

Friendly Fire

City Pages

September 9, 1997

by Britt Robson

The first police bullet hit Andre Madison straight through his neck. Ripping through the strap muscles between his ear and his collarbone, the 9 mm slug created a 4-inch-by-4-inch wound in his throat, shattered the small bone at the base of his tongue, and tore through another muscle before finally exiting on the right side. But it was the next bullet that would cause Madison greater long-term pain and disability: It entered on the inside of his right forearm, fractured his ulna almost right in the middle of the bone, then travelled down the length of his arm and exited out the side of his pointer finger. Doctors used a surgical plate and seven screws to set the fracture.

Madison was extremely lucky. At least 10 Minneapolis police officers pumped hundreds of rounds into his North Side apartment last November 7, yet he was only hit twice. As Madison lay in a hospital bed at North Memorial the next morning, the incident was prominently featured in both daily newspapers. But the headlines were devoted to Minneapolis Police Officer Mark Lanasa, who had been shot in the neck, treated for bruises, and released. The press accounts speculated at length about the special bulletproof vest that may have saved his life.

All the major media reported essentially the same story, with details provided by Minneapolis Police Department officials: that Lanasa had been met with a shotgun blast as he and his colleagues from the Emergency Response Unit and the Public Housing Authority Unit were raiding a suspected crack house in North Minneapolis. But there were a couple of things wrong with this version of events.

For one, there was no tangible evidence that the house had ever been used to sell crack. The warrant granting the ERU team entry had been obtained by an undercover purchase of marijuana at the duplex. No crack and only a minute amount of marijuana was found during the raid, and no drug charges of any sort were filed against Madison or the other two people who were in the house.

As for the shotgun Madison allegedly discharged at the officers, evidence would later show that it had never been fired that night. When he goes to trial next month, the most severe charge facing Madison will be second-degree assault for pointing the shotgun at the cops. Which would mean that, unless a brand new protagonist is introduced at the trial, Lanasa was shot by his own colleagues during one of the most spectacular fiascos in recent MPD history.

Because of the pending criminal trial, participants on both sides are unwilling to talk about the events of that November night. Nevertheless, numerous documents obtained by City Pages raise troubling questions about the raid and ERU operations in general. Official statements given by the officers involved contain severe inconsistencies and are occasionally contradicted by the physical evidence. In addition, videotapes taken after the raid indicate that the alleged crime scene may have been tampered with in a way that

supports the MPD's version of events. The documents also show that concerns about the effectiveness of the ERU were raised numerous times before the raid but went largely unaddressed.

Taken together, the evidence portrays a unit that is overworked, understaffed, inadequately trained, lacking key equipment, strategically lax, ineffective at generating criminal convictions, and hindered by acrimonious infighting. Ultimately, these issues are of greater significance than whether Andre Madison was foolish enough to point a shotgun at a cadre of heavily armed officers raiding his home.

The warrant allowing the cops entry to 2216 26th Ave. N. was obtained by Officer James Novak of the MPD's public-housing unit, who was told by a snitch that marijuana could be purchased there. After Novak used him for an undercover buy at the address, the informant said that a man with a shotgun was sitting in the rear stairwell as a security measure during the purchase. Novak considered the situation dangerous enough to ask a judge for a high-risk warrant, allowing unannounced entry under cover of darkness. The raid was set for November 7; the commanding officer would be ERU Sgt. Robert Kroll.

On the scheduled date, Kroll cased the house while cruising in a marked police car. Then he called a briefing of the 12 officers involved--six each from ERU and public housing--at the MPD's 4th Precinct. Diagramming the target area on a blackboard, Kroll revealed the strategy and set the assignments for the team. The raid would begin with two diversionary "flash bang" grenades being tossed by the side door near the rear stairwell, where the snitch had reported seeing the man with the shotgun. As soon as the grenades were detonated, the six ERU officers would begin ramming through the front doors of the building. Meanwhile, the six public-housing cops who had been pressed up against the side of the house would fan out along the sides and rear of the building and

apprehend anyone trying to escape.

The flash bangs went off as planned a few minutes past 8 p.m., and the ERU team members reported hearing gunshots shortly thereafter--though just when is not clear. According to their official statements, Kroll and Officer Scott Kossan heard shots as the team was ramming through the front door. Officers Lyall Delaney and John Bennett said it was when the team was ramming through a second door that led into the apartment from the foyer. For Officer Lanasa, it was after the team had breached both doors.

