

## **Proposal for:**

### **Independent Monitor and Civilian Oversight Board**

#### **I. Independent Monitor**

##### **A. Duties of the Independent Monitor:**

1. Actively and on an ongoing basis monitor the MPD's compliance with its own SOPs, governing laws, and lawful orders from the Common Council, including compliance with or progress toward meeting any recommendations or directives emanating from the work of the Ad Hoc Committee to Review the MPD's Policies and Procedures and the OIR Report, to the extent they are adopted and approved by the Common Council, as well as the MPD's own stated goals and mission statement (that is, to ensure that the MPD is who it says it is).
2. Actively monitor MPD audits of Department programs and activities, police officer use-of-force incidents, and MPD investigations of personnel and, in its discretion and within the Monitor's staffing and funding capabilities undertake independent investigations of personnel, in response to external or internally generated complaints of misconduct; make recommendations to the Chief of Police regarding administrative action, including possible discipline, for such personnel; refer appropriate cases to the Police and Fire Commission for disciplinary action; and appoint counsel to provide representation to aggrieved individuals in presenting and litigating complaints against the MPD and its personnel with the PFC, to the extent the Monitor concludes that those complaints have arguable merit.
3. When a complaint is filed with the MPD against the Chief of Police or high-ranking MPD command staff, determine whether the complaint warrants appointment of an outside investigator to conduct an independent investigation, and if so, make that appointment.
4. Make recommendations regarding policy issues, and address any other issues of concern to the community, the members of the Civilian Oversight Board created pursuant to the Ad Hoc Committee's recommendations (described below), the Chief of Police, other MPD personnel, the Mayor or the Common Council.
5. Provide input to the Civilian Oversight Board for its annual review of the Chief of Police.
6. Monitor any other internal investigation of possible misconduct or undertake an independent investigation of possible misconduct by personnel when requested to do so by the Civilian Oversight Board, the Mayor, or the Common Council.
7. Provide a process for receiving and investigating complaints from community members about the Madison Police Department, the Chief of Police, or any personnel.
8. Submit an annual public report to the Mayor and Common Council by a date certain (e.g., March 15), setting forth the work of the Monitor's office during the prior calendar year; identifying trends regarding complaints, investigations, and discipline of police department personnel, including, but without identifying specific persons, information regarding personnel who were the subject of multiple complaints, complainants who filed multiple complaints, and issues that were raised by multiple complaints; and making recommendations regarding the sufficiency of investigations

- and the appropriateness of disciplinary actions, if any, and changes to policies, rules, and training. The annual public report shall also include assessment of the police department's progress in complying with its own SOPs, governing laws, and lawful orders from the Mayor or Common Council, including compliance with or progress toward meeting any recommendations or directives emanating from the work of the Ad Hoc Committee to Review the MPD's Policies and Procedures and the OIR Report, to the extent they are adopted and approved by the Common Council, as well as the MPD's own stated goals and mission statement (that is, to ensure that the MPD is who it says it is).
9. In addition to submitting the annual report, the Monitor's Office shall maintain an on-going status report, which shall be available to the public and which shall include, among other things, patterns relating to complaints and recommendations regarding the sufficiency of investigations, determinations as to whether department rules and policies have been violated, and the appropriateness of disciplinary sanctions, if any.
- B. The Independent Monitor should be a person with extensive knowledge of civilian oversight of policing and "best practices" in policing, but who has never been employed by the MPD. It would be desirable that the person have sufficient background in civil rights and equity.
  - C. The Independent Monitor shall be independent of the MPD line of command, but shall be entitled to full cooperation from the MPD, including access to all records, policies, SOP's, data, and other information needed to perform the duties outlined here. To the extent permitted by law, the Monitor should also have subpoena power to compel testimony from witnesses and production of relevant documents.
  - D. The Monitor, its staff, the Board, and all consultants and experts hired by the monitor shall treat all documents and information regarding specific investigations or officers as confidential except to the extent needed to carry out their duties, including the transparency and reporting responsibilities of the Monitor's Office.

## II. Civilian Oversight Board

- A. The work of the Independent Monitor shall be undertaken in consultation and collaboration with a Civilian Oversight Board, whose members shall be appointed by the Mayor and the Common Council in a manner that ensures diversity and inclusion of Madison's various communities, including but not limited to representatives of the African American, Asian, Latino, Native American and LGBTQ communities as well as a diversity of ages, socioeconomic status, work experiences, gender, geographic residence, and organizations in the fields of mental health, youth advocacy and AODA, and including individuals with arrest or conviction records. The composition of the Board shall be run through the City's Racial Equity and Social Justice Initiative process to ensure equity and inclusion.
- B. The functions of the board should include the following:
  1. Provide input to the Mayor and Common Council to assist them in assessing the effectiveness of the Monitor's Office;
  2. With input from the Independent Monitor, conduct an annual review of the Chief of Police to assess her or his performance in office, and submit a report to the designated City Officials responsible for completing the annual performance review of the Chief

- as recommended by the Ad Hoc Committee, including recommendations as to whether the Chief has satisfactorily performed his or her duties or whether the Chief has failed to perform satisfactorily, thereby constituting “cause” for referral to the PFC with a recommendation for dismissal.
3. Make policy-level recommendations regarding discipline, use of force, and other policies; rules; hiring; training; community relations; and the complaint process;
  4. Address any other issues of concern to the community, members of the board, the monitor, the Chief of Police, the Mayor, or the Common Council;
  5. Furnish an annual public report to the Mayor and Common Council regarding the board's assessment of the work of the monitor's office; the board's activities during the preceding year; concerns expressed by community members; the board's assessment of the police investigative and disciplinary processes; recommendations for ways that police department can improve its relationships with the community; and recommendations for changes to police department policies, rules, hiring, training, and the complaint process.
- C. In order to determine whether the Monitor’s Office is effectively performing its duties and to make recommendations to the Chief of Police and Monitor’s Office regarding investigations, determinations as to whether department rules or policies have been violated, and the appropriateness of disciplinary sanctions, if any, the Board should receive regular reports from the Monitor’s office and should be allowed to review pertinent portions of the personnel files of personnel and PSIA files, including statements of personnel.
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For one model of an ordinance creating an Independent Monitor and Civilian Oversight Board—the model upon which this outline was drawn—see the ordinance creating the Denver Independent Monitor, <https://www.denvergov.org/content/denvergov/en/office-of-the-independent-monitor/operating-documents.html>