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## 5.19 OFFICE OF THE INDEPENDENT POLICE MONITOR.

- (1) Creation and Purpose. There is hereby created the Office of the Independent Police Monitor ("OIM") for the purpose of providing civilian oversight of the Madison Police Department ("MPD") and ensuring that the MPD is accountable and responsive to the needs and concerns of all segments of the community, thereby building and strengthening trust in the MPD throughout the community.
- (2) Independent Monitor. The OIM shall be managed and directed by a full-time Independent Monitor ("Monitor"). The Monitor shall be a managerial employee as defined in M.G.O. § 3.54(9), except that the Monitor shall be recruited, hired, and supervised by the Police Civilian Oversight Board ("Board") as provided in M.G.O. § 5.20. The Monitor is responsible for ensuring that the duties of the OIM are fulfilled in consultation and collaboration with the Board. Subject to available funding, the Monitor shall be responsible for hiring, supervising and managing sufficient professional and support staff to effectively perform the duties of the OIM.
- (3) Minimum Qualifications of the Monitor. The Monitor shall be a person with extensive knowledge of civilian oversight of policing, "best practices" in policing, civil rights, and equity. The Monitor shall have never been employed by the MPD, be an immediate family member of current or former MPD employees, or worked as a law enforcement officer within the State of Wisconsin in the ten (10) years prior to appointment as Monitor. For purposes of this Ordinance "immediate family" means an individual's spouse or designated family or registered domestic partner or an individual's relative by marriage, lineal descent or adoption.
- (4) Recruitment, Appointment, and Confirmation of the Monitor.
  - (a) Recruitment and Appointment by the Board. The Board shall recruit and appoint the Monitor, with the assistance of the Common Council and Office of Human Resources. In fulfilling its duty to recruit and appoint the Monitor, the Board shall develop an appointment process that includes broad community-based outreach and ensures the selection of an individual who will provide the expertise and independence necessary to carry out the duties of the OIM.
  - (b) Confirmation by the Common Council. The appointment of the Monitor by the Board shall not be effective unless and until confirmed by the Common Council.
- (5) Supervision of the Monitor. The Monitor shall report directly to the Board and the Board's Executive Subcommittee. While it is intended that the Monitor have significant independence and discretion in conducting the day-to-day activities of the OIM, the Monitor shall act as directed by the Board and the Board's Executive Committee.
- (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.
- (7) Powers and Duties of the OIM and Monitor.
  - (a) Monitor Policy Compliance. The OIM shall actively and on an ongoing basis monitor the MPD's compliance with its own Standard Operating Procedures ("SOPs"), governing laws, and lawful

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orders from the Common Council, including compliance with or progress toward meeting any recommendations or directives contained in the MPD Policy & Procedure Review Ad Hoc Committee Report (October 18, 2019) and the Independent Police Oversight and Review Report ("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) Monitor MPD Programs, Activities, Investigations, and Use-Of-Force Incidents.

1. Monitor Activities and Conduct Independent Investigations. The OIM shall actively monitor MPD audits of MPD programs and activities, police officer use-of-force incidents, and MPD investigations of personnel. While doing so, the Monitor may submit requests to the MPD and the Chief of Police to investigate or further investigate any matter the Monitor is reviewing. The MPD shall respond to the Monitor's request in writing, stating whether it intends to conduct a further investigation and, if not, stating the reasons it is declining to investigate. At any time, the Monitor may choose to undertake their own independent investigation of MPD personnel, including the Chief of Police and all represented and non-represented MPD personnel, in response to external or internally generated complaints of misconduct.
  2. Make Recommendations to Chief of Police. Based on its review of MPD programs, activities, investigations, and use-of-force incidents, the OIM may make recommendations to the Chief of Police regarding administrative action, including possible discipline, for such personnel.
  3. Make Referrals to the Police and Fire Commission. Based on its review of MPD programs, activities, investigation, and use-of-force incidents, the OIM may refer appropriate cases to the Police and Fire Commission ("PFC") so that PFC members may consider initiating disciplinary action.
  4. Appoint Counsel for Aggrieved Individuals. The OIM may appoint counsel to provide representation to aggrieved individuals in presenting and litigating complaints against MPD personnel with the PFC, to the extent the Monitor concludes that those complaints have arguable merit. When appointing attorneys for individuals under this section, the Monitor shall appoint an attorney selected by the individual from a list of attorneys prepared by the Board. The Board shall ensure that attorneys on the list provided to individuals have the experience required to handle cases in front of the PFC and charge a reasonable hourly rate. Attorneys' fees paid pursuant to this section shall not exceed fifteen thousand dollars (\$15,000.00) per complaint.
  5. Other Monitoring Requested by the Board. The OIM shall 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 Board.
- (c) Make Policy Recommendations. The OIM may make recommendations regarding policy issues, and address any other issues of concern to the community, the members of the Board, the Chief of Police, other MPD personnel, the Mayor or the Common Council.
- (d) Assist in Board's Annual Review of the Chief of Police. The OIM shall provide input to the Board for its annual review of the Chief of Police.
- (e) Process Complaints. The OIM shall create and support a process for receiving and investigating complaints from community members about the MPD, the Chief of Police, or any MPD personnel.
- (f) Conduct Community Outreach. The OIM shall engage in community outreach which may include talking with the community about police policies, procedures or training, gathering input from a

