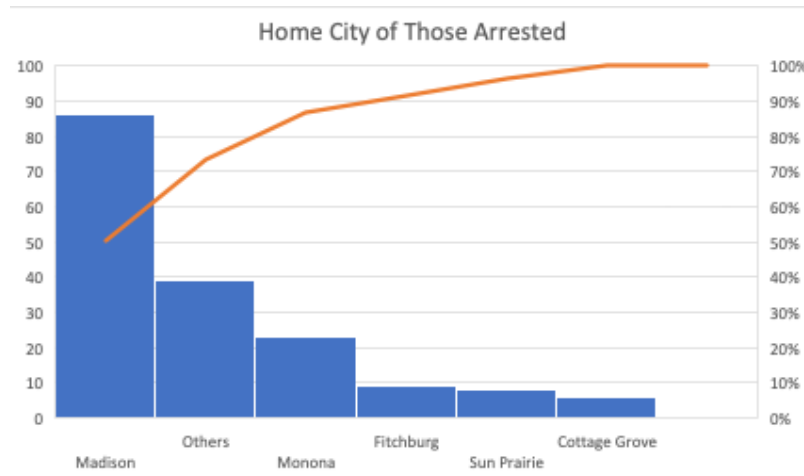
The number of physical arrests in Monona for the seven-month period was 171, and the arrests are composed of four categories: felonies 44, misdemeanors 70, probation and parole violations 26, and warrants 31.

⁶¹ Monona Police Department monthly statistics for 2020.

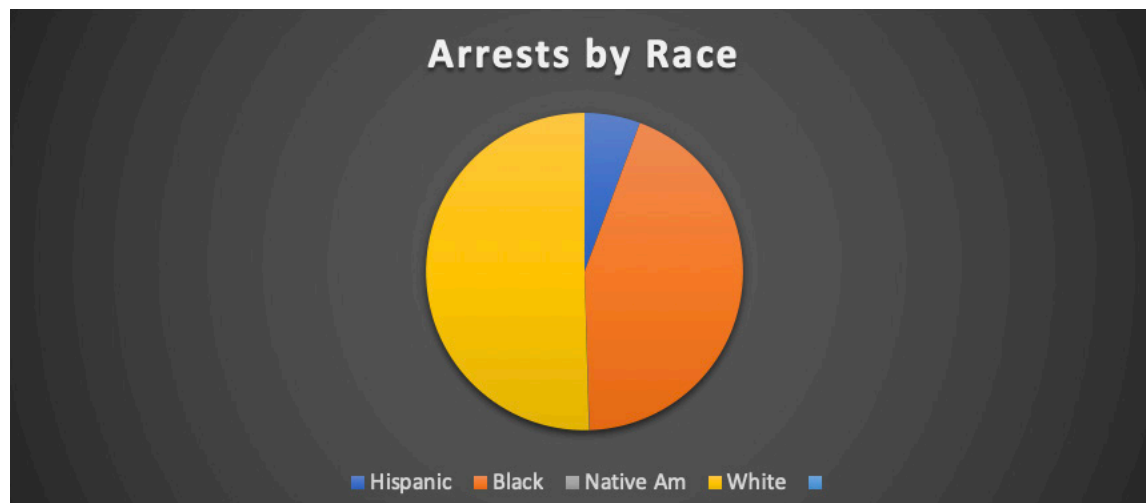


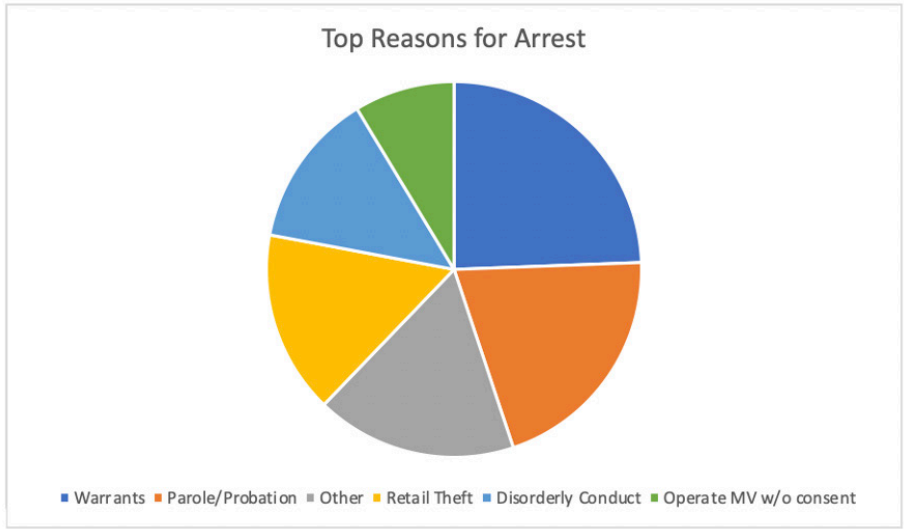
Of the 171 arrests, eighty-six percent (148) of those arrested were not residents of Monona. Almost 68% of those non-Monona residents arrested stated their home city was Madison. This is one reason why quick comparisons to population data can be misleading.

Arrests



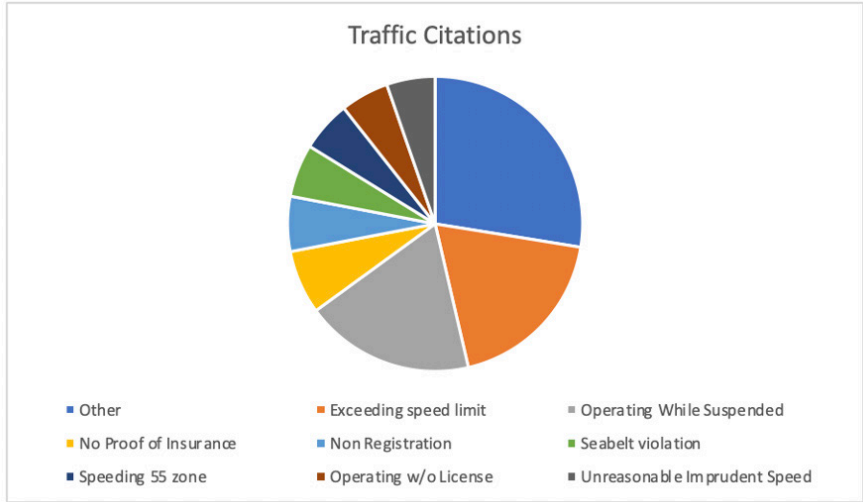
The majority of the individuals arrested were White (55.3%), Black (43.9%), and Native American (0.9%). Hispanic is counted as an Ethnicity and accounted for 6 actual arrests which was 5.3% of arrests.



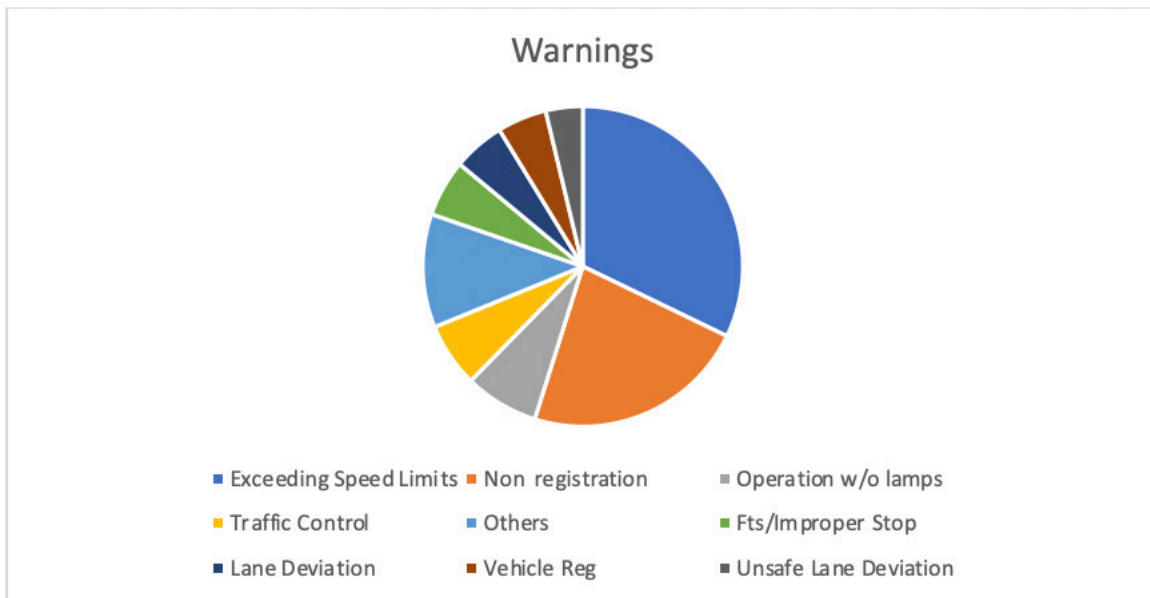
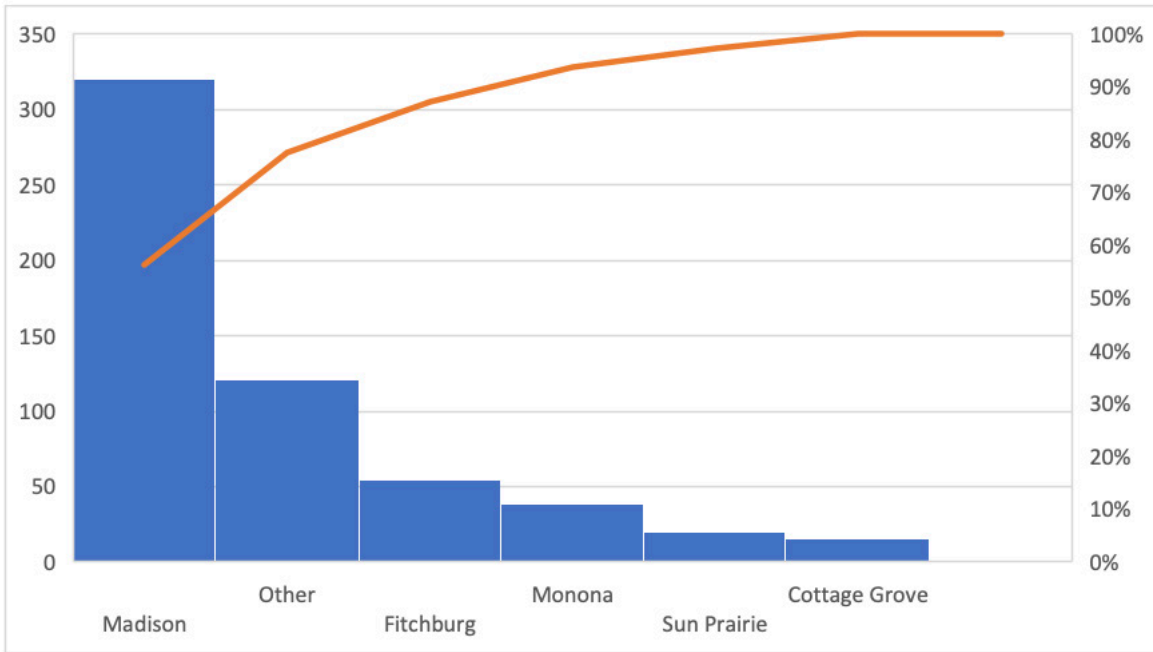


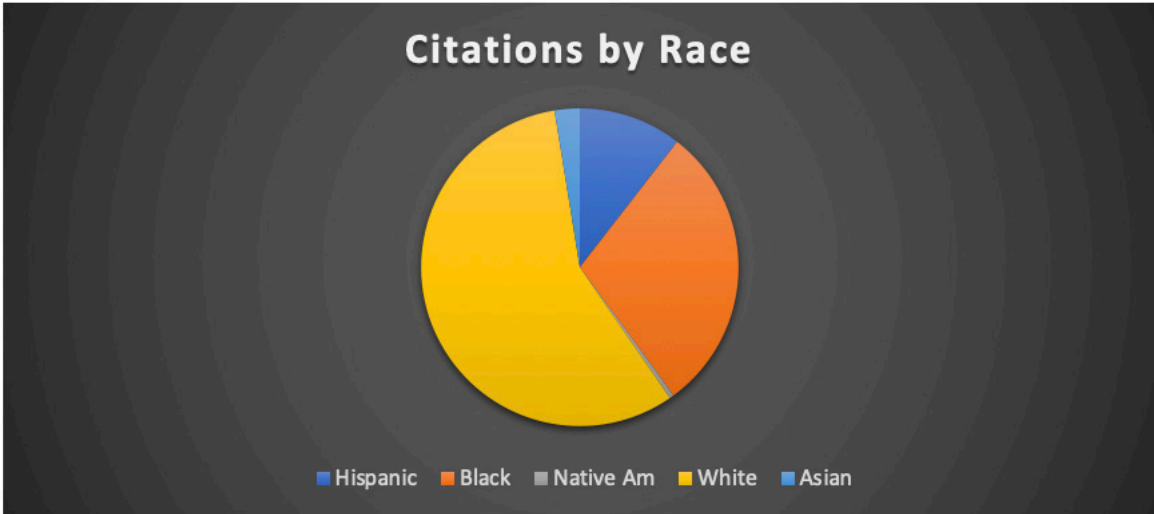
As previously mentioned, traffic stops and resulting traffic citations and warnings are overwhelmingly at the patrol officer’s discretion, some 84 percent. Below are the traffic citation data with the top reasons for citations being issued.

Traffic Citations

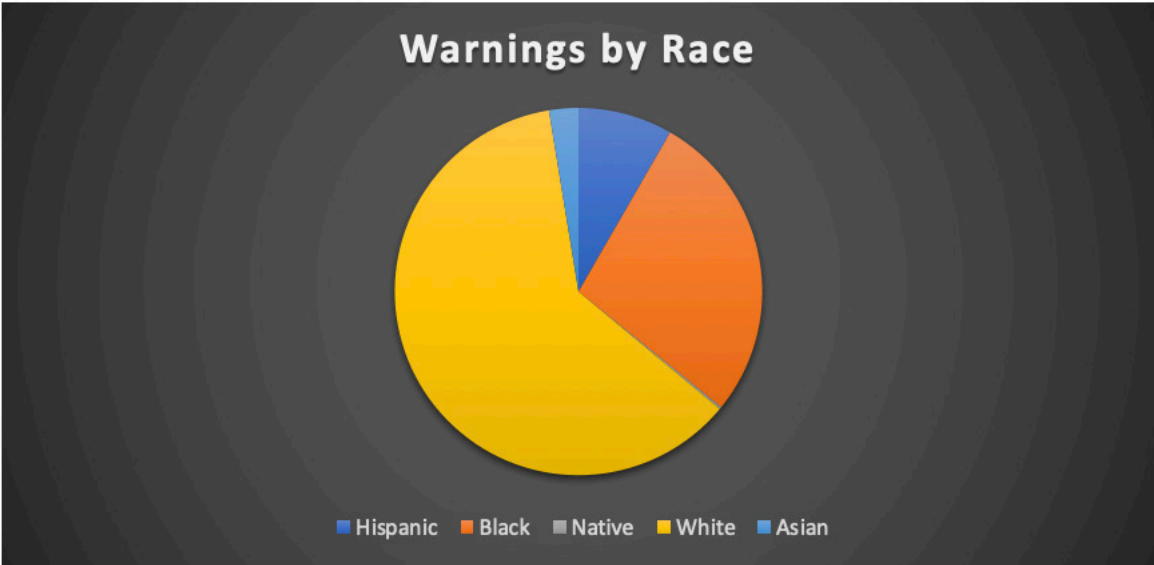


Home City of Traffic Citations





While Whites receive the largest percentage of traffic citations (63.3%), they comprise 93.8% of the population. Blacks receive 32.7% of the citations even though they comprise only 1.2% of the population. Since the home city most often identified for warnings or citations is not Monona, analysis of the reasons for issuing a warning or traffic citation would take deeper analysis than the current data allows.



