

Questions/Thought's on the SOP's for Acting Police Chief Wahl Meeting on July 15, 2020 at 6pm

The subcommittee worked through the review of the Madison Police Department Standard Operating Procedures on (Demonstrations and Assemblies, De-Escalation, News Media Relations, Use of Force, Use of Non-Deadly Force, Use of Force Data Collection, Special Events Team Grendiars, and Special Events Team Field Extrication Team) at the June 23 and July 7, 2020 meetings. There were questions submitted by committee members prior to the meeting to discuss at the meeting. There were also additional thoughts/questions/clarifications added to the information to discuss with the Acting Police Chief.

The subcommittee felt that citizen's struggle with SOPs with overlying issues with having to refer to another SOP for more information. The other issue mentioned is the use of written words such as; may, shall, and should.

UNIFORM STANDARDS

Where is the language for SET riot gear?

Can something be done to have a more readable name tag?

How is the resolution that passed council about riot gear identification incorporated into this SOP.

WEAPONRY

Why are officers required to carry chemical agents?

Are there any special rules about chemical agents during COVID-19?

Why are special events, FT&# and SWAT not required to carry a taser?

What is the purpose of a police officer carrying a knife - folding/retractable or fixed blade?

Demonstrations and Assemblies SOP

Clarification needed on the directive to be impartial and neutral during demonstrations. What are the implications if not followed and what does it mean for the officer if they violate and what is the penalty. Neutrality was discussed with protests and why do the police have to remain neutral as there may be some officers who want to show solidarity and march with protestors.

Other areas discussed and questions raised; when is it decided to use riot gear, when is it

decided to advance and use pepper spray and other tools. How do they make the decision and what is the goal as this is not covered in the SOP.

Policies should be more complete and easy for an individual to find what they are looking for. SOP's should have the information included from another SOP. Who writes the policies?

Communication and notification to the protestors that is more specific and a public warning to protestors to get into a safe place before chemical agents are used. Some thought protestors were to be warned three times before chemical agents are used.

What process is there on changing policies and consideration of public on comments? There is a review process on the police department website when SOPs are posted but how much consideration from comments to make changes.

Interest in the numbers from COVID-19 and the stay at home orders and how many people attended to protest and the number of officers that were sent versus how many officers were sent to the George Floyd protest or the Tony Robinson protest at East High School. What was the difference between the two?

There were questions on charges and the inconsistency with who gets charged and who doesn't and recovering the costs.

Who is on the Special Events Team (SET) and how is that decided, do they have use of force complaints? Who are the officers in the riot gear, what kind of training do they have? What does the training look like?

What kinds of tools, chemical agents, etc. What ones do we think are okay under different circumstances and what ones are we hoping to curtail? What will tear gas do to the crowd and is that the desired effect?

Chemical tools should not be used unless there was an extreme circumstance such as "shooting in the streets". It should be very clear.

Disruption amongst the public and what that looks like. John Nolen Drive shut down. How can you keep those people happy that are going about their business and to keep the protestors happy. How do you make it more tolerant for those kinds of events and what is acceptable for the public?

De-Escalation SOP

Is the policy written for a single person as it doesn't address larger events. The "8 Can't Wait" 6 steps of de-escalation that should be in the policy. The PSRC is going to study "8 Can't Wait" and could be coordinated with those. OIR, Ad-hoc, and NCAAP did a lot of studying and has information on de-escalation on the six steps.

Under examples on the de-escalation SOP; the last example could include any standard operating procedures. The 6 points of de-escalation needs clarity and less leeway for less legal tactics utilized. There are a lot of different interpretations with the examples.

What is the difference from four months ago with until now with making arrests? The jail population is down. Is there something different with de-escalation?

Are officers trained on de-escalation and is that their specialty? Think everyone should be trained.

News Media Relations SOP

SOP should emphasize freedom of the press. Treatment of the Media during protests should be included in the policy. There is a news media relations SOP but does not address demonstrations.

Media – tear gas, pepper sprayed. Shouldn't there be some sort of rules/guidelines for the news media.

SOP lacking any reference to the importance of the press for public information. General information to respect free press.

SOP is lacking information on a large protest or gathering. News media relations should be mentioned. The tone is not favorable to the news media. General language can be cleaned up and information provided for transparency.

