From:	Moreland, Donna
To:	Kapusta-Pofahl, Karen; Strange, John; Paulsen, Marci
Subject:	FW: reporting structures
Date:	Wednesday, July 8, 2020 9:54:56 AM

FYI

Donna V. Moreland
Madison Common Council - District 7 Alder
district7@cityofmadison.com
(608) 408-8844

Sent from Mail for Windows 10

From: Gregory Gelembiuk
Sent: Wednesday, July 8, 2020 8:53 AM
To: Moreland, Donna; Bidar, Shiva; Kemble, Rebecca
Subject: reporting structures

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Dear Alders Moreland, Bidar, and Kemble,

I thought I'd supply a bit of information on reporting structures for independent police auditors.

On independence:

Excerpt from "Overview of Civilian Oversight of Law Enforcement in the United States" by Barbara Attard and Kathryn Olson. (a widely used and cited source)

> "III. Components Contributing to Successful Oversight
>
> A. Independence
> In order to succeed, the oversight body must be independent from special interest groups, police, and elected and other government officials. The community, as well as the police officers under oversight scrutiny, must trust that the oversight agency and its leadership are fair and unbiased. If investigations are conducted by an oversight agency, it is vital that both community members and officers receive due process and are treated respectfully. The oversight body and leadership should not be censored or controlled in making findings or issuing public reports, as long as they act within the law. Oversight bodies must be empowered to make independent judgments about cases and policy issues without fear of reprisal."

NACOLE – "Thirteen Principles for Effective Oversight"

> "1. Independence
>
> One of the most important and defining concepts of civilian oversight of law enforcement is independence. In its broadest sense, it refers to an absence of real or perceived influence from law enforcement, political actors, and other special interests looking to affect the operations of the civilian oversight agency. In order to maintain legitimacy, an agency must be able to demonstrate the extent and impact of its independence from the overseen law enforcement agency — especially in the face of high-profile issues or incidents."

To try to ensure independence, some ordinances contain provisions along the following lines:

> Eugene: "Any findings, recommendations and actions taken shall reflect the police auditor's independent judgment. No person shall use his/her political or administrative position to attempt to unduly influence or undermine the independence of the police auditor, or his/her staff or agent, in the performance of his/her duties and responsibilities."

Also to ensure independence, some ordinances specify a check and balance system for removal:

> Seattle: "To strengthen the independence of the OPA [Office of Police Accountability] Director, the Mayor may remove the OPA Director from office only for cause, and in accordance with the following provisions: 1. The Mayor shall give written notice, specifying the basis for the intended removal, to the OPA Director, the Council President, the Chair of the public safety committee, the Inspector General, the Chief, and the CPC Executive Director. 2. Within ten days after receipt of the notice, the OPA Director may file with the Council President and the Chair of the public safety committee a request for a hearing on the cause for removal. The OPA Director's request for a hearing shall be delivered at the same time to the Mayor, the Inspector General, the Chief, and the CPC Executive Director. If such request is made, the Council shall convene a de novo hearing on the cause for removal in the public safety committee not sooner than 30 days and not more than 60 days following the OPA Director's request for a hearing, at which the OPA Director may appear and be heard. The Council shall vote to approve or reject the removal within 30 days of the hearing. 3. If no request for a hearing is made, the Council shall vote to approve or reject the removal within 30 days of receiving the Mayor's notice of the intended removal, following input from the Inspector General and CPC. 4. A majority vote of the full Council is required to approve removal."

For existing independent police auditors, reporting structures vary greatly. They may report to

a civilian oversight board (e.g. Syracuse), a city council (e.g. Eugene), a city manager (e.g. Boulder), a city auditor (e.g., Portland), a mayor and board (e.g., Denver), etc.

Syracuse – the Citizen Review Board (CRB) has an Administrator who functions as an independent police auditor. The CRB Administrator is accountable to the CRB.

"The Board shall appoint a CRB Administrator…. The CRB Administrator will be responsible to the Board and may be called to report to the Common Council. The CRB Administrator serves at the discretion of the Board."

Eugene

"The city council shall hire, supervise, and specify the salary of the independent police auditor, who shall serve at the pleasure of the city council."

Boulder

"The Auditor's Office shall be headed by a professional police auditor who is hired by an accountable to the city manager."

Portland

"The City Auditor shall select the Director of IPR in accordance with the Auditor's human resource policies and rules and any other applicable laws…. The IPR [Independent Police Review] office shall be located within the City Auditor's office, and be accountable to the City Auditor. The Director shall comply with the Auditor's purchasing procedures but shall have sole discretion in choosing consultants to assist with investigations."

Denver

"The mayor shall direct the recruitment for the monitor's position with the assistance of the Office of Human Resources or other entity designated by the mayor…. Prior to the appointment of any person to the position of monitor, the mayor shall appoint a screening committee…. The appointment of the monitor by the mayor shall not be effective unless and until confirmed by the city council…. The monitor shall serve at the pleasure of the mayor. Prior to any removal of the monitor by the mayor, the mayor shall consult with the city council and the board regarding his or her intention to remove the monitor…. The monitor's office shall inform the [civilian oversight] board of the status of the department of safety, police, sheriff, and fire department investigations and disciplinary proceedings and the actions of the monitor's office in monitoring those investigations and disciplinary proceedings…. The board shall establish both qualitative and quantitative criteria for evaluating the effectiveness of the monitor…. In order to determine whether the monitor's office is effectively monitoring the department of safety, police, sheriff, and fire investigations, the board shall receive regular reports from the monitor's office…."

In Denver there was a political kerfuffle in 2018, when the Mayor reversed past practices and

barred the Independent Monitor from involvement in cases involving the Police Chief (whom the Mayor was apparently trying to shield). In 2019, the City Council passed legislation to prevent that.

Sincerely,

Dr. Gregory Gelembiuk