The Monona police have at their discretion the option to issue ordinance violations in lieu of physical arrests. The leading reason for ordinance violations is retail theft, accounting for 95 of 224 incidents. Once again the leading home city for violations is Madison and the vast majority (85%) of these calls are citizen generated, (i.e., the retailer).

Similar Calls for Service to the June 2 Incident for 01/01/19 through 07/01/20

TRG requested information on seven specific calls for service (residential burglaries, non-residential burglaries, suspicious vehicle/persons, neighbor trouble, home invasions, home invasions in progress, and burglaries in progress) answered by Monona police department in the last eighteen months. Three of the requested call types had no recorded calls: home invasions, home invasions in progress, and burglaries in progress.

Of the remaining four categories requested, TRG noted the total number of calls and the number of calls answered by both Officer Jared Wedig, Officer Kevin Schneider, and Officer Luke Wunsch. Ofc. Wunsch is normally a School Resource Officer and is now on patrol due to school not being in session. Ofc. Wedig is on a schedule which changes shifts on a regular basis.

The number of calls in the remaining categories requested are as follows:⁶²

Officer	Residential Burglaries	Non-Residential Burglaries	Suspicious Vehicle/Persons	Neighbor Trouble
Wedig	1	1	38 (primary)	3
Schneider	4	1	34	3
Wunsch	1	0	11	1
Monona PD	9	5	160	35

⁶² All data furnished by the Monona Police Department

SECTION FIVE

Department Policies

Policies that were reviewed are Monona PD General Orders as follows:

- Code of Conduct
- 1.11 Search and Seizure
- 1.12 Arrest Procedures
- 1.15 Bias Based Policing
- 2.0 Use of Force
- 4.003 Citizen Complaints and Internal Investigations
- 5.01 Use of Force
- 5.105 Use of Handcuffs
- 9.03 Mobile Audio/Video Recording Equipment
- Defense and Arrest Tactics (DAAT) instructor and student manuals
- Appendix B – Incident Response
- Appendix C — Disturbance Response

In general, most of the policies reviewed are out of date. The Chief of Police is responsible for the policies and procedures, however the chief does not have an administrative assistant. An assistant would be extremely helpful in tracking policies, tracking compliance, formatting policies, and relieving the chief of other administrative duties to free his time for policy writing and research activities.

Recommendations:

1. Place a nondiscrimination statement in policies and in the vision/mission statements.
2. All discussions and considerations about police use of force must start with **legal justification**, i.e. that the Law Enforcement Officer (LEO) is legally present and has legal authority to act. This review did not find this critical factor was prominent within the documents or resources reviewed.
3. Develop one “Use of Force” policy for the department. It should be inclusive of all the uses of force. The policy should begin with the legal justification for force and affirm the department’s position on the sanctity of human life. Policies should authorize use of force in a manner that begins with the least amount of force necessary, followed by chemical deployment, strikes tooled and un-tooled, Electronic Control Weapons (ECW), and finally deadly/lethal force. If the terms deadly and lethal are used, they should clearly be defined and noted as interchangeable.
4. Have Standard Operating Procedures (SOP) for specific use of force and the training required for officers to demonstrate competency. The SOP should address special details, such as Defensive and Arrest Tactics Manual for control and restraint, handcuffing, un-tooled tactics. All uses of force above compliant handcuffing should require a review from supervision and command. Additionally, the SOP should address ECW use, including when a review by a supervisor is required, for example when used on a special population; continuous use 15 seconds or longer; energized more than once as each energize is a separate use of force.
5. If the department restricts holds and restraints above the shoulders it should be clearly written i.e., “MOPD does not allow air or vascular neck holds as a means of control and/or restraint unless

deadly force is justified.”

6. Consider prioritizing lists and bullets with top 3 of importance first, for example:
7. Considerations for use of force
 - 1) Officer Legal Presence
 - 2) Safety for all
 - 3) Ethical considerations; just because one can, does not mean that one must take the action. The lists can be longer but the most important should be the most prominent.
8. Court decisions, laws and statutes should be clearly identified and cited as legal authority and guidance in the development of department policies, conducting training and internal investigations as well as the regulation of general police conduct.
9. Definitions should be inclusive and whenever possible taken from verified sources for example:
10. Post-Traumatic Stress Disorder: “Post-traumatic stress disorder (PTSD) is a psychological disorder that develops in response to experiencing or witnessing a shocking, frightening, or traumatic event.” This event can include being exposed to actual or threatened death, sexual violence, or serious injury. PTSD can result from a single traumatic incident or multiple exposures. The exposure can be:
 - direct
 - witnessed
 - indirect, by hearing of a relative or close friend who has experienced the event (indirectly experienced death must be accidental or violent)
 - repeated or extreme indirect exposure to qualifying events, usually by professionals (non-professional exposure by media does not count) “(Reference: Anxiety.org/Post-Traumatic-Stress-Disorder).”
 - The International Association of Chiefs of Police and the Police Executive Research Forum have extensive guidebooks and white papers on the use of force, processes and procedures, policies, best practices. Both organizations possess a wealth of information that would be of major assistance when drafting policies.
11. Clearly define words and terms in policies. For example, one policy used the phrase “critical incident,” which can have many connotations across contexts.
12. Try to write rules, policy, SOP with the intended outcome in mind. “All submitted written work should be complete, and checked for accuracy, spelling and grammar.” In general, write in the positive, not the negative (thou shall not). For example, GO 01-04 Conduct Page 6 (9) Neglect of Duty is written in the negative. Start with how to be in line with the policy.
13. Try to avoid using “shall or must” (absolutes and superlatives in general) unless there is no room for discretion (e.g., “Officers shall intervene and report to a supervisor, when they observe a member using excessive or unwarranted force.” and, “Officers should check their cruisers for operational readiness at the beginning of every shift.”
14. Group like policies together (i.e., conduct expectations for all department members, followed by specific expectations for sub-members, such as sworn officers and civilian personnel.
15. An overarching strategy and philosophy should be considered when drafting policies. The Twenty-first Century Policing Report and the Police Executive Research Forum Use of Force Report (2015) are the nation’s leading documents on these issues.

SECTION SIX

Training

The city of Monona also requested a review of the training received by the officers involved in the incident. In the summer of 2020, the entire Monona Police Department attended training that included topics relating to culture and race. The Department recognized a potential gap in this type of training and moved shortly after the June 2, 2020 incident to rectify the situation. This is a good first step, however, it is important that department personnel receive periodic refresher training on these topics.

Relevant Training to The Incident and Compliant – Involved Officers

TRG reviewed any specialized training that officers Jared Wedig and Luke Wunsch may have received over and above regular in-service training. The results are as follows:

Officer Jared Wedig

- 02/13/2012 Officer Wedig attended and received a certificate for attending Cultural Competence and Unconscious Bias, instructor Lauri Schwartz, Madison Police Department, no hours listed.
- 07/16/2012 Officer Wedig attended and received a certificate for attending Landlord/Tenant Law, from the Wisconsin Apartment Association, instructor Dave Hicks, President, Rental Housing Resource, 8 hours.
- 09/12/2017 Officer Wedig attended and received a certificate for attending Definition of Deadly Force, presented by Madison PD, Instructor Training, 2.5 hours.

Officer Luke Wunsch

- **All the training relevant to the incident which Officer Wunsch attended occurred following the incident in question of June 2, 2020.** (While it can be surmised that the School Resource Officer training which Officer Wunsch has attended has included information on cultural competence, bias, de-escalation, and use of force, there is no course curricula to check.)
- 06/04/2020 Officer Wunsch attended and received a certificate for Speak Up, Speak Out, no information on course content or instructor, 2 hours.
- 07/16/2020 Officer Wunsch attended and received a certificate for School Security Measures, Racial Disparities & Implicit Racial Bias, instructor Stacy Lenz, Wisconsin Department of Justice, Office of School Safety, 2 hours.
- 07/20/2020 Officer Wunsch attended and received a certificate for *Intersection of Systemic Racism and Police Violence*, Wisconsin Department of Justice, Office of School Safety, no instructor listed, 2 hours.

08/20/2020 The entire department received certificates for completing Calibre Press' training, *Implicit Bias: Understanding its Impact on Actions & Decisions*, 3 hours, online.

Suburban In-service Training Association

The State of Wisconsin requires all police officers attend at least 24 hours of in-service training annually. TRG found that Monona Police Department meets and, in some years, exceeds the 24-hour requirement.

TRG did not check instructor certification. During the interview with Officer Wedig he mentioned he was an instructor in rapid response/deployment and firearms training but that his certification had lapsed.

The Monona Police Department coordinates with other area police departments for its in-service training. In addition to Monona, the Suburban In-service Training Association (referred to as the Consortium) includes the departments of McFarland, Oregon, Stoughton and Verona. Training is held quarterly.

As part of the investigation of the incident, TRG reviewed five (5) years of in-service training from 2015 through August of 2020.

In five and one quarter (5.25) years of quarterly training, which includes approximately twenty-six (26) eight-hour training sessions totaling 174 hours. TRG found that topics addressing firearms (regular qualification and scenarios), emergency vehicle operation, situational scenarios such as traffic stops, incident command, defense and arrest tactics (DAAT), and CPR accounted for 162 of the 174 hours. The remaining 12 hours of training addressed the following topics:

- April/May 2015: Mental Health Presentation, no presenter listed, 1 hour
- January 2017: Investigating Domestic Violence, Dane Co. Sheriff Department, 1 hour
- July 2017: Post Traumatic Shock Disorder, no presenter listed, 2 hours
- September 2017: Frisk & Search Refresher, Dane County District Attorney's Office, 1 hour
- March 2018: Force Sci. Human Dynamics, Conflict Resolution, no presenter listed, 1 hour
- August 2018: Legal Update, Dane Co. DA Office, 1 hour
- January 2019: Stop the Bleed and Deadly Force Overview, no presenter listed, 1.5 hours
- August 2019: Journey (mental health) presentation, no topic listed, 1.5 hours
- March 2020: De-escalation & Identifying Behaviors, no presenter listed, 2 hours

In TRG's interview with Chief Walter Ostrenga, he indicated that almost all instructors were from the Consortium or "in-house." He also indicated that neither the Monona PD nor he, personally as chief, had ever received training or engaged in organized discussions on bias or racism issues until after the June 2, 2020 incident.

When asked about training, Chief Ostrenga replied that the preference of officers is to focus on firearms proficiency. While firearms proficiency is certainly important, the reality for most police officers is they will never discharge their firearm in the course of duty. Spending too much time on this training while neglecting the training that could help officers master the skills they most often use when interacting with community members creates a significant blind spot for officers. As evidenced by the body worn camera footage that TRG reviewed in Section Four, much of police work involves engaging and communicating with a diversity of people, many of who are upset, scared, traumatized, or who suffer from mental illness or addiction. This is why providing training topics such as mental illness, autism, economics, race, culture, religion, medical or psychological issues, gender, and physical ability is critical to being an effective officer and preserving public safety.

When asked about diversity, cultural awareness, inclusivity, bias free policing, Chief Ostrenga confirmed these topics have not been a part of in-service. He noted that he had met with the Dane County Restorative Justice Program but has not heard from them. He viewed this as a missed opportunity.

Procedural justice is defined as four principles or pillars: Being fair in processes; being transparent in ac-

tions; providing opportunity for voice; and being impartial in decision making. One can see how officers that held these principles in doing their jobs, no matter the circumstance or persons involved, would approach situations in a fair and impartial manner.

Chief Ostrenga noted he has \$10,000 budgeted a year for training his officers. In addition, the Wisconsin Department of Justice provides funds for some of the annual training for officers. For the most part instructors are paid “in-kind” by the participating departments or do not require compensation as they are with state or county agencies.⁶³

Basic Academy

The State of Wisconsin has established a basic curriculum (totaling 720 hours) that all police officer candidates must complete prior to being licensed as a police officer. Technically, regardless of which academy in Wisconsin a candidate attends, the course work should be the same. In practical terms, the quality of some academies varies. The state-wide curriculum includes a four-hour course on cultural competency.

TRG interviewed Gloria Reyes regarding Cultural Competence. Ms. Reyes is the current instructor for Madison College in the Basic Police Academy. Ms. Reyes’ professional experience, in addition to teaching at Madison College, includes serving as deputy mayor of the City of Madison and working as a Madison police detective. Reyes also co-founded Amigos en Azul (Friends in Blue) and has been associated with Centro Hispano, the National Latino Peace Officer Association Dane County Chapter, the Wisconsin Association of Women Police, and the Dane County Boys and Girls Club.

Ms. Reyes indicated that the Wisconsin Law Enforcement Standards Bureau (LESB) curriculum is basic. She stated, in her opinion, it does not give police officers the strategies and tools to effectively do their jobs. Reyes stated that for police officers to be able to engage with diverse communities, they need not only tools and strategies, but an infrastructure within the police department that supports them.

Training related to Hiring

The Monona Police Department hires officers who have already completed the basic service academy at one of the academies throughout the state.

To diversify the department (which has only one sworn female and one person of color, civilian) the organization may wish to consider hiring individuals and putting them through the academy and field service training. This would provide the department with a larger pool of potential officers. To ensure consistency of training, the department could consider using just one academy.

Training Recommendations

1. Monona Police Department should continue to exceed the state minimum of 24 hours of annual in-service training.
2. All training instructors should be certified.
3. Officers should receive annual refresher training on key policies.
4. The training topics should include current police practices as well as cultural and current events that affect police practices.
5. Officers should receive training in fourth amendment search and seizure issues.
6. There are several trainings the Monona Police Department may wish to consider.