What instructions are given to news media during major event coverage? What expectations are set for the behavior of the media and the officers?

Video shows reporters/people with cameras getting hit with tear gas canisters and being pepper sprayed - are the media considered targets along with the rest of the population?

Is there a protocol for handling the media during a major event?

Do you require press passes for media at any point?

Why can't public information that hurts the integrity of MPD be released, as it creates transparency and accountability standards?

Mutual Aid SOP

If there are over 500 police officers on the force why do we need mutual aid? Random other police departments assist – why?

Officers should only take action if the situation is urgent - more clarity. What constitutes the level of urgency, determines the level of staffing.

No assurance that another department is following the MPD's policies and standards.

Were rubber bullets used from other police departments? It was used in our city and if we are using other police departments it doesn't follow MPD policies.

If bringing in an officer from another town they should have an identifiable patch/number on them.

Video should be publicly available. If you have mutual aid keep the videos because you don't know what the other officers are doing.

Use of Non-Deadly Force –

There was discussion on the SOP with the words objectively and subjectively when law enforcement is using force. It was said in the first paragraph, the primary duties should be to protect life, which is good, but the second paragraph says objectively reasonable which makes it not clear on what it means.

There was discussion on the legal aspect if an officer does something that is wrong?

Can there be language with an indication from the police department with what is coming next as there is no communication when pepper spray, tear gas, etc. is going to be sprayed. The policy only indicates how it is going to be used. Also, feels the policy should be centered on more communication, de-escalation, etc. There was discussion on how the SOP is written by which paragraph comes first with regard to following protocols.

The SOP does not require to have communication going into other measures. Use of deadly force is still unclear from a member of the public and there is a need for communication before use of non-deadly force (chemical agents not used at all) Felt that communication could greatly solve situations seen at protests.

The policy shares that projectiles will not be used to move or disperse crowds. This is not always observed.

There was discussion on complaints and legitimate complaints and the small percentage of officers that are convicted as doing something wrong. There was mention on officers that don't want to or don't have a card to give to a citizen when requested, the complaint process as being long and drawn out with a lot of work on the citizen, the ability to identify officers is difficult in crowd situations and name plates that are shiny are hard to read.

Medics in the crowd and providing aid to those injured in the crowd. What is the procedure?

Use of non-deadly force authorized - How do you justify using non-deadly force to "maintain on order", what does "maintaining order" consist of?

Force considerations - What alternative methods were used to control the crowds?

Force considerations - What offenses are considered "severe" enough to use non-deadly force?

Special circumstances - "control of a person through presence and verbal commands shall

always be the preferred method of control" - There seemed to be very few verbal commands to the crowd, please explain what is expected to be tried first.

De-Escalation - De-escalation SOP seems to be written for individuals not the SET or SET FXT - do they have different De-escalation policies?

Use of OC spray - what is the difference between active and passive resistance?

Use of OC spray - what constitutes a "threat"

Use of OC spray - what manner of use is "prescribed by the Chief of Police through MPD training"

Use of OC spray - How would you offer people the opportunity to wash or flush the areas affected? How often is this done?

Chemical agent use - what "manner" is "prescribed by the chief of police through MPD training" for use of chemical agents?

Baton use - At what point should officers be using batons - how do they determine that a "lesser degree of force" is insufficient?

Impact projectiles - They are only supposed to be used to overcome violent or assaultive behavior or to control persons to prevent them from harming an officer or another person - under which circumstances did you use these against the protesters

Impact projectiles - the policy requires taking people to the emergency room for medical clearance if they have been hit by one of these, how can you justify their use if there is no way that you will follow up with the required medical care?

Impact projectiles - How is it responsible to fire these into a crowd not knowing who you might hit and where, particularly because if a person is hit in the wrong area of the body it is deadly force?

Impact projectiles - The policies say "impact projectiles will not be used in crowd control situations." why were they used?

Impact projectiles - Then policies say they will not be used to "move or disperse crowds" - so why were they used on the days of May 30 - June 2

Aftercare - Is it considered responsible to use force knowing an officer can't follow up with aftercare? Were there any incidents of aftercare during the events of May 30 - June 2

Use of force review and investigations - how many investigations are happening as a result of the incidents May 30 - June 2? How many uses of force were put into the database?

What does immediate emergency casualty care exactly look like? Is it the same for both officers and citizens?