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range of community members and groups, reaching out to special underserved/marginalized communities, and publicizing processes for handling complaints.

- (g) Staff Police Civilian Oversight Board. The OIM shall, in conjunction with the Office of Mayor and Common Council, ensure that the Board has the resources it needs to fulfill its duties, including that the Monitor shall serve as Executive Secretary to the Board.
  - (h) Hire OIM Staff and Engage Independent Contractors. The Monitor shall, in collaboration with the Human Resources Department, recruit and hire all staff in the OIM. No employees of the OIM shall have ever been employed by the MPD, be an immediate family member of current or former MPD employees, or worked as a law enforcement officer within the State of Wisconsin in the ten (10) years prior to becoming a staff member of the OIM. For purposes of this Ordinance "immediate family" means an individual's spouse or designated family or registered partner or an individual's relative by marriage, lineal descent or adoption. It is anticipated that minimum staffing for the OIM will include the Monitor, an administrative support employee and a data analyst. It is also anticipated that from time-to-time the Monitor may need to engage independent contractors, such as an investigator, to assist in fulfilling the duties of the OIM. In doing so, the Monitor shall follow all City of Madison contracting requirements and ensure that the independent contractor is also not affiliated with MPD or law enforcement as described above for OIM staff.
  - (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.
  - (j) Issue Subpoenas. The Monitor may, to the extent permitted by law, issue subpoenas for the purpose of compelling testimony or receiving documents necessary to fulfill the duties of the OIM.
  - (k) Develop and Issue Reports and Policy Recommendations. The OIM and Monitor may develop and issue reports and policy recommendations to relevant entities as described above.
  - (l) Retain Independent Legal Counsel. The Monitor may retain independent legal counsel if necessary to fulfill the duties of the OIM.
  - (m) Issue Public Reports. The OIM shall issue public reports as described in sec. (8) below.
- (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 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 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

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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) 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) 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.
- (9) Confidentiality . The Monitor, OIM staff 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.
- (10) Relationship of Monitor and MPD .
  - (a) The Monitor, MPD, and Chief of Police shall jointly develop standard operating procedures to govern the relationship and flow of communication between the OIM, Monitor, MPD, and the Chief of Police regarding complaints, investigations, appeals and findings involving MPD and MPD law enforcement officers.
  - (b) The Monitor, MPD, and Chief of Police shall provide each other with notice of complaints, investigations, appeals and findings involving MPD and MPD police officers as soon as possible, including with such information and cooperation as is appropriate and necessary for the receiving party to take meaningful action or conduct a meaningful review of the matter.
  - (c) As provided in sub. (7)(b)1. above, the Monitor may submit requests to MPD and the Chief of Police to investigate or further investigate any matter the Monitor is reviewing. MPD shall respond to the Monitor's request in writing stating whether it intends to conduct further investigation and, if not, stating the reasons it is declining to conduct further investigations.
  - (d) As provided in sub. (7)(i). above, to the extent permitted by law, the Monitor shall have unfettered access to MPD records, policies, Standard Operating Procedures, data, computer databases and other information necessary to fulfill the duties of the OIM, and the MPD and Chief of Police shall ensure the Monitor's requests for such documents are fulfilled as soon as possible.

(Cr. by ORD-20-00092 , 9-15-20)