63 TRG interview the Chief 8/27/20

- a. The Madison Police Department and the University of Wisconsin-Madison police department have trainers that specialize in these important areas. The trainings are informative, educational, and practical. Either bringing in those trainers or possibly attending those departments' sessions are options.
 - b. Locally there are former and retired police professionals who train in these areas. The Rising Group, LLC offers these trainings.
 - c. Reyes Public Safety provides a series of training classes. Reyes offers an eight (8) hour course entitled Badge of Equity, which exceeds the Wisconsin Department of Justice LESB requirements. This course teaches how a framework of procedural justice within a police department enables officers to employ racial equity strategies and tools that can build trust within the community.
 - d. Ms. Reyes will also work with the entire police department over the course of four to six months to build racial equity and procedural justice together; to develop infrastructure and strategies based on real data; and to create organizational justice. This work includes the eight-hour course, "Badge of Equity."
 - e. Fair & Impartial Policing®, LLC is considered the leading provider of implicit-bias-awareness training for law enforcement. The organization provides a range of trainings on how implicit bias can impact community members and officers.
7. De-escalation training should be emphasized and frequently trained. The best de-escalation training in the country is conducted by the Police Executive Research Forum and is Integrating Communications, Assessment and Tactics (ICAT). The University of Cincinnati recently studied this training and found a twenty-eight percent reduction in the use of force by police officers, twenty-six percent reduction in citizen injury and a thirty-six percent decrease in injuries to officers.

CONCLUSION

The Monona Police Department operates a 24-hour 365-day organization within tight budget guidelines to provide the residents and visitors a safe community. The call for service on June 2, 2020, called into question some of the operating principles and practices within the department. All the officers involved in the incident conducted themselves professionally and mostly adhered to accepted police practices consistent with the law and department policy, with some notable exceptions.

Calls such as this one, arrest data, traffic stops, and community service calls should be further reviewed and analyzed to ensure fair and equitable treatment is being applied regardless of the race, age, gender, sexual orientation, physical ability, ethnicity or other non-behavioral aspects of people involved in the call.

Policies and procedures should be updated on a regular basis to ensure the organization is following the standard of practice for police agencies. Training must be broadened to educate officers on a wider variety of topics and issues beyond firearms, emergency vehicle operation, and DAAT training. Emphasis should be placed firmly on increasing de-escalation training, cultural competency training, and improving racial sensitivity.

Recommendations:

1. Place a nondiscrimination statement in policies and in the vision/mission statements.
2. All discussions and considerations about police use of force must start with legal justification, i.e. that the Law Enforcement Officer (LEO) is legally present and has legal authority to act. This review did not find this critical factor was prominent within the documents or resources reviewed.
3. Develop one "Use of Force" policy for the department. It should be inclusive of all the uses of force. The policy should begin with the legal justification for force and affirm the department's position on the sanctity of human life. Policies should authorize use of force in a manner that begins with the least amount of force necessary, followed by chemical deployment, strikes tooled and un-tooled, Electronic Control Weapons (ECW), and finally deadly/lethal force. If the terms deadly and lethal are used, they should clearly be defined and noted as interchangeable.
4. Have Standard Operating Procedures (SOP) for specific use of force and the training required for officers to demonstrate competency. The SOP should address special details, such as Defensive and Arrest Tactics Manual for control and restraint, handcuffing, un-tooled tactics. All uses of force above compliant handcuffing should require a review from supervision and command. Additionally, the SOP should address ECW use, including when a review by a supervisor is required, for example when used on a special population; continuous use 15 seconds or longer; energized more than once as each energize is a separate use of force.
5. If the department restricts holds and restraints above the shoulders it should be clearly written i.e., "MOPD does not allow air or vascular neck holds as a means of control and/or restraint unless deadly force is justified."
6. Consider prioritizing lists and bullets with top 3 of importance first, for example:
 - a. Considerations for use of force
 1. Officer Legal Presence
 2. Safety for all
 3. Ethical considerations; just because one can, does not mean that one must take the action. The lists can be longer but the most important should be the most prominent.

7. Court decisions, laws and statutes should be clearly identified and cited as legal authority and guidance in the development of department policies, conducting training and internal investigations as well as the regulation of general police conduct.
8. Definitions should be inclusive and whenever possible taken from verified sources for example:

Post-Traumatic Stress Disorder: "Post-traumatic stress disorder (PTSD) is a psychological disorder that develops in response to experiencing or witnessing a shocking, frightening, or traumatic event." This event can include being exposed to actual or threatened death, sexual violence, or serious injury. PTSD can result from a single traumatic incident or multiple exposures. The exposure can be:

 - direct
 - witnessed
 - indirect, by hearing of a relative or close friend who has experienced the event (indirectly experienced death must be accidental or violent)
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 - The International Association of Chiefs of Police and the Police Executive Research Forum have extensive guidebooks and white papers on the use of force, processes and procedures, policies, best practices. Both organizations possess a wealth of information that would be of major assistance when drafting policies.
9. Clearly define words and terms in policies. For example, one policy used the phrase "critical incident," which can have many connotations across contexts.
10. Try to write rules, policy, SOP with the intended outcome in mind. "All submitted written work should be complete, and checked for accuracy, spelling and grammar." In general, write in the positive, not the negative (thou shall not). For example, GO 01-04 Conduct Page 6 (9) Neglect of Duty is written in the negative. Start with how to be in line with the policy.
11. Try to avoid using "shall or must" (absolutes and superlatives in general) unless there is no room for discretion (e.g., "Officers shall intervene and report to a supervisor, when they observe a member using excessive or unwarranted force." and, "Officers should check their cruisers for operational readiness at the beginning of every shift."
12. Group like policies together (i.e., conduct expectations for all department members, followed by specific expectations for sub-members, such as sworn officers and civilian personnel.
13. An overarching strategy and philosophy should be considered when drafting policies. The Twenty-first Century Policing Report and the Police executive Use of Force Report (2015) are the nation's leading documents on these issues.
14. Monona Police Department should continue to exceed the state minimum of 24 hours of annual in-service training.
15. All training instructors should be certified.
16. Officers should receive annual refresher training on key policies.
17. The training topics should include current police practices as well as cultural and current events that affect police practices.
18. Officers should receive training in ethics.

19. There are several trainings the Monona Police Department may wish to consider.

- The Madison Police Department and the University of Wisconsin-Madison police department have trainers that specialize in these important areas. The trainings are informative, educational, and practical. Either bringing in those trainers or possibly attending those departments' sessions are options.
- Locally there are former and retired police professionals who train in these areas. The Riseling Group, LLC offers these trainings.
- Reyes Public Safety provides a series of training classes. Reyes offers an eight (8) hour course entitled Badge of Equity, which exceeds the Wisconsin Department of Justice LESB requirements. This course teaches how a framework of procedural justice within a police department enables officers to employ racial equity strategies and tools that can build trust within the community.
- Ms. Reyes will also work with the entire police department over the course of four to six months to build racial equity and procedural justice together; to develop infrastructure and strategies based on real data; and to create organizational justice. This work includes the eight-hour course, "Badge of Equity."
- Fair & Impartial Policing[®], LLC is considered the leading provider of implicit-bias-awareness training for law enforcement. The organization provides a range of trainings on how implicit bias can impact community members and officers.

20. De-escalation training should be emphasized and frequently trained. The best de-escalation training in the country is conducted by the Police Executive Research Forum and is Integrating Communications, Assessment and Tactics (ICAT). The University of Cincinnati recently studied this training and found a 28 percent reduction in the use of force by police officers. Twenty-six percent reduction in citizen injury and a thirty-six percent decrease in injuries to officers.

Appendix A Transcript of the Initial Call

Transcript – Citizen Call – Arrowhead Drive

Dispatcher: Monona Police

Caller: Oh hi, I want to report a suspicious activity.

Dispatcher: Ok, and where is it happening?

Caller: Ok, I live at 5109 and I was pulling out of the driveway to go home and my neighbor house is at 5111 and she passed away, the house is empty, and now there is a African American with sweat pants, flip flops and a white, um, shirt on the, sitting on the front door.

Dispatcher: OK, and what, what's the street, I got the address of 5109 but...

Caller: Oh, I'm sorry, I got nervous, oh, Arrowhead Drive.

Dispatcher: Ok, on Arrowhead, perfect. So you said this person is by 5111, at the neighbors whose, and you, and she's recently passed away?

Caller: Yes, the house is empty.

Dispatcher: Ok, and where did you see this person at?

Caller: Oh, the house is next to my house. I was pulling out of the driveway to go home and I saw him sitting on the step on the front door.

Dispatcher: Ok, so just sitting on the step by the front door?

Caller: Yes.

Dispatcher: OK.

Caller: Is close to the front door, yes.

Dispatcher: Sure. Ok, alright, we will have an Officer go over there and, and ah check 'em out.

Caller: Oh, thank you so much.

Dispatcher: Ok, you're welcome. Alright.

Caller: Bye

Dispatcher: Bye

Appendix B Policy Example

EXAMPLE OF A POLICY

Department Directive # ADM – 120 Subject: Use of Force	CALEA Standards 1.3.1, 1.3.2, 1.3.3, 1.3.4, 1.3.5, 1.3.6, 1.3.7, 1.3.8, 1.3.9, 1.3.10, 1.3.11, 1.3.12, 1.3.13
Rescinds All Previous Directives	Issue Date: 2002/06/10
Effective Date: 2002/06/10	Reviewed/Revised Date: 2020/08/31

This directive is for departmental use only and does not apply in any criminal or civil proceeding. Violations of this policy may form the basis for departmental administrative sanctions but are not to be considered as a higher legal standard of conduct for officers in case of third-party claims. Violations of law will form the basis for civil and/or criminal sanctions in a recognized judicial setting.

Purpose:

The purpose of this policy is to guide legally present officers, in the use of justified responses to resistance and/or aggression to include physical force while executing their lawful duties. (Any use of force used by a department member must be embedded in the department's value of respect for all humans no matter their station or plight, as well as the sanctity of life.)

Policy:

It is the policy of this department to value the respect and dignity of all people and preserve human life. Officers must use only the force that is objectively reasonable to effectively bring an incident under control, while protecting the safety of the officer and others in the legal execution of their duties. Officers shall use force only when no reasonably effective alternative appears to exist and will use only the option of force which a reasonably prudent officer would use under the same or similar circumstances.

The decision to use force "requires careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officer or others, and whether the subject is actively resisting arrest or attempting to evade arrest by flight."

In addition, "the 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight... the question is whether the officers' actions are 'objectively reasonable' in light of the facts and circumstances confronting them.

It is the policy of this department that officers employ reasonable responses to subject(s) resistance and/or aggression to accomplish lawful objectives. All response to resistance/aggression must be objectively reasonable from a similarly trained and experienced officer's perspective. (1.3.1)

Introduction:

This policy is not to be construed to require officers to assume unreasonable risks. In assessing the need to use force, the paramount consideration should always be the safety of the public and the officer. The reasonableness of an officer's decision to use force under this policy must be viewed from the perspective of an officer on the scene, who may be forced to make split-second decisions in circumstances that are tense, uncertain, and rapidly evolving, without the benefit of hindsight. Officers must be able to not

only make split-second decisions in often chaotic circumstances, but then must be able to articulate well, both verbally and in writing, the facts and circumstances that would lead a reasonable officer to act in a similar way.

I. Definitions (1.3.2)

- A. Force and Tactics – Conduct on the part of an officer that is designed to assist the officer in controlling a situation or the actions or behavior of a person or persons. Deadly force is the only force intended to cause serious injury or death. However, it is understood that other force options may unintentionally cause serious injury or death because of unknown circumstance or uncontrolled actions of the subject. It is understood that no tactic or force is certain of its intended success. Therefore, officers should be competent in their use of a range of justified responses in order to safely control the situation.
- B. Lethal / **Deadly Force** – Any force that creates a substantial likelihood of causing death or serious bodily injury. (NOTE: The words “Lethal” and “Deadly” are interchangeable in this document)
- C. LESS-LETHAL FORCE: Any use of force other than that which is considered deadly force that involves physical effort to control, restrain, or overcome the resistance or aggression of another.
- D. **Serious Bodily Injury** – A bodily injury which creates a substantial risk of death or which causes substantial loss or impairment of the function of any bodily member or organ or substantial impairment of health, or substantial disfigurement.
- E. **Reasonable Belief** – The facts or circumstances, which would cause a reasonable person to act or think in a similar way under similar circumstances.
- F. **Objectively Reasonable** – The amount of force that would be used by other similarly trained and experienced officers when faced with the known facts and circumstances that the officer using the force is presented with. (Sic from *Graham v. Connor*, 490 U.S. 386 (1989) 396-397) (1.3.1)
- G. **Imminent** – Impending or about to occur. Imminent does not necessarily mean immediate or instantaneous, but that an action is pending. Thus, a subject may pose an imminent danger even if the subject is not at that very moment pointing a weapon at a member. For example, imminent danger may exist if officers have probable cause to believe any of the following:
 - 1. The subject possesses a weapon, or is attempting to gain access to a weapon, under circumstances indicating an intention to use it against the officer or others; or
 - 2. The subject has a firearm and has indicated intent to use it, and the subject is running to gain the tactical advantage of cover; or
 - 3. A subject with the capability of inflicting death or serious physical injury – or otherwise incapacitating officers without a deadly weapon, is demonstrating an intention to do so; or
 - 4. The subject is attempting to escape from the vicinity of a violent confrontation involving a weapon and still possess a weapon, in which the subject inflicted or attempted the infliction of serious bodily injury or death upon another.

- E. Resistance** – There are two types of resistance as it applies to police use of force:
1. Passive Resistance is where a subject fails to act or respond to an officer’s attempt to take him/her into custody. Some examples of passive resistance are not standing or walking, or not putting hands behind back or opening them when the subject is capable of doing same.
 2. Active Resistance is when a subject takes an affirmative action to defeat an officer’s ability to be taken into custody or to be seized.
- F. Aggression** – Those behaviors that are threatening or violent in nature. For the purposes of this policy, the subject’s “aggression” generally needs to be directed toward another person or someone else’s property.
- G. DE-ESCALATION** — Taking action or communicating verbally and/or non-verbally during a possibly volatile encounter in an attempt to stabilize the situation and reduce the immediacy of the threat so that more time, options, and resources can be called upon to resolve the situation without the use of force or with a reduction in the force necessary. De-escalation may include the use of such techniques as officer presence, active listening, providing information, giving instructions, making requests, issuing warnings, verbal persuasion, and tactical repositioning.

II. General Applicability and Guidance: (1.3.1)

- A. Use of force will apply to sworn law enforcement officers.
- B. In order to be in compliance with this policy, an officer must be legally performing their duties when force is employed.
- C. Justification for use of force is based primarily in the guidance of *Graham v. Connor*, 490 U.S. 386, (1989). This case states in part, “all claims that law enforcement officials have used excessive force - deadly or not – in the course of an arrest, investigatory stop, or other ‘seizure’ of a free citizen are properly analyzed under the Fourth Amendment’s ‘objective reasonableness’ standard...”. Therefore, according to this policy, the level of cause or justification for using any force on a free citizen is the objective reasonableness standard of the fourth amendment. It should also be understood that the force is judged from the perspective of a reasonable officer. Officers are only required to make an objectively reasonable choice from among the force options, based on the facts and circumstances known to them at the time the force was used.
- D. Once the officer recognizes the force justification has changed, i.e. compliance or control, the officer needs to reassess the force application to the reasonably objective choice based on the current recognized circumstances, i.e. deescalate or escalate or continue with current conditions.