This category has no accountability issues (besides potential documentation discrepancies), while it has been apparent that not everyone gets the help they need in situations described in the policy - how would this concern be addressed?

Can communication be a required step before the use of force in general? The policy mentions that is the "preferred" method of communication, but could this language be removed to ensure that this is indeed happening?

If non-deadly force is meant to be as such, why does this SOP still use the phrasing "not likely to cause death" when referring to it?

Can officer discretion be a dangerous precedent to be set, as there can then always be a justification for partaking in misconduct?

Do peaceful protestors constitute "active resistance" or a "threat?"

Did all impacted protestors receive the appropriate medical care as detailed in this SOP over these past 2 months?

Use of Force Data Collection –

Recordable force - Why are pain compliance techniques not a reportable use of force?

Injury - Why is OC spray excluded from being an injury? Especially given certain populations it should not be used against?

Procedure - were field supervisors asked to come to the scene when impact projectiles were used on civilians during the events of May 30 - June 2?

What areas for improvement were identified by field supervisors entering use of force from May 30 - June 2?

What civilian witnesses were identified and interviewed as a result of use of force used on May 30 - June 2?

How much video/photo evidence is identified and preserved as a result of the incidents May 30 - June 2? How could that be obtained or viewed?

How long does a use of force review take?

Were there equipment related issues on the dates of May 30 - June 2 regarding use of force?

Does the inventory and the use of force reported match up for the dates of May 30 - June 2?

How many violations of use of force were found during the events of May 30- June 2? And what was the outcome of those findings (training, discipline, etc.)

What exactly is the definition of unrecorded force and what precisely does not need to be recorded? Unrecorded force poses problems...what doesn't have to be recorded?

Can any of the examples of what recordable force is be used in improper ways that lead to an abuse of rights?

How can the difference between what is recordable and what is not be better distinguished?

Special Events Team Field Extrication Team –

There was discussion on referring to a lot of protest devices and what do they mean with sign carrying, and tanks? What are they thinking when they are talking about?

SOPs are not being followed is a major thing that we are seeing. If an officer observes another officer using excessive force, etc. the officer has an affirmative obligation to intercede. Have they violated the policy? Does every case have to be judged on their own?

How does the team seek to get voluntary compliance and de-escalate first?

What weapons are included in the term "protest device"?

How often are inventory reports done? Can we get a copy of the report from before and after the May 30 - June 2 events?

Can we get the annual reports that the FX supervisor does?

At the last meeting Mindy says the SET medic is there for the officers not the public, what is the purpose of the medic and the ambulance standing by?

How many members are there of the FXT, who are they? Were all their reports included in the response to the alders?

What considerations do you have about using tear gas and OC spray during a pandemic? Would you use chemical weapons again given what we know?

What criteria does the commander use to activate the set team?

Would MPD consider using stronger language and eliminate the use of terms like "attempt," "preferred," etc. Phrases like this allow for the development of grey areas that can lead to an abuse of civilian rights.

Do officers typically anticipate protests to violate law?

Have all uses of force displayed in the past month been properly recorded?

How is this policy enforced and how specific are these documentations?

Special Events Team Grenadiers –

#3 under procedure, when they are going to use chemicals they should give a warning. No prior warning is required but feels it is encouraged.

How quickly is information shared with the officers on being deployed?

Concern there is a dis-connect in how it is being decided to use it.

GRENADIERS

Since de-escalation for crowds isn't in the de-escalation policy, why isn't it in this policy?

What training is required to carry a MK9 OC canister, how often, how many hours?

Why is no verbal warning required, but only encouraged to give voluntary compliance?

What are the decontamination and medical assistance expectations when using chemical weapons? When do you actually provide the assistance? What circumstances prevent you from doing it?

It seems like once the grenadiers are given the "go" order, there is no re-evaluating or stopping the efforts, is that true?

What kind of follow up is done to look at the inventory of munitions before and after events and match it to the police reports indicating they used force?

What rank do grenadiers hold, how many of each rank?

Can we get a copy of the Grenadier Lieutenant's annual reports for the past 10 years?

Can we get the SET supervisor, commander or CP personnel directing the use of force reports for the events in May and June?

What does it mean that if a grenadier is sent on a mutual aid request that they "abide by" "MPD SOPs generally" - what's the exceptions?

When would Grenadiers work outside of a SET situation?