92386 – Alder Glenn Alternate

DRAFTER'S ANALYSIS: This ordinance revises several sections of the ordinances related to the work of the Office of the Independent Police Monitor (OIM) and the Police Civilian Oversight Board (PCOB). The ordinance clarifies that the OIM, while independent in its responsibilities and authority to conduct investigations and make recommendations, is subject to City procedures and policies as are other City agencies. The ordinance also clarifies the OIM's use of legal counsel and adds subjects to be addressed in the OIM's quarterly reports and the PCOB's annual report.

The SUBSTITUTE adds language related to the Common Council's authority to enforce compliance with certain City administrative procedures and directs the OIM, Police Department and City Attorney to create a Memorandum of Understanding to outline the OIM's access to MPD records as permitted by law. The Substitute also modifies the information for the OIM to include in quarterly reports and for the PCOB to include in its annual report.

The ALTERNATE differs from the Substitute in four ways. The Alternate adds language to MGO section 5.19(6)(c) regarding the Common Council's enforcement authority related to the OIM. The Alternate also includes a minor revision to proposed section 5.19(6)(d) in the Substitute related to the OIM's use of independent legal counsel and the Office of the City Attorney. The Alternate also adds language to section 5.19(7)(i) related to the MOU between the OIM and MPD and allows either agency to request that the Council facilitate a resolution if an agreement is not reached within 90 days of the adoption of the ordinance. Finally, the Alternate includes three changes to the information required in quarterly reports of the OIM and one change to the information required in the PCOB's annual public report as compared to the Substitute.

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The Common Council of the City of Madison do hereby ordain as follows:

1. Subsection (6) entitled "Independence of the Monitor" of Section 5.19 entitled "Office of the Independent Police Monitor" of the Madison General Ordinances is amended as follows:

"(6) Independence of the Monitor.

(a) Independent from MPD. The OIM shall in all respects remain sufficiently independent from the MPD in order to prevent the OIM and the MPD from becoming so closely aligned that the OIM cannot effectively fulfill its duties. For example, at a minimum, the OIM shall not be physically located in the same office as MPD management, officers, or other personnel.

(b) Independent from City Staff and Officials. No City employee or official shall attempt to use their political or administrative position to unduly influence or undermine the independence of the Monitor or any employee of the OIM in the performance of their duties and responsibilities as set forth in this Ordinance.

(c) Administrative Structural and Legal Compliance. While the OIM shall maintain independence in carrying out its duties, including investigations, findings, and recommendations, the OIM shall operate within the administrative structure of the City of Madison for purposes including, but not limited to, hiring and management of staff other than the Independent Monitor, contracting, budgeting, use of technology, and procurement. Nothing in this subsection shall be construed to alter the recruitment, appointment or confirmation process for the Independent Monitor as set forth in this section. The OIM shall comply with all applicable

federal and state laws, city ordinances, and Administrative Procedure Memoranda (APMs).

The Common Council retains the authority to enforce compliance with City administrative policies and procedures governing the administrative operations of the OIM, including but not limited to hiring practices, contracting, budgeting, use of technology, and procurement.

This enforcement authority does not extend to the OIM's investigations, findings, recommendations, complaint processing, community engagement, or any other functions listed in MGO §5.19(7), which shall remain exclusively governed by §5.19(6)(b). Before invoking enforcement authority under this subsection, the Common Council shall provide the Independent Monitor and the PCOB with written notice of the alleged non-compliance and a minimum of thirty (30) days to cure, except where the non-compliance poses an immediate legal or financial risk to the City.

(d) Legal Counsel. The Monitor may retain independent legal counsel to assist the OIM with investigations, oversight activities, and representation related to police oversight cases within the OIM's jurisdiction pursuant to sub (7)(l). The Monitor may also assign outside counsel to complainants as provided in sub (7)(b)(4). Such retention shall be funded within the OIM's existing budgetary appropriation for legal services.

For administrative matters involving the operations of the OIM as a City agency, including but not limited to compliance with public records laws, open meetings laws, hiring practices, contracting, and procurement, the OIM shall consult with the Office of the City Attorney."

2. Subdivision (i) entitled "Access MPD Records" of Section (7) entitled "Powers and Duties of the OIM and Monitor" of Section 5.19 entitled "Office of the Independent Police Monitor" of the Madison General Ordinances is amended as follows:

(i) Access MPD Records. The OIM shall, to the extent permitted by law, have unfettered access to all MPD records, policies, Standard Operating Procedures, data, ~~computer databases,~~ and other information necessary to fulfill the duties of the OIM.