III. Considerations in Determining Force Option(s)

In determining the justified force response to the subject’s resistance or aggression, an officer should consider:

- A. The seriousness of the offense known to the officer at the time the force is used

- B. What the physical threat is to the officer or others
- C. If the subject actively resisting or attempting to evade arrest by flight

IV. Use of Force Options (1.3.4)

A circular officer response model is one that places the officer in the center of a circle with all of the options equally available to respond to the resistance or aggression of the subject(s). The choices D-F below are options that officers are trained and equipped to use. (see attached Appendix A for more model detail)

It is impossible to categorize, define, or dictate the amount of force appropriate to a specific situation. Therefore, in order to control situations within the Fourth Amendment's objectively reasonable standard, officers must be able to justify their actions in the context of the totality of the circumstance of each incident.

Oftentimes officers can de-escalate and safely resolve situations by their presence or through use of verbal persuasion or tactical repositioning, or a combination thereof. Whenever feasible, de-escalation should be the first choice of skills and/or tactics in order bring resolution to a given situation.

A. Officer Presence

The visual appearance of an officer in uniform, or the announcement that an individual is a law enforcement officer, along with visible identification that the officer has the authority of the law may be all the action necessary to quell a situation.

B. Interpersonal Communication

Use of the skills of active listening, empathy, problem solving, persuasion, negotiation, and patience by an officer with the intent to calm, distract, and/or convince, a subject or subjects to resolve the situation without force, or with the least amount of force possible.

C. Tactical Repositioning (TR)

Physical movement of an officer as it relates to distance, concealment, cover, body language, etc.... with the intent of calming, stabilizing, or refocusing an individual on a positive solution. Some examples of TR include:

- Withdrawal / retreat
- Holding position
- Pushing position
- Moving from or to concealment or cover
- Hiding an unholstered firearm or other force tool
- Holstering firearm or force tool
- Changing arm, hand or other body part positioning
- Etc...

NOTE: The following options D through F are not intended to cause serious injury or death and are therefore considered less-lethal uses of force. It is understood that serious injury or death could unintentionally re-

sult from the force or tactic used because of unknown circumstances or uncontrolled actions of the subject(s).

D. Physical Control/Force:

Physical force entails contact with a subject. As with resistance, there are differing degrees of physical force that are subject and/or situationally driven. What force the officer is justified in using is dependent on the resistance or aggression of the subject, as well as the totality of the circumstances known at the time of contact.

The range of tactics can vary from the officer's use of hands on the subject to direct the subject's movements; such as putting a hand on the shoulder of a subject in order to escort them away from the scene of a fight. These techniques have a low potential of injury to the subject or officer. Other tactics and/or force involve officer contact that involves substantial physical contact to forcibly overcome resistance/aggression. These tactics/techniques may include hand-to-hand control and restraint tactics, defensive tactics, and/or strikes with or without tools. This force may include Pepperballs™ delivered at a subject or subjects, as opposed to an OC saturation deployment.

Officers should carry an impact tool with them while on patrol unless authorized by the supervisor. This authorization needs to be in writing and filed in the officer's training file.

E. Chemical Agent Spray (Oleoresin Capsicum)

A pepper-based irritant use is justified when a subject exhibits active resistance or aggression.

A pepper-based irritant is intended to temporarily incapacitate without injury or long-lasting effect. Pepperballs™ when used in a saturation deployment is considered the same as any O.C. delivery. The use of O.C. will often eliminate the need to physically wrestle with a suspect, thereby reducing the potential of injury to the suspect, by-standers, and officers.

O.C. spray should be carried by all officers while performing patrol activities unless authorized not to carry the agent by the shift supervisor. This authorization needs to be in writing and filed in the officer's training file.

F. Conducted Electrical Weapon (CEW)

(Taser™ model 11003 (yellow) with cross draw carrier or carried on the support side)

Use of the CEW is justified when a subject exhibits active resistance or aggression.

The CEW is a device that uses an electrical pulse of 50,000 volts which is intended to temporarily incapacitate without injury or lasting effects. The CEW will often eliminate the need for physically wrestle with a subject, thereby reducing the potential of injury to the suspect, by-standers, and officers.

While on patrol, the CEW should be carried in a department approved carrier, unless authorized not to carry the device by the shift supervisor. This authorization needs to be in writing and should only be for a limited amount of time. The documentation should be stored in the officer's portfolio.

V. Deadly Force (1.3.2)

Deadly force involves the use of a firearm or other "Deadly Weapon." As per Title 13, Vermont Statutes

annotated, Chapter 19 Section 1021 (3), “Deadly Weapon” means any firearm, or other weapon, device, instrument, material, or substance, whether animate or inanimate, which in the manner it is used or is intended to be used is known to be capable of producing death or serious bodily injury.

Only those weapon systems approved by the Chief of Police and in which the officer has been trained to use and demonstrated proficiency with, may be carried on duty.

A. Deadly force is justified when:

1. The officer is faced with an imminent threat of serious bodily injury or death to self or some other person (Graham v. Connor, 490 U.S. 386, (1989)), or.
2. To prevent the escape of an individual in a situation where the officer has the following knowledge, perceptions, and circumstances at the time the officer applies the force:
 - a. Probable cause to believe the subject has committed a violent felony involving the infliction or threatened infliction of serious bodily injury or death **AND**
 - b. By the subject’s escape the subject poses an imminent threat of serious bodily injury or death to another **AND**
 - c. Officers should warn the subject prior to using deadly force when feasible
 - d. That the use of deadly force must be necessary to prevent escape (Tennessee v. Garner, 471 U.S. 1, 105 S. Ct. 1694, 85 L.Ed.2d 1 (1985)).

B. Application of deadly force:

When the decision is made to use deadly force, officers may continue its application until the subject surrenders or no longer poses an imminent deadly danger.

When deadly force is justified under this policy, attempts to shoot to cause minor injury are unrealistic and can prove dangerous to officers and others because they are unlikely to achieve the intended purpose of bringing an imminent danger to a timely halt.

Even when deadly force is justified, officers should assess whether its use creates a danger to third parties that outweighs the likely benefits of its use.

VI. Rendering Aid (1.3.5)

Following any use of force, providing it is safe and the officer is able, officers should assure reasonable medical aid is provided to an injured subject at the earliest possible opportunity. This may include increased observation to detect obvious changes in condition, flushing chemical agents from the eyes, applying first aid, evaluation by EMS, or for more serious or life-threatening incidents, evaluation at a medical facility. Any medical aid rendered should be noted on the Subject Management Form.

VII. Display of Weapon

A. Officers are authorized to unholster their firearms under the following circumstances:

1. Where the use of Deadly Force is justified.
2. Under circumstances where an officer reasonably believes that the potential for

immediate use of the weapon is high and officer/public safety dictates that the weapon be unholstered and ready.

3. In preparation for going on or off duty.
4. During the course of firearms training.
5. Where proximity to a suspect makes unholstering and securing the firearm appropriate (example, when fingerprinting a suspect).
6. When securing the weapon is an institutional requirement (example; upon entering a lockup or jail).
7. To destroy an animal that represents a substantial threat to human safety or is sick or injured to the point that humanity requires its relief from further suffering.

VIII. Restrictions and Safety

A. The following restrictions will apply to the use of firearms within the department:

1. **Warning Shots** – Are prohibited (1.3.3)
2. **Vehicles** – Officers of the department will not shoot at or from moving vehicles except in the immediate defense of life or when the officer reasonably believes that the escape of the suspect(s) poses an imminent threat of death or serious bodily harm and other reasonable means of stopping the vehicle are not available, or have been exhausted. An attempt to stop a vehicle with gunfire should be viewed as a last resort.
3. **Alcohol and Drugs** – Officers will not carry or use firearms while consuming alcohol or drugs, when they anticipate that they will be consuming alcohol or drugs, or when under the influence of alcohol or drugs. Prohibited drugs include all illegal drugs and prescription or over the counter (OTC) drugs that indicate a negative mood- or mind-altering effect or side effect, such as drowsiness, coordination, hallucinations, etc.
4. **Domestic Violence/Stalking/Sexual Assault Restrictions** – An officer, against whom a valid court order is in effect, will not possess a firearm or any department issued use of force tool while off duty. All issued duty equipment, as well as any known second guns or personally owned weapons approved for duty use, shall remain secured by a supervisor at the department while off duty. This equipment includes handcuffs, impact weapon, Taser, OC, flashlight(s) or any tool that is issued by the department or known to be carried on duty and could be used as a force instrument. The officer will be allowed to carry all approved weapons and tools while actively on duty. The officer will give his/her gun locker key to the supervisor once the duty firearm(s) is/are secured. If the officer does not have a gun locker, it will be secured in a supervisor's locker and the supervisor "list" will be notified of same. The officer may not remove any firearm or force tool from the department unless they are on duty. The shift OIC will assure that the officer leaves the building without any department owned or personally owned/approved firearms or force tools.
5. **Storage** – At all times, firearms will be stored in a way that minimizes the potential of access by an unauthorized person (i.e. secured in locked cabinet, use of trigger lock, storing ammunition and firearm separately). (1.3.9 f)
6. **Range Rules** – Whenever practicing with a firearm, an officer will adhere to appropriate safety and range rules.
7. **Weapon as Loaded** – Until proven otherwise, all firearms will be considered loaded and charged.

8. **Pointing the Weapon** – Firearms will not be pointed at a person or animal except as required for self-defense, defense of life, or humane destruction of an animal.
9. **While in Uniform** – An officer who is wearing the department uniform in public, including while traveling to/from the department to home, will be armed with a firearm and will be carrying his/her badge and department identification.

IX. Report – Discharge of Firearm/Injury

- A. Where a sworn member of the department discharges a firearm on duty, or in his/her capacity as a law enforcement officer while off duty, or when force that could result in death or serious bodily injury is employed, a report using the department format will be filed. The only exception will be during training or practice with no injury. (1.3.6 a)
- B. Immediate Action On-Scene
- C. Once the situation is safe, the officer should attempt the following:
 1. If possible, the officer will call for assistance to include medical aid.
 2. Medical Aid - In cases of injury, officers, once it is safe and the officer is able, shall be responsible to ensure that appropriate medical aid is provided to the injured subject at the earliest possible opportunity. (1.3.5)
 - a. The Officer in Charge shall be notified of all injuries incurred as a direct or indirect result of use of force in an arrest situation.
 - b. All injuries incurred by prisoners as a result of the use of force in an arrest situation shall be documented in the arrest report as well as in the Subject Management Report.
 - c. At the discretion of the Officer in Charge, minor injuries may be treated by the officer or by rescue personnel. If the person has been tased and doesn't appear to recover quickly, rescue should respond.
 - d. Prisoners with serious injuries and those that request medical care shall be taken to the nearest appropriate hospital.
 3. As soon as practical after the incident, the officer should briefly summarize the incident verbally to the immediate supervisor, so the supervisor may control the scene and assess the situation for additional resources. The immediate supervisor will orally notify the Deputy Chief, who will contact the Chief. Where no shift supervisor is available, the first oral report will go directly to the Deputy Chief, who will in turn notify the Chief.

C. Reporting Process:

1. Only after psychological intervention with a licensed mental health professional, will the officer submit a written report as a draft narrative. If circumstance dictates, the Chief may defer the formal report for up to 3 days. The report will explain the justification for the force used, using Sections I-III of this policy for guidance, describing what force/tactic was used and what injury (if any) was inflicted or sustained, if known.
2. If the involved officer is injured or otherwise unable to submit a report, a supervisor will

be assigned to submit the initial written report.

X. Investigation and Review

In the event that an officer's actions or use of force results in death or serious bodily injury, or at the direction of the Chief of Police or designee, the following may occur:

Initial requirements

1. The shift supervisor shall take control of and secure the incident scene for the purpose of conducting an investigation.
2. The weapon(s) or tool(s) involved in the incident will be secured as investigative evidence.
 - a. When a department duty weapon is secured as evidence, the Chief of Police Services shall authorize a replacement weapon of the same make/model/caliber as soon as practical.
 - b. In situations where personally owned approved weapon(s) are seized, the department will not provide a replacement weapon.
3. The officer(s) involved in the incident should be transported to an appropriate treatment facility for medical assessment.
4. An officer (a Peer Officer Support Team member whenever possible) will be assigned to stay with the involved officer(s).
5. As soon as possible, the Chief of Police and the Deputy Chief will be notified.

XI. Investigative Process

- A. The Deputy Chief will oversee an administrative investigation into any incident where actions in an official capacity by a member(s) of the department results in (or is alleged to have resulted in) death or serious bodily injury. Where Deputy Chief is a principle in such an incident, the Chief will oversee the administrative investigation. Where the Chief is the subject of an investigation, the report will be submitted to the Colonel of the State Patrol (or another agency) or the police and fire commission.... for review.
- B. The Chief, after consulting with a mental health professional and the involved member, will place the member on administrative leave or administrative duty where enforcement action cannot occur, pending completion of the investigation. The member(s) shall be kept informed of the progress of the investigation. (1.3.8)
- C. Interview of involved member(s) shall not take place until at least 24 hours after the incident or at least one sleep-cycle. The interviewer will take into account the medical/psychological needs of the member(s) when scheduling the interview. Generally, the interview could occur after 24 hours up to 72 hours. The member should be rested prior to the interview.
- D. In the absence of mitigating circumstances, the investigation should be completed within ten (10) calendar days of the incident. The ten (10) day limit may be waived by the Chief of Police.
- E. In determining whether the actions or use of force was justified, the investigation shall

consider only those facts known to the member at the time that the force was used.

F. The report shall include:

1. Relevant facts and circumstances surrounding the incident, including subject actions.
2. A determination whether the force used was consistent with department policy.
3. Recommendation(s) for further action.

G. Upon completion of the investigation/review of the incident, the Chief of Police will notify the involved member(s), in writing, of the outcome.

XII. Psychological Follow-up

A. The Chief of Police will direct any psychological follow-up for traumatic incident exposure(s). A traumatic incident is considered any event that lies outside the range of the usual human experience and involves intense fear, helplessness, or exposure to possible serious physical injury or death, or witnessing any of the aforementioned. (Ref: CDC.gov) (See Critical Incident Response Protocol for response details.)

1. An officer involved in an incident must undergo an initial psychological follow-up prior to reassignment to full duty.
2. Upon approval of the Chief/Director of Police Services, an officer may seek psychological follow-up with a licensed professional of his/her choice.
3. Costs associated with psychological follow-up will be borne by the department.

XIII. Training

All training related to Use of Force should be kept in the officer's central training file. This file should be maintained by the Department's administrative assistant and monitored by the Deputy Chief of Support Services. Access should be limited to supervisors.

