



## Legislation Text

File #: 60764, Version: 3

### Fiscal Note

The proposed resolution creates the MPD Civilian Oversight Board as recommended in the MPD Policy and Procedure Review Ad Hoc Committee report (adopted in October 2019). Creation of the Civilian Oversight Board will require a companion ordinance. It is anticipated the Board will require ongoing staffing and operating expenses that are undetermined at this time. The 2020 Adopted Operating Budget includes \$200,000 for the creation of a Police Auditor position but does not include additional operating costs associated with creating the Civilian Oversight Board.

### Title

SECOND ALTERNATE - Creating MPD **Independent** Civilian Oversight.

### Body

WHEREAS, on May 19, 2015, in the aftermath of the fatal shooting of Tony Robinson by MPD Officer Matt Kenney, the Madison Common Council adopted RES-15-00477, "Declaring the City of Madison's intention to review policies, procedures, culture and training of the Madison Police Department by hiring an expert(s) in community policing, law, problem oriented policing, racial disparities and implicit bias and the creation of an ad hoc committee"; and,

WHEREAS, on November 18, 2015 the Madison Police Department Policy & Procedures Ad Hoc Committee (Ad Hoc Committee) held its first meeting; and,

WHEREAS, on June 7, 2016 the Madison Common Council adopted RES-16-00436, "Amending the work timeline and funding amount for the City of Madison Police Department Policy & Procedure Review Ad Hoc Committee and amending the 2016 Adopted Operating Budget to appropriate \$350,000 from the Contingent Reserve to the direct appropriation supporting the work of this committee"; and,

WHEREAS, on June 6, 2016 Madison Police Chief Mike Koval published a blog post <<https://www.cityofmadison.com/police/chief/blog/?Id=9412>> lobbying against the additional expenditure of \$350,000, referring to Madison residents advocating for police accountability as "the perpetually offended," and directly threatening Alders stating, "You are being watched. And be on notice: this is a pre-emptive first strike from me to you."; and,

WHEREAS, on August 2, 2016 the Common Council Executive Committee created the 'Presidents Work Group on Police and Community Relations <<<https://www.cityofmadison.com/Council/meetings/ccocPCR.cfm>>>  
> to:

- Provide a forum for residents and members of the Council to discuss police and community goals, priorities and interactions. Build a deeper understanding of policing for elected officials and members of the public; and,
- Explore models and options from other communities related to policing and other police policies; and,
- Provide a forum for information sharing regarding police training, policies, data and trends including detailed presentations from the MPD related to policing; and,
- Make recommendations to the Council on short-term policy, procedure and training while waiting for the results of the Ad Hoc Review of Police Policies and Procedures.

WHEREAS, on November 1, 2016 the Madison Common Council adopted RES-16-00838, "Accepting the

recommendation of the Madison Police Department Policy and Procedure Review Ad Hoc Committee to select Michael J. Gennaco d/b/a OIR Group as the expert consultant to conduct the review of the Madison Police Department.”; and,

WHEREAS, on May 1, 2017 the President’s Work Group on Police and Community Relations completed its work with a final report and 13 recommendations <  
<<https://www.cityofmadison.com/Council/meetings/documents/CCECFinalReportV.2.pdf>>>; and,

WHEREAS on January 11, 2018 the OIR Group presented its final report and recommendations <  
<<https://madison.legistar.com/View.ashx?M=F&ID=5728884&GUID=1F7D38CA-BD0B-4D62-8DA8-B023EEEEF954>>> to the Common Council; and,

WHEREAS the Ad Hoc Committee continued to evaluate the OIR recommendations, working with MPD and the City Attorney’s office to develop a final report including a comprehensive set of 177 recommendations <  
<<https://madison.legistar.com/View.ashx?M=F&ID=7812571&GUID=BED4313B-9228-4861-82D1-22638D0D6E6A>>>; and,

WHEREAS on August 6, 2019 the Common Council adopted RES-19-00578, “Accepting two recommendations from the Madison Police Department Policy and Procedure Review Ad Hoc Committee; 1. ‘Civilian Oversight/Independent Monitors Office <  
<<https://madison.legistar.com/View.ashx?M=F&ID=7541416&GUID=731E21F6-B044-4A20-8488-BDCACEE7A9EF>>> and 2. Comprehensive Internal Review and Root-Cause Analysis of Critical Incidents <  
<<https://madison.legistar.com/View.ashx?M=F&ID=7541417&GUID=14BE8702-D97A-4FDB-B926-256440DFD49F>>>”; and,

WHEREAS, on November 20, 2019 the Public Safety Review Committee recommended adoption of the final report of the Ad Hoc Committee with a further recommendation that a new committee be formed to oversee the implementation of the report’s recommendations.

WHEREAS, on December 12, 2019 the Equal Opportunities Commission recommended adoption of the final report of the Ad Hoc Committee with a further recommendation that a new committee be formed to oversee the implementation of the report’s recommendations and that an EOC member be appointed as a member of that committee.