Once through the doors, all of the ERU officers claimed they saw Madison standing in the kitchen/dining-room area pointing a shotgun at them. More than that, Lanasa said he saw "a muzzle flash and smoke" coming from the gun; Delaney stated he saw Madison racking the shotgun, and that the weapon "was pointed directly at me and he had just fired it." Other officers claimed they exchanged gunfire with Madison.

But just about the same time the ERU officers claim Madison was shooting at them from the kitchen, the housing-unit cops at the rear of the building reported that a man with a shotgun was firing at them from a rear bedroom window. Officer Darrin Waletzki stated that he "observed a dark figure inside the residence that appeared to be holding a long object... I then heard multiple shots and saw flashes coming out of the window in my direction." Officer Novak likewise said he saw a person with a gun in the bedroom, and "observed shots coming out the window toward Officer [Arthur] Knight and Waletzki."

Statements that put a suspect simultaneously in two different rooms shooting in two different directions are obviously problematic. But an even more damning rebuttal to the MPD's version of events is the absence of evidence showing that the shotgun was ever fired that night. While well over a hundred 9 mm shell casings were later found in the house, there were no casings, waddings, or pellets that could have come from a shotgun. (An area of the ceiling was damaged by a shotgun blast, but Madison's landlord and another witness say it stemmed from an incident that occurred months before.)

For his part, Madison, in a voluntary statement to police phoned in from his hospital room, claimed that when he heard the flash bangs and the ramming at the door, he thought he was being robbed and picked up the shotgun leaning against the kitchen stove. And while almost every officer said that warnings of "Police! Search warrant!" were yelled as they rammed through the doors, Madison and at least one other witness said they heard no such warnings. In obtaining the warrant for the raid, the MPD specifically asked for, and received, authorization to enter the house unannounced.

Madison's statement specifically said that he never aimed the shotgun at anyone. He claimed he first realized the intruders were police officers when he saw the flashlights on their guns as they were coming through the door. At that point, he said, he immediately tossed the gun and dropped to the ground. As he was dropping, he said he was shot in the neck by a bullet fired from the rear of the building, and then shot again into his right arm. After that, Madison began crawling for safety. He described the scene as "like Beirut."

That was because very soon after the ERU members burst through the second door, Officer Lanasa announced he had been shot. In response, Kroll called for "suppressive fire," a technique that essentially calls on police to fire at everything in sight while an injured colleague is brought to safety. It is one of the rare occasions when MPD personnel can discharge their weapons without a clearly defined target, and the six officers at the front of the house executed Kroll's command with fervor. Kroll was carrying a submachine gun, and most of the other officers were equipped with semi-automatic handguns and plenty of ammunition. In his statement, Officer Delaney mentioned reloading his weapon with a new magazine--containing either 17 or 19 bullets, depending on the model of his gun--no fewer than three times.

The overall firepower from the officers in front was extensive enough to penetrate the stucco walls of the building, which in turn prompted the officers in the back to return even more fire. Meanwhile, an announcement over the police radio that an officer was down at 2216 26th brought other MPD officers to the scene and an unspecified number of them also joined in the shooting.

Given the massive amount of ammunition expended that night, it is somewhat miraculous that only two people were shot. Photos and videos of the scene depict numerous bullet holes both inside and outside the house. There were holes in the ceiling, indicating that shots could have endangered the family living in the top half of the duplex, and holes just inches away from windows in the building at 2214 26th Ave. N., meaning that Madison's neighbors to the east could have been hurt.

Many elements of the evidence seem in sync with Madison's story. The bullet entered his neck at a downward trajectory, an improbable angle if Madison had been standing at the time he was shot. Most of the glass from the rear bedroom window fell inside the house, indicating that it was broken from a force

from the outside. Photos show the floor between the kitchen/dining-room area and the bathroom smeared with Madison's blood. There are no blood stains in the rear bedroom, where the housing cops said he stood. But this also contradicts Madison's statement that at one point after being shot, he crawled into the rear bedroom.

According to Madison's attorneys, there are also signs that police tampered with evidence in the house. For example, there is a photograph of the shotgun on the rear bedroom floor. But in his statement, Officer Bennett said that immediately after order was restored in the house, "We conducted a slow search and in the dining room area I observed a shotgun laying on the floor."

Even more curious are two photographs of the rear bedroom window taken from outside the building. In the first, taken just hours after the shooting that night, the shades on the window are drawn in a way that make it highly improbable that someone could see inside. But in the second photo--taken the next morning, after MPD officers had custody of the apartment--the lower left corner of a shade has been lifted in a manner that would let someone outside get a glimpse of the bedroom. "One could speculate," says Madison attorney Joe Margulies, choosing his words carefully, "that while police officers were there for the night, someone moved the rifle and raised the blinds in a manner that was more consistent with what the police say happened."

