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LITIGATION ASSISTANT
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May 25, 2021

Members, Madison Legislative Delegation
Members, Assembly Committee on Criminal Justice and Public Safety

Dear State Senators and Representatives:

As members of the City of Madison's Police Civilian Oversight Board (PCOB), we write in opposition to Senate Bill 117 and its companion bill, Assembly Bill 114. City officials and residents have invested extensive time, attention and resources to bring about greater civilian oversight of the Madison Police Department over the last five years. State interference at this late stage in the process would not be helpful in our community's effort to determine the local structure and features of police oversight.

Madison's PCOB was created by an ordinance enacted in September 2020. At the same meeting, the Madison Common Council passed an ordinance to create the Office of the Independent Police Monitor. The PCOB is composed of 13 residents of the City of Madison, including two alternate members, and is charged with implementing enhanced civilian oversight of the Madison Police Department, to ensure that it is accountable and responsive to the needs and concerns of all segments of the community. Among its responsibilities, the Board will recommend and review police policies and procedures, including those related to discipline of sworn officers, conduct an annual review of the Police Chief for the Police and Fire Commission's (PFC) consideration, and will serve as a conduit for public input related to policing in Madison.

The newly created position of Independent Police Monitor is hired by and reports to the PCOB. The Independent Monitor reviews and assesses the Police Department's compliance with its own policies and procedures as well as applicable laws, and monitors Department audits of its programs and activities, including use of force incidents and investigations. To support this work, the Monitor has subpoena power and access to Police Department records, and may retain its own legal counsel and conduct independent investigations. The Monitor may make recommendations to the Police Chief and the PFC regarding disciplinary matters present the findings in its annual public report regarding its oversight work and activities of the Madison Police

Department.

The creation of the PCOB and the Office of the Independent Monitor was the result of years of systematic review of the Madison Police Department by City committees and an outside consultant. Both were based on recommendations made by a City Ad Hoc Committee, which spent four years studying policing issues in Madison, and which relied in substantial part on an in-depth analysis of the Madison Police Department and community by a national consulting firm, for which the City invested \$400,000. The new entities were carefully designed and tailored to meet the specific needs and circumstances in Madison, to provide greater civilian oversight of policing and to respond to particular concerns of the community and in particular underrepresented residents of Madison, and to rebuild trust between some of Madison's minority communities and the Police. While the PCOB and the Monitor may make recommendations, they are separate from and do not affect the authority or responsibilities of the PFC.

With that background, we are concerned that SB 117 and AB 114 require certain changes to the structure of police oversight specifically in the City of Madison without any demonstrated need—changes that threaten to undermine some of the carefully designed provisions of Madison's new oversight mechanisms. The bills fail to recognize the City's deliberate and ongoing effort to improve citizen oversight and accountability of police officers in Madison, and to rebuild community trust in the Police. For some unknown and unspecified reason, the City of Madison is singled out to make changes in the structure of operations of its PFC without regard for whether they are necessary or helpful to this effort, and with no justification for why such changes should not apply to municipalities throughout the State. We believe that the bills will, at best, create confusion and, at worst, will hamper the City's progress in improving civilian oversight of its Police Department in a way that the community has requested and developed.

The bill requires the City to create another position named executive director that would work for the PFC. There would be a significant overlap and duplication in duties between this position and our Independent Monitor, with one individual reporting to the PFC and one reporting to the PCOB. In addition, the bill would mandate a new local position related to police oversight without any funding to create and hire the position, and without recognition of the special circumstances and needs that Madison residents have identified and sought to address through the City's own new civilian oversight mechanisms.

Our Board also objects to the provision in the bills which require that the PFC allow an opportunity for a representative of the police union to meet with the PFC, prior to the PFC hiring a Police Chief. The Madison PFC recently redesigned its hiring process to include numerous and unprecedented opportunities (many more than the two required in the bill) for the public and the police officers' union to provide input regarding the characteristics the community desired in final candidates for the position as well as for the person hired as the Police Chief. After implementing such an open, thorough,

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engaging and transparent process, a change to one providing a statutorily-mandated opportunity for the police union to separately share its perspective to the PFC would work against the public trust and social capital our newly designed structure is working to create. After extensive self-study, Madison has decided for itself—with the support of the Madison Police Department—that what it needs is greater *civilian* input into and oversight of policing and enhanced transparency and accountability. These bills threaten to impede the efforts of the City, its community members, and its own Police Department, to achieve those goals.

Thank you for your consideration of these comments. Before moving forward with this bill to require changes which are not necessary and fail to recognize the reality on the ground, we encourage interested lawmakers to learn more about the performance and functionality of the Madison PFC and its Civilian Oversight Board and Independent Police Monitor. We believe our efforts can serve as a model for other Wisconsin communities.

Sincerely,

Members of the City of Madison Police Civilian Oversight Board

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