WHEREAS, on January 21, 2020 the Common Council adopted the final report of the Ad Hoc Committee including the recommendation that a new committee be formed to oversee the implementation of the report’s recommendations.

WHEREAS, on April 21, 2020 the Common Council adopted RES-20-00304, “Establishing a Body-Worn Camera Feasibility Review Committee as recommended by the Madison Police Department Policy and Procedure Review Ad Hoc Committee” with a charge of taking up 4 of the 177 recommendations that relate to body cameras; and,

~~WHEREAS, on April 21, 2020 the Common Council voted down an amendment to allow the Common Council to refer questions about any of the remaining 173 recommendations to the Body Worn Camera Feasibility Review Committee on a 12-8 vote; and,~~

WHEREAS, the 177 recommendations from the Ad Hoc Committee report represent a major investment by the City of Madison and four years of work by dozens of residents and elected officials committed to improving the accountability and performance of the Madison Police Department; and,

WHEREAS, this investment of time and money can be fully realized only if the recommendations are

implemented in alignment with their original intent, and the authors of those recommendations - the Ad Hoc Committee - are best positioned to ensure the integrity of the work; and,

WHEREAS, in the aftermath of the May 25, 2020 killing of George Floyd by Minneapolis Police Officer Derek Chauvin, Madison residents have increased their calls for community control of the police:

NOW, THEREFORE BE IT RESOLVED, that the **Independent Civilian Oversight** as recommended by the MPD Ad Hoc Committee **shall be created by October 6, 2020:** ~~MPD Ad Hoc Recommendation Oversight Committee that will collaborate with Independent Monitor will be formed in order to monitor the implementation of the recommendations of the MPD Policy & Procedure Ad Hoc Committee and to provide regular reports to the Common Council;~~

**BE IT FURTHER RESOLVED, that the Civilian Oversight Board as recommended by the MPD Ad Hoc Committee shall be created with the following provisions:**

1. The members of this board 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.
2. A majority of the members of the board shall be nominated by a designated set of community-based organizations that have an interest in civil rights, immigrant rights, disability rights/mental health, racial equity, and social justice, and that also have an interest in the safety of the city. Organizations with budgets under \$1 million shall be given priority in making these nominations.
3. Additionally, 25-40% of the Board shall be composed of members with lived experience with homelessness, mental health, substance abuse and/or arrest or conviction records.
4. The composition of the Board shall be run through the City's Racial Equity and Social Justice Initiative process to ensure equity and inclusion; and,
5. The functions of this board will include the following:
  - 5.1. Provide input to the Mayor and Common Council to assist them in assessing the effectiveness of the Monitor's Office;
  - 5.2. 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.
  - 5.3. Make policy-level recommendations regarding discipline, use of force, and other policies; rules; hiring; training; community relations; and the complaint process;
  - 5.4. 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;
  - 5.5. 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; and
6. 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; and
7. The members of the Board should engage in ongoing training to build expertise. The Board should have access to whatever training it needs, with sufficient funding provided; and
  8. Socioeconomic standing not being a barrier to serving on the Board which can be achieved by providing childcare, stipends, alternating meeting times, or other support.

~~BE IT FURTHER RESOLVED, that the MPD Ad Hoc Recommendation Oversight Committee will work with MPD, the Mayor, the Common Council, and the Police and Fire Commission to conduct their work; and,~~

~~BE IT FURTHER RESOLVED, that the membership of the MPD Ad Hoc Recommendation Oversight Committee will include the following members:~~

- ~~- 1 member of the Public Safety Review Committee elected by the committee;~~
- ~~- 1 Member of the Equal Opportunities Commission elected by the committee;~~
- ~~- 2 Alders appointed by the Council President;~~
- ~~- All former members of the Madison Police Department Policy and Procedure Review Ad Hoc Committee who wish to serve. Interested members will forward their name to the Council President for formal appointment; and,~~

~~BE IT FINALLY RESOLVED, that the MPD Ad Hoc Recommendation Oversight Committee will be staffed by the Common Council Office legislative analyst and will complete its work when all 177 recommendations have been addressed or when the permanent Civilian Oversight Board is ready to accept the responsibility for oversight of the recommendations.~~

**BE IT FURTHER RESOLVED, that an Alder Workgroup is hereby created charged with working on the logistics and operational details as follows:**

- 1. Creating an ordinance to establish independent civilian oversight of MPD, including provisions for the Civilian Oversight Board and Independent Monitor**
- 2. Identifying budget and other support needed to ensure effective functioning of the Civilian Oversight Board and Independent Monitor, including drafting budget amendments, proposed staff support, training needed**
- 3. Identifying the community organizations who will nominate some of the Civilian Oversight Board members**
- 4. Creating a timeline and process for recruitment of Civilian Oversight Board members and hiring of Independent Monitor**

**BE IT FINALLY RESOLVED, that the members of the Alder Workgroup will be comprised of Ald. Shiva Bidar, Ald. Rebecca Kemble and Ald. Donna Moreland and that said workgroup will finish its work by August 4, 2020.**