The OIM, Police Department and City Attorney shall execute a written memorandum of understanding to define the mechanics of access to specific MPD records consistent with applicable state and federal law. The MOU shall govern the mechanics of access, including protocols for requesting, receiving, storing and securing records, and shall not restrict the categories of record or data to which the OIM is entitled under this subsection.

The MOU shall also define how data is shared, stored, and managed by the OIM in compliance with all applicable laws. If the OIM and MPD are unable to execute a mutually acceptable MOU within ninety (90) days of this ordinance taking effect, either party may request that the Common Council convene a

facilitated resolution process. Pending execution of the MOU, the OIM's existing access to MPD records shall continue uninterrupted under the terms and conditions of any current memorandum of understanding or existing access arrangements in effect at the time of this ordinance's adoption."

3. Section (8) entitled "Public Reporting" of Section 5.19 entitled "Office of the Independent Police Monitor" of the Madison General Ordinances is amended as follows:

"(8) Public Reporting. One of the key components of the OIM is its duty to develop and issue independent reports and recommendations to the Police Civilian Oversight Board, Mayor, Common Council, and community. Accordingly, the OIM ~~is authorized to~~ shall issue the following public reports.

(a) Annual Public Report. The OIM shall submit an Annual Public Report ("Annual Report") to the Mayor and Common Council for its consideration by March 15. At a minimum, the Annual Report shall:

1. Set forth the work of the OIM during the prior calendar year;
2. Identify trends regarding complaints, investigations, and discipline of MPD 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;
3. Make recommendations regarding the sufficiency of investigations and the appropriateness of disciplinary actions, if any, and changes to policies, rules, and training;
4. Provide other pattern and practice analysis as needed; and
5. Assess the MPD'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.

(b) Quarterly Public Reports. In addition to the Annual Public Report required under sub. (a), and for the purpose of providing regular, concise updates on the activities, performance, and progress of the OIM, the OIM shall submit quarterly public reports to the Mayor and to the Common Council for its consideration. The first quarterly report of each calendar year shall serve as the Annual Public Report required under sub. (a). The OIM shall submit three additional quarterly reports covering the remaining quarters of the calendar year. Each quarterly report shall, at minimum, include:

1. A summary of current work and trends associated with sub. (7);
2. The number of complaints received, categorized by type and severity;
3. The number of cases opened, closed, and pending, including the total number of cases in backlog;
3. The average and median time for case resolution;
4. A summary of case outcomes, including findings issued and any recommendations for discipline;

5. The status of recommendations made by the OIM, including whether such recommendations have been implemented, are pending, or have been declined;

6. A summary of any policy recommendations issued during the reporting period; and

7. Staffing levels, vacancies, and any operational capacity constraints affecting the work of the OIM.

(~~b~~ c) Ongoing Public Status Reports. In addition to submitting the annual report, the OIM shall maintain an ongoing 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.

(~~c~~ d) Additional Public Reports. The OIM, as determined within the discretion of the Monitor or as requested by the Board or the Executive Subcommittee of the Board, may publish additional public reports throughout the year about matters within the duties of the OIM."

4. Subdivision (f) entitled "Annual Public Report" of Subsection (9) entitled "Powers and Duties" of Section 5.20 entitled "Police Civilian Oversight Board" of the Madison General Ordinances is amended as follows:

"(f) Annual Public Report. The Board shall furnish an Annual Public Report ("Annual Report") to the Mayor and Common Council ~~regarding~~ for its consideration no later than March 15 of each year. The report shall, at a minimum, summarize the Board's assessment of the work of the monitor's office including the timeliness, effectiveness and responsiveness of the OIM in carrying out its duties; the Board's activities during the preceding year including the number of Board and committee meetings and member attendance at meetings; the Board's compliance with the training requirements set forth in sub. (4), including trainings provided, member participation and completion, and any identified gaps or needs for additional trainings; community engagement efforts and concerns expressed by community members; the Board's assessment of the MPD investigative and disciplinary processes; the Board's annual evaluation of the Chief of Police, excluding any confidential personnel information, recommendations for ways that MPD can improve its relationships with the community; and recommendations for policy, budget or ordinance changes related to oversight, public safety, and police department policies, rules, hiring, training, and the complaint process."