During his trial, Madison's credibility is sure to be challenged. His attorneys like to emphasize that the 37-year-old has never been convicted of a felony, and at the time of the raid was spending most of his days and nights away from the house tending to his fledgling beauty-salon business. Yet the fact remains that Madison was living in a place that was the site of an undercover drug buy; where a frequent guest has admitted to police he sold marijuana (although he has never been charged with any crime); and where it was not unusual to have a shotgun propped against the kitchen stove--where Madison found it on a moment's notice.

In addition, while there are no felonies on Madison's rap sheet, it is not spotless either. He has been arrested for drunken driving and subsequently cited six times for driving after his license had been revoked. In November '94 he was charged with giving false information to police, and 11 months later was arrested for fleeing from the police. He has also been shot once before, in a domestic dispute.

None of this sounds characteristic of a man who would stand down police in a drug raid. But to make the second-degree assault charges stick, the Hennepin County attorney's office need only convince a jury that Madison pointed a gun--a gun he admits was in his hands that night--at four police officers, who no doubt will testify to that effect.

The legal maneuvering is not confined to the pending criminal trial, however. Madison has been preparing a civil lawsuit against the city and the police department, alleging that the cops' actions violated his civil rights. His attorney on the civil suit is Robert Bennett, whose high-profile victories against the MPD include the landmark Mike Sauro case.

Perhaps it is no coincidence that the Hennepin County attorney's office has offered Madison a deal. If he goes to trial, he faces four felony charges of second-degree assault with a firearm, which together carry a presumptive sentence of 12 years. But if he pleads guilty to just one misdemeanor, reckless use of a

firearm--which carries a sentence of only 90 days--the county will drop the other charges. The catch is, that guilty plea would essentially preclude Madison from suing the city of Minneapolis.

Of course there is no way to be sure that city and county attorneys are working together on the matter. Hennepin County assistant attorney Caroline Lennon, the prosecutor handling the criminal case, refuses to comment on any plea-bargain proposals and says that neither the city nor its police department has interfered in the criminal proceedings. Yet Madison's attorneys suggest that it's odd for prosecutors to threaten to throw the book at Madison--especially since no one else has been charged in the case--while offering him a deal that would have no consequence except to prevent a massive lawsuit against the city.

And, they add, the strategy could well work. "As offered, the plea says, 'You're not guilty of what we first came to the door for, but we want to convict you of something that would essentially deprive you of your civil rights,'" says Bennett. "I'm not sure that I could recommend trial for anyone who could escape four felonies. That's a powerful lever. The prosecutor and the police have gotten together and decided to use this tool. Whether they are using it properly is for someone else to determine."

Minneapolis administrators have cause to be nervous about any civil trial that examines the ERU. The overactive, understaffed nature of the unit can be neatly dramatized by comparing its workload to what it was doing a decade ago. In 1986, the team conducted 35 raids. Until a 1992 downsizing, the unit included as many as 80 officers. In 1996, drawing on a smaller pool of just 58 trained specialists, the unit performed more than 700 raids--more than their counterparts in the LAPD.

Yet despite this crushing, high-stress workload, ERU members says they rarely see their efforts result in convictions. Last December, Kroll told the Star Tribune that in five years and hundreds of raids with the unit, he has never once had to testify in court on a crack-cocaine case resulting from his ERU work. A recent internal spot-check suggested that not even half the ERU's cases produce enough evidence to justify a criminal charge. Some cops in the unit, including Kroll, speculate that rather than serving their intended function--apprehending criminals too dangerous for other cops to go after--their raids are used to pacify residents and politicians who demand visible anti-crime action.

Exacerbating the internal dispute is the fact that the ERU is composed not of full-time staffers but of officers who voluntarily take monthly leaves of absence from their jobs in other units. Kroll, for example, normally works in the juvenile unit. "When I go over to ERU, other officers have to cover my work when I'm gone," he says. "That creates resentment."

The heavy workload, low staff levels, and ambiguous composition of the unit made it a particularly contentious subject in relations between Chief Robert Olson and the Police Federation union. The enmity reached crisis proportions after the Madison raid and the removal by Olson of a popular commander in the unit: In December, the 58 ERU members voted to disband unless the ERU's annual \$2,000 training budget was increased, and units who join them on raids (such as the community-response and crack teams, and the public-housing unit) were given more instruction. The cops took their complaint public by packing City Council chambers, and following up with a news conference near the Father of Waters statue.