- A. All sworn personnel shall be issued a copy of the department's Use of Force Policy and will receive classroom training on its content prior to being authorized to carry a firearm and annually thereafter. (1.3.12) (1.3.11 b)
- B. All sworn personnel will qualify at least annually with the firearms that they carry on duty to include second firearms and may demonstrate proficiency with off duty weapons systems if they so choose. All expenses for the second weapon and/or qualifications/proficiency requirements are the sole responsibility of the individual officer. This training will be conducted by certified firearms instructors. (1.3.10) (1.3.11 a)
- C. Sworn personnel shall not be permitted to carry or use a weapon on duty unless they have been trained and qualified in its use as determined by department training procedures. Written documentation of training and qualification will be kept in the officer's central training file. (1.3.10) (1.3.11 b)
- D. An officer who has taken an extended leave of over six (6) months, or has suffered

NATIONAL
CONSENSUS
POLICY AND
DISCUSSION
PAPER ON USE OF
FORCE

Revised July 2020
(Originally published October 2017)

POLICY

This National Consensus Policy on Use of Force is a collaborative effort among 11 of the most significant law enforcement leadership and labor organizations in the United States (see back panel for list). The policy reflects the best thinking of all consensus organizations and is solely intended to serve as a template for law enforcement agencies to compare and enhance their existing policies.

I. PURPOSE

The purpose of this policy is to provide law enforcement officers with guidelines for the use of less-lethal and deadly force.

II. POLICY

It is the policy of this law enforcement agency to value and preserve human life. Officers shall use only the force that is objectively reasonable to effectively bring an incident under control, while protecting the safety of the officer and others. Officers shall use force only when no reasonably effective alternative appears to exist and shall use only the level of force which a reasonably prudent officer would use under the same or similar circumstances.

The decision to use force “requires careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officer or others, and whether he is actively resisting arrest or attempting to evade arrest by flight.”

In addition, “the ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight...the question is whether the officers’ actions are ‘objectively reasonable’ in light of the facts and circumstances confronting them.”¹

This policy is to be reviewed annually and any questions or concerns should be addressed to the immediate supervisor for clarification.

III. DEFINITIONS

DEADLY FORCE: Any use of force that creates a substantial risk of causing death or serious bodily injury.

LESS-LETHAL FORCE: Any use of force other than that which is considered deadly force that involves physical effort to control, restrain, or overcome the resistance of another.

OBJECTIVELY REASONABLE: The determination that the necessity for using force and the level of force used is based upon the officer’s evaluation of the situation in light of the totality of the circumstances known to the officer at the time the force is used and upon what a reasonably prudent officer would use under the same or similar situations.

SERIOUS BODILY INJURY: Injury that involves a substantial risk of death, protracted and obvious disfigurement, or extended loss or impairment of the function of a body part or organ.

DE-ESCALATION: Taking action or communicating verbally or non-verbally during a potential force encounter in an attempt to stabilize the situation and reduce the immediacy of the threat so that more time, options, and resources can be called upon to resolve the situation without the use of force or with a reduction in the force necessary. De-escalation may include the use of such techniques as command presence, advisements, warnings, verbal persuasion, and tactical repositioning.

EXIGENT CIRCUMSTANCES: Those circumstances that would cause a reasonable person to believe that a particular action is necessary to prevent physical

¹ *Graham v. Connor*, 490 U.S. 386 (1989).

harm to an individual, the destruction of relevant evidence, the escape of a suspect, or some other consequence improperly frustrating legitimate law enforcement efforts.²

CHOKE HOLD: A physical maneuver that restricts an individual's ability to breathe for the purposes of incapacitation.

VASCULAR NECK RESTRAINT: A technique that can be used to incapacitate individuals by restricting the flow of blood to their brain.

WARNING SHOT: Discharge of a firearm for the purpose of compelling compliance from an individual, but not intended to cause physical injury.

IV. PROCEDURES

A. General Provisions

1. Use of physical force should be discontinued when resistance ceases or when the incident is under control.
2. Physical force shall not be used against individuals in restraints, except as objectively reasonable to prevent their escape or prevent imminent bodily injury to the individual, the officer, or another person. In these situations, only the minimal amount of force necessary to control the situation shall be used.
3. Once the scene is safe and as soon as practical, an officer shall provide appropriate medical care consistent with his or her training to any individual who has visible injuries, complains of being injured, or requests medical attention. This may include providing first aid, requesting emergency medical services, and/or arranging for transportation to an emergency medical facility.

4. An officer has a duty to intervene to prevent or stop the use of excessive force by another officer when it is safe and reasonable to do so.
5. All uses of force shall be documented and investigated pursuant to this agency's policies.

B. De-escalation

1. An officer shall use de-escalation techniques and other alternatives to higher levels of force consistent with his or her training whenever possible and appropriate before resorting to force and to reduce the need for force.
2. Whenever possible and when such delay will not compromise the safety of the officer or another and will not result in the destruction of evidence, escape of a suspect, or commission of a crime, an officer shall allow an individual time and opportunity to submit to verbal commands before force is used.

C. Use of Less-Lethal Force

When de-escalation techniques are not effective or appropriate, an officer may consider the use of less-lethal force to control a non-compliant or actively resistant individual. An officer is authorized to use agency-approved, less-lethal force techniques and issued equipment

1. to protect the officer or others from immediate physical harm,
2. to restrain or subdue an individual who is actively resisting or evading arrest, or
3. to bring an unlawful situation safely and effectively under control.

D. Use of Deadly Force

1. An officer is authorized to use deadly force when it is objectively reasonable under the totality of the circumstances. Use of deadly force is justified when one or both of the following apply:
 - a. to protect the officer or others from what is reasonably believed to be an

² Based on the definition from *United States v. McConney*, 728 F.2d 1195, 1199 (9th Cir.), cert. denied, 469 U.S. 824 (1984).

immediate threat of death or serious bodily injury

- b. to prevent the escape of a fleeing subject when the officer has probable cause to believe that the person has committed, or intends to commit a felony involving serious bodily injury or death, and the officer reasonably believes that there is an imminent risk of serious bodily injury or death to the officer or another if the subject is not immediately apprehended
2. Where feasible, the officer shall identify himself or herself as a law enforcement officer and warn of his or her intent to use deadly force.³
3. Deadly Force Restrictions
 - a. Deadly force should not be used against persons whose actions are a threat only to themselves or property.
 - b. Warning shots are inherently dangerous. Therefore, a warning shot must have a defined target and shall not be fired unless
 - (1) the use of deadly force is justified;
 - (2) the warning shot will not pose a substantial risk of injury or death to the officer or others; and
 - (3) the officer reasonably believes that the warning shot will reduce the possibility that deadly force will have to be used.
 - c. Firearms shall not be discharged at a moving vehicle unless
 - (1) a person in the vehicle is threatening the officer or another

person with deadly force by means other than the vehicle; or

- (2) the vehicle is operated in a manner deliberately intended to strike an officer or another person, and all other reasonable means of defense have been exhausted (or are not present or practical), which includes moving out of the path of the vehicle.
- d. Firearms shall not be discharged from a moving vehicle except in exigent circumstances. In these situations, an officer must have an articulable reason for this use of deadly force.
- e. Choke holds are prohibited unless deadly force is authorized.

E. Training

1. All officers shall receive training, at least annually, on this agency's use of force policy and related legal updates.
2. In addition, training shall be provided on a regular and periodic basis and designed to
 - a. provide techniques for the use of and reinforce the importance of de-escalation;
 - b. simulate actual shooting situations and conditions; and
 - c. enhance officers' discretion and judgment in using less-lethal and deadly force in accordance with this policy.
3. All use-of-force training shall be documented.

Every effort has been made to ensure that this document incorporates the most current information and contemporary professional judgment on this issue. However, law enforcement administrators should be cautioned that no "sample" policy can meet all the needs of any given law enforcement agency.

Each law enforcement agency operates in a unique environment of court rulings, state laws, local ordinances, regulations, judicial and administrative decisions, and collective bargaining agreements that must be considered, and should therefore consult its legal advisor before implementing any policy.

³ *Tennessee v. Garner*, 471 U.S. 1 (1985).

DISCUSSION PAPER

This *Discussion Paper on the National Consensus Use of Force Policy* is a collaborative effort among 11 of the most significant law enforcement leadership and labor organizations in the United States. The paper reflects the best thinking of all Consensus organizations and is intended to provide background information for law enforcement agencies to consider when implementing the *National Consensus Policy on Use of Force* in their own agencies.

I. INTRODUCTION

Managing uses of force by officers is one of the most difficult challenges facing law enforcement agencies. The ability of law enforcement officers to enforce the law, protect the public, and guard their own safety and that of innocent bystanders is very challenging. Interactions with uncooperative subjects who are physically resistant present extraordinary situations that may quickly escalate. Ideally, an officer is able to gain cooperation in such situations through the use of verbal persuasion and other de-escalation skills. However, if physical force is necessary, an officer's use of force to gain control and compliance of subjects in these and other circumstances must be objectively reasonable.

While the public generally associates law enforcement use of force with the discharge of a firearm, use of force includes a much wider range of compliance techniques and equipment. These less intrusive, but more common uses of force may range from hand control procedures to electronic control weapons, pepper aerosol spray, or various other equipment and tactics.

A. National Consensus Policy on Use of Force

In recognition of the increased focus on law enforcement use of force, in April 2016, the International Association of Chiefs of Police and the Fraternal Order of Police convened a symposium to discuss the current state of policing, in general, and use of force, in particular, inviting several of the leading law enforcement leadership and labor organizations to attend. The United States Supreme Court has provided clear parameters regarding the use of force. However, how this guidance is

operationalized in the policies of individual law enforcement agencies varies greatly. This creates a landscape where each agency, even neighboring jurisdictions, are potentially operating under differing, inconsistent, or varied policies when it comes to the most critical of topics.

Symposium members decided to address these disparities by creating a policy document on use of force that can be used by all law enforcement agencies across the country. The goal of this undertaking was to synthesize the views of the participating organizations into one consensus document that agencies could then use to draft or enhance their existing policies. The final product, the *National Consensus Policy on Use of Force (Consensus Policy)*, was published in January 2017.

The *Consensus Policy* incorporates the most current information and contemporary professional judgment and is designed to provide a framework of critical issues and suggested practices from which agencies can develop their own use-of-force policies. *It is not intended to be a national standard by which all agencies are held accountable, and agencies are not required to institute the Consensus Policy.*

Rather, chief executives should use the document as a guideline, while taking into account the specific needs of their agencies, to include relevant court rulings, state laws, local ordinances, regulations, judicial and administrative decisions, and collective bargaining agreements. Many chief executives might wish to make their own policies more restrictive than the *Consensus Policy*. As with any policy, before implementing these suggested guidelines, agencies should consult their legal advisors.

This paper is designed to accompany the *Consensus Policy* and provide essential background material and supporting documentation to promote greater understanding of the developmental philosophy and implementation guidelines for the *Consensus Policy*. Chief executives should use the information contained herein to better inform their decisions on whether to implement the various directives found in the *Consensus Policy* in their own agencies.

B. Scope of Policy

Law enforcement agencies must provide officers with clear and concise policies that establish well-defined guidelines on the use of force. It is essential that officers have a complete understanding of agency policy on this critical issue, regularly reinforced through training. Therefore, a use-of-force policy should be concise and reflect clear constitutional guidance to adequately guide officer decision making. Policies that are overly detailed and complex are difficult for officers to remember and implement and, as such, they create a paradox. While they give officers more detailed guidance, they can also complicate the ability of officers to make decisions in critical situations when quick action and discretion are imperative to successful resolutions. The *Consensus Policy* is purposefully short and provides the necessary overarching guidelines in a succinct manner, while restricting force in certain situations.

Some agencies may choose to develop separate policies on less-lethal versus deadly force. However, law enforcement use of both deadly and less-lethal force is governed by the same legal principles and, therefore, the *Consensus Policy* elects to address the entire spectrum of force in one document. While the development of individual policies on the use of specialized force equipment is a prudent approach, the legal grounds for selection and application of any force option applied against a subject should be based on the same legal principles cited in the *Consensus Policy*.

It is also not the intended scope of either the *Consensus Policy*, or this discussion document, to

address issues relating to reporting use-of-force incidents; training of officers in the handling, maintenance, and use of weapons; investigation of officer-involved shooting incidents; officer post-shooting trauma response; and early warning systems to identify potential personnel problems. Instead, agencies are urged to develop separate policies addressing each of these topics.

II. Legal Considerations

Use of force may have potential civil and criminal consequences in state or federal courts or both. As scores of these actions have demonstrated, the scope and the wording of agency policy can be crucial to the final resolution of such cases. It should be emphasized that liability can arise for an involved officer; the law enforcement agency; agency administrator(s); and the governing jurisdiction.

At a minimum, agency policy must meet state and federal court requirements and limitations on the use of force, with the U.S. Constitution forming the baseline for the establishment of rights. While states cannot take away or diminish rights under the U.S. Constitution, they can, and often do, expand upon those rights. In such cases, law enforcement administrators must establish an agency policy that meets the more stringent use-of-force guidelines of their state constitution and statutory or case law interpreting those provisions. It is strongly recommended that this and other policies undergo informed, professional legal review before they are sanctioned by the agency.

A. Use of Policy in Court

Courts vary as to whether agency policy can be introduced and carry the same weight as statutory law. However, in some cases, it may be permissible to introduce at trial the issue of officer noncompliance for whatever weight and significance a jury feels appropriate. Law enforcement administrators should develop strong and definitive policies and procedures without fear that they might prove prejudicial to a future court assessment of an officer's conduct. In fact, by adopting a use-

of-force policy in clear and unequivocal terms, agencies can prevent more serious consequences for themselves, their officers, and their jurisdiction.

B. Federal Guidelines for Use of Force

There are two landmark decisions by the United States Supreme Court that guide law enforcement use of force: *Tennessee v. Garner* and *Graham v. Connor*.¹ Following is a brief review of each case.

Tennessee v. Garner. In *Garner*, a Memphis, Tennessee, police officer, acting in conformance with state law, shot and killed an unarmed youth fleeing over a fence at night in the backyard of a house he was suspected of burglarizing. The court held that the officer's action was unconstitutional under 42 U.S.C. 1983, stating that "such force may not be used unless it is necessary to prevent the escape and the officer has probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others."²

The court ruled that apprehension by the use of deadly force is a seizure subject to the Fourth Amendment's reasonableness requirement. Thus, even where an officer has probable cause to arrest someone, it may be unreasonable to do so through the use of deadly force.

Graham v. Connor. In *Graham*, a diabetic man seeking to counter the effects of an insulin reaction entered a convenience store with the intent of purchasing some orange juice. After seeing the line of people ahead of him, Graham quickly left the store and decided instead to go to a friend's house. An officer at the store, Connor, determined Graham's behavior to be suspicious and proceeded to follow and then stop the car in which Graham was a passenger. Graham was subsequently handcuffed and received multiple injuries, despite attempts to inform Connor and the other responding officers of his medical condition. Graham was released once Connor confirmed that

no crime had been committed in the store, but later filed suit alleging excessive use of force.

The court ruled that claims of law enforcement excessive use of force must be analyzed using an "objective reasonableness" standard. Specifically, the court stated "[t]he Fourth Amendment 'reasonableness' inquiry is whether the officers' actions are 'objectively reasonable' in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation. The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, and its calculus must embody an allowance for the fact that police officers are often forced to make split-second decisions about the amount of force necessary in a particular situation."³

C. Defining a Reasonable Use of Force

The potential of civil or criminal litigation involving deadly force incidents also necessitates close scrutiny of the language employed in a use-of-force policy by legal authorities. Law enforcement administrators should work closely with knowledgeable attorneys in determining the suitability of the use-of-force policy to their local requirements, needs, and perspectives. Deliberation over phrasing or word usage might seem inconsequential or excessive, but such terms can, and do, have significant consequences in a litigation context.