It was during this turbulent time that Deputy Chief Bill Jones asked Champlin Police Chief Allen Garber--a 26-year veteran of the FBI whose extensive SWAT team experience included a stint as a

member of a joint federal-city high-risk entry unit in Minneapolis--to study the facts surrounding the Madison raid and provide opinions about how similar incidents could be prevented. Garber read all the relevant documents, interviewed eight officers from the ERU and one from public housing, and relied on his own experiences when drawing up his report. Among his conclusions was that "given the totality of the circumstances at 2216 26th Ave. N., ERU and the Police Public Housing Officers acted in good faith and to protect their lives."

But the details of the report ratified some of the ERU members' frustrations, while at the same time chastising the unit for being strategically "lax." In the hands of a shrewd civil trial lawyer like Bennett, it could prove to be an explosive and expensive document for the MPD and Minneapolis taxpayers.

In the report, Garber noted that while all the participants in the raid were present at the briefing, specific assignments for the public-housing officers on the perimeter were not given out. Nor were specific instructions provided about seeking cover and shooting protocols. It was assumed, he said, that the unit's standard operating procedures would cover those details. Later in the report he noted that no standard operating procedure existed for officers on the perimeter. He also pointed out that the public-housing cops never had a chance to do any reconnaissance: "The first they saw of their positions was when they were running to the rear of the house as the ERU Officers were executing their entry."

Echoing a long-standing concern of ERU members, Garber recommended that non-ERU personnel working on raids with the unit train with ERU. And he questioned whether the ERU executes too many warrants and relies too heavily on dynamic (door-ramming) raids. "There are other alternative tactics that ERU is aware of. However when so many raids are conducted using dynamic entry, other tactics may be forgotten."

Finally, Garber advanced perhaps the only plausible explanation so far of how a routine raid could have devolved into a free-for-all gunfight. Having noted that the relatively inexperienced public-housing officers found themselves running into a vulnerable, open area they had never seen before as the raid began, he wrote, "the possibility exists that the two flash diversion devices that were thrown in the rear of the house by ERU members, as a diversion, were mistaken as gunfire.

"When the ERU Officers inside the residence shot and their rounds penetrated the house," he continued, "the perimeter Officers were in grave danger of being shot. Thus the perimeter Officers felt they had to shoot because they had no cover. If the Officers had cover they may not have shot into the house." In plain terms: If the raid had been better planned and coordinated, the cops in the back may not have started shooting, those at the front may not have returned fire, and no one might have been injured.

In response to Garber's report and the ERU protests, the MPD has increased the budget and coordination of the unit's training programs. In February, an agreement was reached that will enable other teams to conduct the lower-risk warrants, theoretically reducing the ERU's workload. As recently as last week, ERU personnel were sent to Camp Ripley for more training.

But some members of the unit, such as Kroll, remain dissatisfied. He points out that the unit continues to be staffed on a monthly, part-time basis, and claims that he executed 50 warrants in July alone. Requests for more advanced and protective equipment, including sturdier gloves, more vests, and radio-equipped

helmets, also have been paid lip service, according to Kroll. "Has the chief kept his word?" he asks. "In a word, no." Numerous phone calls to Lt. Shirleen Hoffman, commander of the ERU, were not returned.

Thus, until (or unless) there is a criminal or civil trial related to the Madison raid, it is difficult to determine what its legacy will be within the ERU. Given the pervasive use and high-risk nature of the unit, the stakes are no less than life and death. Yet, as Garber's report states, "The warrants have even become routine to the suspects and their friends, relatives, and associates. Instances have occurred where children in the target location seem not concerned or afraid when the Police break in the door during warrant execution." It could have been a lot worse last November 7.

"I don't think anyone will ever know for sure what happened that night," Garber says now. Reached by phone last week, he seemed pained and sobered by the substance of his report. "You've got to understand what these [officers] went through," he insisted. "Picture yourself in a situation where you truly believe your life is in danger. Then you are asked to tell what happened, step by step. That's really tough; you don't know how tough until you've been there. Now everybody wants to analyze what happened and what they did wrong. It's so much easier to judge people when you have never had to face bullets flying at you, genuinely fearing for your life. We should remember that these people didn't have that luxury."

Of course the same could be said for Andre Madison.

Editorial Intern Michael Cowan contributed research to this article.