The use of commonly employed terms and phrases, even though well intentioned, can cause unexpected and unnecessary consequences for the officer and the agency. For example, phrases like "officers shall exhaust all means before resorting to the use of deadly force" present obstacles to effective defense of legitimate and justifiable uses of force. Such language in a policy can unintentionally impose burdens on officers above those required by law.

¹ *Tennessee v. Garner*, 471 U.S. 1 (1985); *Graham v. Connor*, 490 U.S. 386 (1989).

² *Garner*, 471 U.S. 1.

³ *Graham*, 490 U.S. at 396–397.

The foregoing discussion is not meant to suggest that law enforcement agency policy must be established only with potential litigation in mind. On the contrary, law enforcement administrators should use language that properly guides officers' decision-making consistent with agency goals and values while also protecting the officer, the agency, and the community from unnecessary litigation. There is value in using verbiage from statutes, case law, and regulations in policy as a means of providing officers with clearer guidance.

Training should effectively translate the general guiding principles of agency policy and operational procedures into real-world scenarios through understanding and practice. Training shares an equal importance in agency efforts to control and manage the use of force and, as such, can have a significant impact on an agency's efforts to defend the use of force in court or other contexts.

III. Overview

A. Guiding Principles

It should be the foremost policy of all law enforcement agencies to value and preserve human life. As guardians of their communities, officers must make it their top priority to protect both themselves and the people they serve from danger, while enforcing the laws of the jurisdiction. However, there are situations where the use of force is unavoidable. In these instances, officers must "use only the amount of force that is objectively reasonable to effectively bring an incident under control, while protecting the safety of the officer and others."⁴ Introduced in *Graham*, the "objectively reasonable" standard establishes the necessity for the use and level of force to be based on the individual officer's evaluation of the situation considering the totality of the circumstances.⁵ This evaluation as to whether or not force is justified is based on what was reasonably

believed by the officer, to include what information others communicated to the officer, **at the time the force was used** and "upon what a reasonably prudent officer would use under the same or similar circumstances." This standard is not intended to be an analysis after the incident has ended of circumstances not known to the officer at the time the force was utilized.

The totality of the circumstances can include, but is not limited to, the immediate threat to the safety of the officer or others; whether the subject is actively resisting; the time available for the officer to make decisions in circumstances that are tense, uncertain, and rapidly evolving; the seriousness of the crime(s) involved; and whether the subject is attempting to evade or escape and the danger the subject poses to the community. Other factors may include prior law enforcement contacts with the subject or location; the number of officers versus the number of subjects; age, size, and relative strength of the subject versus the officer; specialized knowledge skill or abilities of the officer; injury or level of exhaustion of the officer; whether the subject appears to be affected by mental illness or under the influence of alcohol or other drugs; environmental factors such as lighting, terrain, radio communications, and crowd-related issues; and the subject's proximity to potential weapons.

The decision to employ any force, including the use of firearms, may be considered excessive by law and agency policy or both, if it knowingly exceeded a degree of force that reasonably appeared necessary based on the specific situation. It is important to note that in *Graham*, the U.S. Supreme Court recognized that law enforcement officers do not need to use the minimum amount of force in any given situation; rather, the officer must use a force option that is reasonable based upon the totality of the circumstances known to the officer at the time the force was used. Use-of-force decisions are made under exceedingly varied scenarios and often on a split-second basis. Based on this fact,

⁴ ASCIA, CALEA, FOP, FLEOA, IACP, HAPCOA, IADLEST, NAPO, NAWLEE, NOBLE, and NTOA, *National Consensus Policy on Use of Force*, January 2017, 2, http://www.theiacp.org/Portals/0/documents/pdfs/National_Consensus_Policy_On_Use_Of_Force.pdf.

⁵ *Graham*, 490 U.S. at 396.

state and federal courts have recognized that law enforcement officers must be provided with the necessary knowledge and training to make such decisions, in addition to attaining proficiency with firearms and other less-lethal force equipment and force techniques that may be used in the line of duty.

B. De-Escalation

De-escalation is defined as “taking action or communicating verbally or non-verbally during a potential force encounter in an attempt to stabilize the situation and reduce the immediacy of the threat so that more time, options, and resources can be called upon to resolve the situation without the use of force or with a reduction in the force necessary.”⁶ The term de-escalation can be viewed as both an overarching philosophy that encourages officers to constantly reassess each situation to determine what options are available to effectively respond, as well as the grouping of techniques designed to achieve this goal. In most instances, the goal of de-escalation is to slow down the situation so that the subject can be guided toward a course of action that will not necessitate the use of force, reduce the level of force necessary, allow time for additional personnel or resources to arrive, or all three.

De-escalation is not a new concept and has been part of officer training for decades. Historically, de-escalation has been employed when officers respond to calls involving a person affected by mental illness or under the influence of alcohol or other drugs. In these situations, an officer is instructed to approach the individual in a calm manner and remain composed while trying to establish trust and rapport. Responders are taught to speak in low, or nonthreatening tones, and use positive statements such as “I want to help you” intended to aid in the process of calming the subject. Awareness of body language is also significant. For example, standing too close to an angry or agitated person might cause them to feel threatened.

Another de-escalation technique is tactical repositioning. In many cases, officers can move to another location that lessens the level of danger. An example is an incident involving an individual with a knife. By increasing the distance from the individual, officers greatly reduce the risk to their safety and can explore additional options before resorting to a use of force, notwithstanding the need to control the threat to others.

Many of these steps—speaking calmly, positioning oneself in a nonthreatening manner, and establishing rapport through the acknowledgment of what the person is feeling—are easily transferred from Crisis Intervention Training for persons affected by mental illness to de-escalation encounters with people in general. While these tactics are recommended steps, officers must continually reassess each situation with the understanding that force may be necessary if de-escalation techniques are not effective.

One concern with de-escalation is that it can place officers in unnecessary danger. By overemphasizing the importance of de-escalation, officers might hesitate to use physical force when appropriate, thereby potentially resulting in an increase in line-of-duty deaths and injuries. Consequently, it should be stressed that de-escalation is not appropriate in every situation and officers are not required to use these techniques in every instance. If the individual poses a threat of injury or death to the officer or another, the officer must be permitted to use the level of force necessary to reasonably resolve the situation.

Agencies should strive to encourage officers to consider how time, distance, positioning, and especially communication skills may be used to their advantage as de-escalation techniques and as potential alternatives to force and to provide training on identifying when these techniques will be most useful to mitigate the need for force

⁶ *National Consensus Policy on Use of Force*, 2.

C. Force Models

The variety of compliance options available to law enforcement officers in a confrontational setting can be referred to as a force model. Using the variety of different options found in this model, officers are expected to employ only a degree of force that is objectively reasonable to gain control and compliance of subjects. Some agencies may refer to this as the use-of-force continuum. However, the use of the term “continuum” is often interpreted to mean that an officer must begin at one end of a range of use-of-force options and then systematically work his or her way through the types of force that follow on the continuum, such as less-lethal force options, before finally resorting to deadly force. In reality, to maintain the safety of both the officer and others, an officer might need to transition from one point on the continuum to another, without considering the options in between in a linear order. For instance, when faced with a deadly threat, it is not prudent to expect an officer to first employ compliance techniques, followed by an electronic control weapon, and only then use his or her firearm. For this reason, the use of a continuum is strongly discouraged. Instead, force models are preferred that allow officers to choose a level of force that is based on legal principles, to include the option of immediately resorting to deadly force where reasonable and necessary.

As noted previously, many law enforcement agencies prefer to develop separate less-lethal and deadly force policies. In addition to the comments previously made on this topic, there are several other reasons why the *Consensus Policy* combines these into a single use of force policy. But perhaps most importantly, integrating both deadly and less-lethal force guidelines into one policy serves to illustrate and reinforce for the officer the concept of the use of force as an integrated, or response, model. By placing both sets of guidelines under one heading, an officer consulting the policy is

encouraged to view force on a broader, more integrated conceptual basis.

Effective guidance for law enforcement officers on use of force, whether with firearms or by other means or tactics, must recognize and deal with force in all its forms and applications and with the officer’s ability to adjust his or her response as the subject’s behavior changes.

Whether an agency chooses to adopt a force model or continuum, the various levels of force must be defined and the guidelines for their use must be clearly outlined in agency policy and reinforced by training. Policies must also enumerate and address all force options permitted by the agency. Per the *Consensus Policy*, these levels should include less-lethal force and deadly force.

D. Defining Deadly and Less-Lethal Force

The *Consensus Policy* employs the terms deadly force and less-lethal force. Deadly force is defined as “any use of force that creates a substantial risk of causing death or serious bodily injury.”⁷ The most common example of deadly force is the use of a handgun or other firearm.

Less-lethal force is “any use of force other than that which is considered deadly force that involves physical effort to control, restrain, or overcome the resistance of another.”⁸ This includes, but is not limited to, an officer’s use of come-along holds and manual restraint, as well as force options such as electronic control weapons, pepper aerosol spray, and impact projectiles. It does not include verbal commands or other nonphysical de-escalation techniques.

The difference between deadly and less-lethal force is not determined simply by the nature of the force technique or instrument that is employed by an officer. Many force options have the potential to result in the death or serious bodily injury of a

⁷ *National Consensus Policy on Use of Force*, 2.

⁸ *Ibid.*

subject under certain circumstances. For example, a police baton, if used properly in accordance with professionally accepted training guidelines, is not likely to cause death. But it can result in the death of subjects when used inappropriately by an officer who lacks training, or in situations where blows are accidentally struck to the head or other vulnerable area of the body. The same could be said for a variety of other equipment used by law enforcement officers. Therefore, a key to understanding what separates deadly force from less-lethal force has to do with the likelihood that a given use of force will result in death, whether it involves a handgun or other weapon or even an object that may be close at hand.

Use of force that is likely to cause death or serious bodily injury is properly judged using a reasonable officer standard—how would a reasonably prudent law enforcement officer act under the same or similar circumstances?⁹ This standard is an objective test. That is, it is not based on the intent or motivation of the officer or other subjective factors at the time of the incident. It is based solely on the objective circumstances of the event and the conclusion that would be drawn by a “reasonable officer on the scene.”¹⁰

In determining the proper degree of force to use, officers are authorized to use deadly force to protect themselves or others from what is reasonably believed to be a threat of death or serious bodily harm. Officers have the option of using less-lethal force options where deadly force is not authorized, but may use only that level of force that is objectively reasonable to bring the incident under control.

E. Additional Definitions

Understanding of additional terms is helpful for the following discussion.

Exigent circumstances are “those circumstances that would cause a reasonable person to believe that a particular action is necessary to prevent physical harm to an individual, the destruction of relevant evidence, the escape of a suspect, or some other consequence improperly frustrating legitimate law enforcement efforts.”¹¹

An *immediate, or imminent, threat* can be described as danger from an individual whose apparent intent is to inflict serious bodily injury or death and the individual has the ability and opportunity to realize this intention.

IV. PROCEDURES

A. General Provisions

The *Consensus Policy* begins by providing general guidance that holds true for all situations involving the use of force. First, officers must continually reassess the situation, where possible, and ensure that the level of force being used meets the objective reasonableness standard. In situations where the subject either ceases to resist or the incident has been effectively brought under control, the use of physical force should be reduced accordingly. If the level of force exceeds what is necessary to control a subject, then the officer can be subject to allegations of excessive force.

Physical force should not be used against individuals in restraints unless failure to do so would result in the individual fleeing the scene or causing imminent bodily injury to himself or herself, the officer, or another person. Damage to property should not be considered a valid reason to use force against an individual in restraints. There might also be instances where handcuffed individuals are able to run from officers in an attempt to escape. In these situations, physical force may be allowable per policy, but only the minimal amount of force

⁹ Serious bodily injury is defined as “injury that involves a substantial risk of death, protracted and obvious disfigurement, or extended loss or impairment of the function of a body part or organ.”

¹⁰ *Connor*, 490 U.S. at 396.

¹¹ Based on the definition from *United States v. McConney*, 728 F.2d 1195, 1199 (9th Cir.), cert. denied, 469 U.S. 824 (1984).

necessary to control the situation should be used—deadly force will almost always be prohibited in these cases.

As previously stated, the ultimate goal of law enforcement officers is to value and preserve human life. Therefore, the *Consensus Policy* requires officers to provide medical care to anyone who is visibly injured, complains of injury, or requests medical attention.¹² This should be undertaken after the officers have ensured that the scene is safe and it is practical to do so. In addition, officers should only provide care consistent with their training, to include providing first aid. Additional appropriate responses include requesting emergency medical services and arranging for transportation to an emergency medical facility.

When verbal commands are issued, the individual should be provided with a reasonable amount of time and opportunity to respond before force is used, with the understanding that such a pause should not “compromise the safety of the officer or another and will not result in the destruction of evidence, escape of a suspect, or commission of a crime.”¹³ This is to prevent instances where officers use force immediately following a verbal command without providing the subject with an opportunity to comply and might also apply in such situations where an electronic control weapon is used and the individual is physically incapable of responding due to the effects of the weapon.

While the *Consensus Policy* strives to prohibit excessive force, the reality is that excessive force can occur no matter how well-crafted the policy or extensive the training. In these situations, it is crucial that other officers at the scene intervene to prevent or stop the use of excessive force. By requiring a pro-active approach to these situations and encouraging accountability for all officers on the scene, agencies can work toward preventing excessive uses of force.

Finally, while it is not the scope of the *Consensus Policy* or this document to provide specific guidelines on these topics, agencies must develop comprehensive policies for documenting, investigating, and reviewing all uses of force. Agency transparency to the public regarding these policies will help to foster public trust and assure the community that agencies are aware of and properly responding to use of force by their officers. Moreover, force review will help to assure that agency policies are being followed and will give the agency the opportunity to proactively address deficiencies in officer performance or agency policy and training or both.

B. De-Escalation

Procedurally, whenever possible and appropriate, officers should utilize de-escalation techniques consistent with their training before resorting to using force or to reduce the need for force. In many instances, these steps will allow officers additional time to assess the situation, request additional resources, and better formulate an appropriate response to the resistant individual, to include the use of communication skills in an attempt to diffuse the situation. However, as previously stated, de-escalation will not always be appropriate and officers should not place themselves or others in danger by delaying the use of less-lethal or even deadly force where warranted.

C. Less-Lethal Force

In situations where de-escalation techniques are either ineffective or inappropriate, and there is a need to control a noncompliant or actively resistant individual, officers should consider the use of less-lethal force. In these cases, officers should utilize only those less-lethal techniques or weapons the agency has authorized and with which the officer has been trained. As with any force, officers may

¹² Note that “providing medical care” does not necessarily require that the officer administer the care himself or herself. In some situations, this requirement may be satisfied by securing the skills and services of a colleague, emergency medical personnel, etc.

¹³ *National Consensus Policy on Use of Force*, 3.

use only that level of force that is objectively reasonable to bring the incident under control. Specifically, the *Consensus Policy* outlines three instances where less-lethal force is justified. These include “(1) to protect the officer or others from immediate physical harm, (2) to restrain or subdue an individual who is actively resisting or evading arrest, or (3) to bring an unlawful situation safely and effectively under control.”¹⁴

As noted in the prior discussion of the force model, use of force can range widely. Therefore, law enforcement officers should have at their disposal a variety of equipment and techniques that will allow them to respond appropriately to resistant or dangerous individuals. The *Consensus Policy* does not advocate the use of any specific less-lethal force weapons. Instead, the appropriateness of any such weapon depends on the goals and objectives of each law enforcement agency in the context of community expectations. Less-lethal weapons and techniques are being continuously introduced, refined, and updated, so law enforcement administrators must routinely assess current options and select equipment that is appropriate for their agency. A critical element of that decision-making process is an assessment of the limitations of each device or technique, and environmental factors that might impact its effectiveness. However, it is suggested that law enforcement agencies ban the use of several types of less-lethal impact weapons that are designed to inflict pain rather than affect control. These include slapjacks, blackjacks, brass knuckles, nunchucks, and other martial arts weapons.

D. Deadly Force

Authorized Uses of Deadly Force. As with all uses of force, when using deadly force, the overarching guideline that applies to *all* situations is that the force must be “objectively reasonable under the totality of the circumstances.” The *Consensus Policy* identifies two general circumstances in which the use of deadly force may be warranted. The first instance is to “protect the officer or others from what is reasonably believed to be an immediate threat of death or serious bodily injury.”¹⁵ Second, law enforcement officers may use deadly force “to prevent the escape of a fleeing subject when the officer has probable cause to believe that the person has committed, or intends to commit a felony involving serious bodily injury or death, and the officer reasonably believes that there is an imminent risk of serious bodily injury or death to the officer or another if the subject is not immediately apprehended.”¹⁶ In such cases, a threat of further violence, serious bodily injury, or death must impose clear justification to use deadly force.

For example, use of deadly force would be justified in instances where an officer attempts to stop the escape of a fleeing violent felon whom the officer has identified as one who has just committed a homicide, and who is armed or is likely to be armed in light of the crime. However, the potential escape of nonviolent subjects does not pose the same degree of risk to the public or the officer, and use of deadly force to prevent his or her escape would not be justifiable under the *Consensus Policy*.

If a decision has been made to employ deadly force, a law enforcement officer must, whenever feasible, identify himself or herself, warn the subject of his or her intent to use deadly force, and demand that the subject stop. This requirement was made clear in the *Garner* decision. If issuing a verbal warning presents a heightened risk to the safety of the officer or another person, the officer may employ deadly force without delay.

¹⁴ *National Consensus Policy on Use of Force*, 3.

¹⁵ *National Consensus Policy on Use of Force*, 4.

¹⁶ *Ibid.*

Deadly Force Restrictions. Deadly force is prohibited when the threat is only to property. In addition, officers should avoid using deadly force to stop individuals who are only a threat to themselves, unless the individual is using a deadly weapon such as a firearm or explosive device that may pose an imminent risk to the officer or others in close proximity. If the individual is attempting to inflict self-harm with means other than a deadly weapon, the officer should consider less-lethal options and de-escalation techniques, if practical.

Warning Shots. Perhaps the most debated inclusion in the *Consensus Policy* is the allowance for warning shots. Their inclusion in the *Consensus Policy* should not prevent an agency from establishing a more restrictive policy on the topic. Defined as “discharge of a firearm for the purpose of compelling compliance from an individual, but not intended to cause physical injury,” warning shots are inherently dangerous.¹⁷ However, the *Consensus Policy* outlines very strict guidelines for their use in an effort to address this threat, while still providing latitude for officers to use this technique as a viable alternative to direct deadly force in extreme and exigent circumstances. The *Consensus Policy* states that warning shots must have a defined target, with the goal of prohibiting shots fired straight up in the air. In addition, warning shots should only be considered if deadly force is justified, so in response to an immediate threat of death or serious bodily injury, and when “the officer reasonably believes that the warning shot will reduce the possibility that deadly force will have to be used.”¹⁸ Finally, the warning shot must not “pose a substantial risk of injury or death to the officer or others.”¹⁹

Essentially, the intent of the *Consensus Policy* is to provide officers with an alternative to deadly force in the very limited situations where these conditions are met.

Shots Discharged at Moving Vehicles.²⁰ The use of firearms under such conditions often presents an unacceptable risk to innocent bystanders. Even if successfully disabled, the vehicle might continue under its own power or momentum for some distance thus creating another hazard. Moreover, should the driver be wounded or killed by shots fired, the vehicle might proceed out of control and could become a serious threat to officers and others in the area. Notwithstanding, there are circumstances where shooting at a moving vehicle is the most appropriate and effective use of force.

Officers should consider this use of deadly force only when “a person in the vehicle is immediately threatening the officer or another person with deadly force by means other than the vehicle,” or when the vehicle is intentionally being used as a deadly weapon and “all other reasonable means of defense have been exhausted (or are not present or practical).”²¹ Examples of circumstances where officers are justified in shooting at a moving vehicle include when an occupant of the vehicle is shooting at the officer or others in the vicinity or, as has happened recently, the vehicle itself is being used as a deliberate means to kill others, such as a truck being driven through a crowd of innocent bystanders. Even under these circumstances, such actions should be taken only if the action does not present an unreasonable risk to officers or others, when reasonable alternatives are not practical, when failure to take such action would probably result in death or serious bodily injury, and then only when due consideration has been given to the safety of others in the vicinity. In cases where officers believe that the driver is intentionally attempting

¹⁷ *National Consensus Policy on Use of Force*, 3.

¹⁸ *National Consensus Policy on Use of Force*, 4.

¹⁹ *Ibid.*

²⁰ For information regarding United States Supreme Court cases addressing firing at a moving vehicle, see *Plumhoff v. Rickard*, 134 S. Ct. 2012 and *Mullenix v. Luna*, 577 U.S. ____ (2015) and the accompanying *amicus curiae* brief.

²¹ *National Consensus Policy on Use of Force*, 4.

to run them down, primary consideration must be given to moving out of the path of the vehicle. The *Consensus Policy* recognizes that there are times when getting out of the way of the vehicle is not possible and the use of a firearm by the officer may be warranted.

Shots Discharged from a Moving Vehicle.

When discussing whether or not officers should be permitted to fire shots from a moving vehicle, many of the same arguments can be made as firing at a moving vehicle. Most notably, accuracy of shot placement is significantly and negatively affected in such situations, thereby substantially increasing the risk to innocent bystanders from errant shots. Therefore, the *Consensus Policy* prohibits officers from discharging their weapons from moving vehicles unless exigent circumstances exist. In these situations, as with all instances where exigent circumstances are present, the officer must have an articulable reason for this use of deadly force.

Choke Holds. For the purposes of this document, a choke hold is defined as “a physical maneuver that restricts an individual’s ability to breathe for the purposes of incapacitation.”²² In the most common choke hold, referred to as an arm-bar hold, an officer places his or her forearm across the front of the individual’s neck and then applies pressure for the purpose of cutting off air flow. These are extremely dangerous maneuvers that can easily result in serious bodily injury or death. Therefore, the *Consensus Policy* allows their use only when deadly force is authorized.

Vascular Neck Restraint. For the purposes of this document, a vascular neck restraint is defined as “a technique that can be used to incapacitate individuals by restricting the flow of blood to their brain.”²³ Given the inherently dangerous nature of vascular neck restraints, the *Consensus Policy* allows their use only when deadly force is authorized.

E. Training

While it is crucial that law enforcement agencies develop a clear, concise policy regarding the use of force, it is equally important that officers are completely familiar with and fully understand the policy and any applicable laws. Therefore, officers should receive training on their agency’s use-of-force policy and any accompanying legal updates on at least an annual basis. Training should also be provided on all approved force options and techniques permitted by agency policy, along with regular refresher training that includes a review of the policy and hands-on, practical training. In addition, officers should also receive regular and periodic training related to de-escalation techniques and the importance of de-escalation as a tactic, as well as training designed to “enhance officers’ discretion and judgment in using less-lethal and deadly force.”²⁴

Firearms training should simulate actual shooting situations and conditions. This includes night or reduced light shooting, shooting at moving targets, primary- or secondary-hand firing, and combat simulation shooting. Firearms training should attempt to simulate the actual environment and circumstances of foreseeable encounters in the community setting, whether urban, suburban, or rural. A variety of computer-simulation training is available together with established and recognized tactical, exertion, and stress courses.

Law enforcement administrators, agencies, and parent jurisdictions may be held liable for the actions of their officers should they be unable to verify that appropriate and adequate training has been received and that officers have successfully passed any testing or certification requirements. Accordingly, agencies must provide responsive training, and all records of training received by officers must be accurately maintained for later verification.

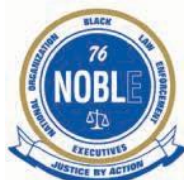
²² *National Consensus Policy on Use of Force*, 3.

²³ *National Consensus Policy on Use of Force*, 3.

²⁴ *National Consensus Policy on Use of Force*, 4.

CONTRIBUTING ORGANIZATIONS

This document is the result of a collaborative effort among the following organizations.



LAW ENFORCEMENT BASIC TRAINING 720-HOUR CURRICULUM

COMPETENCIES AND LEARNING OBJECTIVES BY PHASE



**Prepared for the Curriculum Advisory Committee to the
Law Enforcement Standards Board**

**By the Training and Standards Bureau
Wisconsin Department of Justice
December 2019**

Effective: May 1, 2020

- 3.2. Review multiple ethical decision-making models.
- 3.3. Defend a choice made using an ethical decision-making model.

Performance Standards

Students will make a decision in a case study using an ethical decision-making model.

Students will:

- Identify the conflict of interest in the case study.
- Make a decision using an ethical decision-making model.
- Detail how they used the steps of the model to reach their decision.

CULTURAL COMPETENCE I (4)

As a law enforcement professional, you will work with all members of the community. What that community looks like will change because the population of the United States is constantly changing. We live in a country that is getting bigger, getting older, and getting more multi-cultural. Officers who know their communities and the various populations within those communities can work with all residents to ensure your safety and the safety of the people you serve.

In addition to sound tactical skills, professional officers need superior communication and problem-solving skills in all cultures. Officers need to be respectful of and responsive to the beliefs, practices and cultural needs of different people with diverse backgrounds. In this course, students will learn about the concept of implicit bias and how these biases can impact the perception and behavior of law enforcement officers.

1. Demonstrate cultural self-awareness.
 - 1.1 Define culture.
 - 1.2 Explain how culture influences your thought processes.
 - 1.3 List the cultural groups that you identify with.
 - 1.4 Describe the stereotypes associated with different cultures.
 - 1.5 List other cultures that you may come in contact with.
 - 1.6 Compare and contrast the cultural groups that you identify with to other cultures.

Performance Standards

Students will complete a diversity self-assessment and analyze their personal biases and how they relate to the duties of a professional law enforcement officer.

The students will:

- Discuss how everyone comes from different backgrounds and cultures and that each of us is influenced by that background or culture.
 - Identify personal biases.
2. Examine the concept of implicit bias and how it can impact the perception and behaviors of law enforcement officers.
 - 2.1 Recognize that biases are normal and that all people, even well-intentioned people, have biases.
 - 2.2 Analyze how unconscious or implicit bias works in the human mind.

- 2.3 Describe the impact of bias on a law enforcement officer's perceptions and behavior.

Performance Standards

Students will complete the Harvard Implicit Bias Test. Students may also attend a meeting/event of a cultural group or research a cultural group they do not identify with and report back on that group during the Cultural Competence 2 course in Phase Three.

Students will:

- Recognize their personal biases, even hidden ones, and discuss how those could affect them as they do their job as a law enforcement officer.
- Compare what biases they thought they had with the results of the implicit bias test.
- Visit and/or research a culture they do not identify with to learn more about that culture. They will report back on their findings in the Cultural Competence 2 course in Phase Three.

AGENCY POLICY (2)

In this course students will explore the importance of written policies and procedures in law enforcement work. Policies and procedures set forth the expectations for proper conduct by law enforcement officials in regard to a broad range of common situations. They set forth what is to be done in regard to foreseeable situations, and how those things are to be done. As a law enforcement officer, it is your responsibility to know the policies and procedures of your department. This knowledge will make it easier to do your job and will reduce the liability faced by you and your agency.

Competencies and Learning Objectives

1. Describe the role of policies in agency operations.
 - 1.1. Identify the issues and subjects that require policies under Wisconsin state statutes.
 - 1.2. Distinguish between ministerial and discretionary policies.
 - 1.3. Describe the connection between a policy and a procedure.

Performance Standards

Students will classify policies into type categories and explain their reasoning behind the classification.

Students will:

- Correctly determine if the policy is mandatory, ministerial, discretionary, need to know, or need to reference (or a combination of categories).
 - Articulate why a policy was placed in a particular category.
 - Identify the terms or phrases found in the policy that determine the classification category (example, "shall," "should," "may," etc.).
2. Apply agency policies effectively in order to produce desired outcomes.
 - 2.1. Explain how agency policies affect the individual decision-making process.

Performance Standards

Students will decide on a course of action for a case study based on professional standards.

Specifically, students will:

- State the ethical dilemma.
 - Name the decision-making model used.
 - Defend the decision based on the components of the model used.
 - Relate the decision to accepted professional standards/codes of conduct.
4. Exhibit competence in ethical problem solving.
- 4.1 Select a professionally responsible course of action when presented with an ethical dilemma.
 - 4.2 Utilize the interpersonal skills necessary to take action.
 - 4.3 Review your actions to determine their effectiveness.
 - 4.4 Devise a process to continually improve your critical thinking and interpersonal problem-solving skills.

Performance Standards

Students will participate in an ethical dilemma role play.

Specifically, students will:

- Follow the role play script.
- Describe which part of the role play was most challenging.
- Explain ways the character could improve their ethical behavior.

CULTURAL COMPETENCE II (4)

In this course, students will learn about the state and federal laws related to discrimination and diversity and describe how biased policing affects law enforcement agencies and the communities they serve.

Competencies and Learning Objectives

1. Interpret state and federal laws related to discrimination and diversity.
 - 1.1 List the groups that are protected by Wisconsin statutes and federal laws.
 - 1.2 Explain how the Constitution of the United States protects members of various cultural groups.
 - 1.3 Define civil rights violation.
 - 1.4 Identify different types of profiling.
 - 1.5 Define hate crime.
 - 1.6 Describe the potential effects of civil rights violations, racial profiling and hate crimes on a community.

Performance Standards

If the students were given a research project or were sent to a cultural event/meeting in their community, they will present their findings to the rest of the class. Students will

also discuss current law enforcement cases involving law enforcement profiling and how it affected the officer, agency, and community.

Specifically, students will:

- Explain what they learned about a culture they do not identify with and explain how their views changed by learning more about that culture.
- Explain the difference between investigative profiling, providing suspect descriptions, and racial profiling (explaining that racial profiling is not culturally acceptable).

2. Describe how biased policing affects the agency and the community.

- 2.1 Articulate the impact biased policing has on community members.
- 2.2 Articulate the impact of biased policing on their law enforcement organizations.
- 2.3 Articulate the impact that biased policing may have on the willingness of community members to cooperate with law enforcement officers.
- 2.4 Recognize how fair and impartial policing is fundamental to the legitimacy of law enforcement in society.

Performance Standards

Students will participate in a discussion on how implicit bias affects their agency and the community. During this discussion, students will talk about how officers can control their biases in the law enforcement profession.

Specifically, students will:

- Discuss ways to monitor and attempt to control their hidden attitudes before they are expressed through behavior.
- Explain that they can control these hidden attitudes by being aware of their language, body language, and attention to the stigma felt by target groups.

INTERROGATIONS (4)

During this course, students will learn how interrogations differ from interviews and will learn basic concepts in interrogating suspects.

Competencies and Learning Objectives

1. Examine the fundamentals of interrogations.

- 1.1 Differentiate between an interview and an interrogation.
- 1.2 Describe characteristics of a good interrogator.

Performance Standards

Students will discuss the basic steps used in both interviewing and interrogating individuals.

Specifically, students will:

- Explain that interviews are typically conducted with victims and witnesses.
- Explain that the goal of an interview is to find out as much relevant information as possible about an event while also putting the victim or witness at ease.

**RACIAL EQUITY
ORGANIZATIONAL JUSTICE
FOR LAW ENFORCEMENT**



Racial Equity Organizational Justice Model

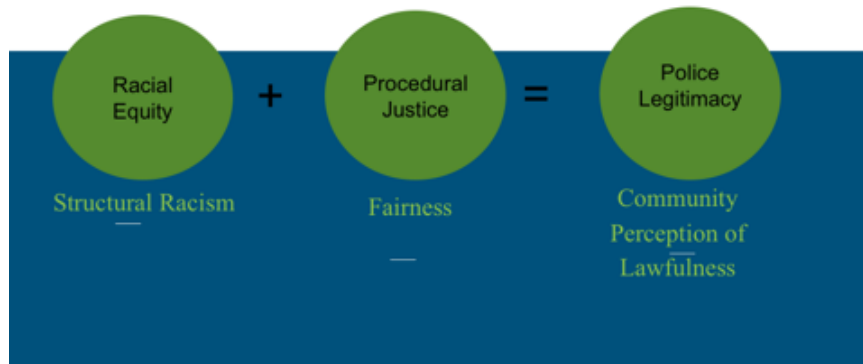
Introduction

The recent murder of George Floyd by a Minneapolis Police Officer and other shootings of unarmed black men have surfaced the institutional racism within Law Enforcement organizations.

There have been many police reform efforts across the country that have included overall policy recommendations in the areas of use of force, recruitment of diverse law enforcement officers, and cultural competency. While these broad attempts may represent a good start, they have not fully succeeded in addressing the root issues that create and exacerbate the disconnect and mistrust often seen between law enforcement and communities of color.

Reyes Public Safety responds to President Obama's 21st Century Policing Task Force recommendations by the evaluation of police departments through a racial equity lens while using data-driven strategies that build police legitimacy through transparency and trust.

RACIAL EQUITY ORGANIZATIONAL JUSTICE FRAMEWORK



Badge of Equity

The Badge of Equity training is an introductory course that includes an overview of the Racial Equity Organizational Justice Model. Participants will learn concepts of racial equity in policing and procedural justice concepts and how that leads to the legitimacy of policing by communities of color.

This training is an introduction for police departments to begin the implementation of a racial equity framework within their police departments.

Badge of Equity attendees will leave the training learning concepts of racial equity, procedural justice, and how this leads to police legitimacy while also leaving with a basic racial equity organizational justice framework to utilize within their organizations.

Badge of Equity training can also be offered in an online format to ensure continuous training and prepare organizations for the racial equity organizational justice organizational assessment.

Phase One: Setting your Law Enforcement Racial Equity Vision

Goals

- Understand racial equity and the historical context of race and policing.
- Understand how racial equity relates to police legitimacy.
- Examine current relationships and trust with communities of color.
- Identify a racial equity department vision.

Phase Two: Procedural and Organizational Justice

Goals

- Learn about the four pillars of procedural justice
- Identify how procedural justice and racial equity brings police legitimacy

Racial Equity Organizational Justice Model

The Racial Equity Organizational Justice Model provides for racial equity organizational assessment process that includes a review of police data through a racial equity lens while also bringing diverse community stakeholders to participate in the implementation of the racial equity framework. This process will lead to sustainable systems and culture change while building trust and police legitimacy to communities of color.

The Racial Equity Organizational Justice Model takes a data-driven approach that incorporates racial equity into police culture and procedural justice. These concepts should not conflict with each other, and they should fit together like a hand and glove. We believe that the role of leadership within police organizations and how leaders influence police officer behavior is critical to achieving this goal. There is a corresponding increase in police legitimacy and improved community relations when law enforcement agencies incorporate racial equity concepts, procedural justice, and data-driven strategies into their operations, policies, culture, training, and interactions with the community.

Phase Three: Development of Racial Equity Organizational Justice Structure

Goals

- Introduce and learn the racial equity organizational justice evaluation process
- Development of the organization's racial equity evaluation process
- Identify an internal and external racial equity team
- Identify accountability and evaluation measures

About



Gloria Reyes is a former law enforcement officer with a history of working with law enforcement and communities of color. Reyes is a Wisconsin certified training instructor and has instructed in topics of racial equity, implicit bias and cultural competency for the pre-service academies and in-service trainings within the Madison Police Department. Reyes currently teaches cultural competency for Madison College Law enforcement academy.

Reyes has served as City of Madison Deputy Mayor for public safety and oversight of the city of Madison racial equity initiative. Reyes has experience in the development of processes and procedures through a racial equity lens. Reyes was the Deputy Mayor when the city had an officer involved shooting of an unarmed black male. In response Reyes was involved in the oversight of the Madison Police Department policy and procedure review committee hiring of the consultants and monitoring progress and evaluation of recommendations. Reyes has served on the Wisconsin Association of Women of Policing Board of Directors.

Reyes is currently a professional consultant for Race Forward working with cities in developing a model for public safety through a community and racial equity lens.

There have been many police reform efforts across the country that have included overall policy recommendations in the areas of use of force, recruitment of diverse law enforcement officers and cultural competency. While these broad attempts may represent a good start, they have not fully succeeded in addressing the root issues that create and exacerbate the disconnect and mistrust often seen between law enforcement and communities of color.

Reyes Public Safety responds to President Obama's 21st Century Policing Task Force recommendations and evaluation of departments nationwide to incorporate racial equity data driven strategies within police departments and build police legitimacy through transparency

Appendix F Past Incidents – Calls in The Neighborhood

Calls at 5111 Arrowhead Drive 2005-2020

TRG was provided with a list of the Monona police department's calls for service at 5111 Arrowhead Drive from 2005 through June 2, 2020, the final call. Although calls were provided as early as 1997 for 5109 Arrowhead, the first call of record for 5111 was 2005.

In all, there were twelve (12) calls for service at that address:

- 3 assist ambulance/EMS, 2018 and 2019
- 2 parking calls, 2011 and 2013
- 2 calls for 9-1-1 misdials, 2017 and 2018
- 2 suspicious persons, 2005 and 2020
- 1 animal complaint, 2008
- 1 death investigation, 2015
- 1 accident/no injury, 2019

Calls at 5109 Arrowhead Drive 1997-2020

TRG was provided with a list of the Monona police department's calls for service from 5109 Arrowhead Drive from 2000 through June 5, 2020, the most recent call. Rory Lipke stated he has lived for twenty-four (24) years and, according to Carol Rubin, the neighbor across the street, he has had many different people living there over the years. This is the address given by the caller on 06/02/2020. That call is not listed below as it is considered a call at 5111 Arrowhead Drive.

In all, there were thirty-nine (39) calls at that address, not including follow-up calls, usually made by a detective after the incident:

22 calls were either disorderly conduct (arrest), domestic disturbance, preserve the peace, harassment, threats, and neighbor trouble (1). The majority of these calls occurred in 2011 but ranged from 1997-2019.

- 6 parking complaints, 2011
- 5 calls for "information", which normally means the caller or wanted to give the police information about a person or situation.
- 2 calls for "assist citizen", which can mean the same as above.
- 2 calls for 9-1-1 disconnects, 2011
- 1 civil matter, 2007
- 1 theft, 2017

Appendix G Significant Neighborhood Issues or Events

Sex Offender Notification

Name: James C. Morgan
Offense: 3 counts - 1st Degree Sexual Assault – Habitual Criminality on each count
Sentence: (15 years each count, consecutive for a total of 45 years)
Offense: 2nd Degree Attempted Sexual Assault – Habitual Criminality
Theft of Moveable Property
(Consecutive to above counts)
Conviction Date: 07/01/1983
Prison Release Date: 12/08/2015

Sex Offender Registry: Lifetime Registrant

Offense Summary

In 1981, Mr. Morgan grabbed an adult female stranger from behind, covered her mouth and nose with his hand and forced to her to the ground. He then attempted to drag her to a field. He forcefully unzipped the victim's pants. When the victim struggled, he stuck her in the face, grabbed her purse and fled the scene.

In a separate conviction, in 1983 Mr. Morgan followed a female stranger into her residence, threatened her with a knife and repeated forced penis-to-vagina and penis-to-anus sexual assault. He also forced the victim to perform fellatio. He placed a knife against the victim's head and throat and threatened to cut her "Like I did the other girls."

Sex Offender Notification Bulletin

On February 25, 2016, Monona Police Department in coordination with the Wisconsin Department of Corrections conducted a Sex Offender Community Notification Meeting at the Monona Library located at 1000 Nichols Road, Monona, WI. Flyers were distributed by the Monona Police Department on February 19, 2016, to neighbors in close proximity to 5112 Arrowhead Drive, Monona, WI. Notices were also posted at City Hall, Community Center and the Public Library, along with e-mail notice to the Herald Independent and the Wisconsin State Journal. The residence was owned by Ms. Carol Rubin. Ms. Rubin permitted Mr. Morgan to live with her after meeting him while she was working at WISDOM focusing on prisoner re-entry.

The community notification meeting was uneventful with approximately 50 citizens attending.

Appendix H Reviewers Bios

The Riseling Group, LLC Team

The Lead for this project was Associate Vice Chancellor and Chief (ret) Sue Riseling. She was joined by Debra J. Hettrick and Deirdre A. Morgan.

Associate Vice Chancellor and Chief of Police (retired) Sue Riseling

Sue Riseling is the current President of The Riseling Group, LLC. Chief Riseling retired after 34 years in active security and law enforcement, 25 of those years as Chief of Police. During her time as Chief, Sue has served as the deciding authority on policy and employment for police officer, sergeant, lieutenants, captains, and assistant chiefs. Her organization was triply accredited – the only department in the state of Wisconsin to achieve this recognition. After retiring from the UW-Madison police department she served as the Executive Director of the International Association of Campus Law Enforcement Administrators (IACLEA). IACLEA has over 4,000 members in 15 countries.

Over her career she served on the International Association of Chiefs of Police (IACP) Board and Executive committee. The IACP is the world's largest police leadership organization. Sue was the first woman and first university police chief to serve as Vice President at Large for 5 years in the association. She chaired or served on the IACP Civil Rights committee for over a decade. This committee drafted the first resolution banning racial profiling and calling for bias-free policing. She helped author the IACP guide to civil rights funded by the USDOJ and she was part of a team that authored a strategy document dealing with immigration. She has served as President of the Wisconsin Chiefs of Police Association and helped author the Association's work on data gathering and ending racial profiling during traffic stops. While serving as President of the Dane County Chiefs of Police Association, she helped reform the county wide law enforcement practice dealing with detoxification centers. She also chaired the committee that called for independent agency investigation of use of force incidents throughout Dane county before it became the state law. During her career, Sue served as the President of the Wisconsin Police Executive Group and the President of the National Association of Women Law Enforcement Executives.

In 2015 she co-chaired a Leaders of Color and Law Enforcement collaboration on the Use of Force sponsored by the United Way. She currently is serving on a work group for police reform within Dane county through the United Way.

In her career Chief Riseling has received many honors. Some of note, she was honored by the Police Executive Research Forum (PERF) with their Excellence in Leadership Award, the United Way with Woman of the Year in Philanthropy, and the Motorola/NAWLEE Police Executive of the Year, the Chancellor's award, recognition from the United States Secret Service and the Director of the FBI. The University of Wisconsin Police Department was awarded the IACP's Civil Rights award while she was Chief, and the department won the National Sheriff's Association award for community policing.

Sue has instructed in community policing, bias-free policing, ending racial profiling in traffic stops and building trust within the community police serve. Her first book "A View from the Interior: Policing the Protests at the Wisconsin State Capitol" won the Midwest bookseller's book of the year in 2013.

Assistant Chief of Police (retired) Debra J. Hettrick

After 20 years in law enforcement, Deb retired as an Assistant Chief with the University of Wisconsin Police Department. During her 20 years she rose through the ranks of Detective, Lieutenant, Captain and Assistant Chief. She was the first woman to be promoted to Lieutenant, Captain and Assistant Chief. As Lieutenant she was responsible for the evening shifts, 4 pm to 7 am. When promoted to Captain she

lead the Division of Field Services which included patrol, special events, investigations and all field operations.

Following her retirement in 2001, she returned to work for the Department and for the University of Wisconsin System focusing on threat prevention due to active shooters. She also focused on development of Continuity of Operation Plans, police policy development, human resource functions and emergency management.

Deb has a Bachelor's degree from the University of Wisconsin-Madison. She has been with The Riseling Group, LLC since 2007.

Deputy Secretary (retired) Deirdre A. Morgan

Deputy Secretary Morgan retired in 2018 from the Wisconsin Department of Corrections after an 18-year career in which she served as a Warden, as a Regional Chief within the Division of Juvenile Services, as an Assistant Administrator of Division of Management Services and Deputy Secretary. During her career she also worked in the Department of Justice, Office of the Attorney General for Wisconsin as the Director of Communications and Public Policy. She was the Chair of the Parole Commission for four years.

Dede also worked in the field of human resources as the Director of Human Resources for the Stoughton School District and in the Wisconsin Department of Corrections as the Correctional System Director of Human Resources. She started her career as a social worker with the Wisconsin Department of Health and Social Services, Division of Youth Services and Division of Probation and Parole.

Since retiring, she has served as the American Embassy subject matter expert to the Government of Tunisia. She developed and implemented system-wide prison reform using best practices and international standards. Policy and procedure development along with training and programming rounded out her position.

Dede has been with The Riseling Group, LLC since 2014.

Also Ms. Paige Smith, Chief (retired) Lianne Tuomey and Mr. Gerald Murphy contributed to this project.