



Legislation Text

File #: 72126, Version: 3

**Fiscal Note**

This ordinance has the potential to increase costs to the City through increased claim and litigation costs, and lack of mutual aid from surrounding jurisdictions that may result in increased overtime. It may result in the loss of revenue from the loss of large events due to the inability to obtain mutual aid. The proposed ordinance requires the Independent Police Monitor to complete an after-action review within 30 days of any use of tear gas by the Madison Police Department for crowd control. It is anticipated that any reports that are required will be completed using existing resources in the Office of the Independent Monitor's budget. No appropriation is required at this time.

**Title**

SECOND SUBSTITUTE: Creating Section 5.17 of the Madison General Ordinances to require the production of an after-action report by the Independent Police Monitor following the use of tear gas.

**Body**

DRAFTER'S ANALYSIS: For the purposes of crowd control this ordinance prohibits all Madison Police Department commissioned officers while on duty, and any commissioned officers employed by any other law enforcement agency responding to a request for mutual aid by the Madison Police Department, from using tear gas, mace, pepper mace, pepper gas, projectile devices or any other chemical agent that has the potential to indiscriminately target anyone other than the intended target.

The Substitute permits the use of the identified substances, agents and devices under certain circumstances and requires the Police Department to submit a report within 30 days of any such use to the Police Civilian Oversight Board and the Public Safety Review Committee.

The Second Substitute requires the Independent Police Monitor to complete an after-action review within 30 days of any use of tear gas by the Madison Police Department for crowd control, and share their findings with the Common Council, with the Police Civilian Oversight Board being the referral body for the purposes of reviewing Madison Police Department's adherence to the Madison Police Department Standard Operating Procedure policy.

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

1. Section 5.17 entitled "~~Prohibition of Tear Gas, Mace and Impact Projectile Devices~~" "Reporting Requirement Following Use of Tear Gas for Crowd Control" of the Madison General Ordinances is created to read as follows:

**"5.17 PROHIBITION OF TEAR GAS, MACE AND IMPACT PROJECTILE DEVICES REPORTING REQUIREMENT FOLLOWING USE OF TEAR GAS FOR CROWD CONTROL."**

- (1) Following the use of tear gas by the Madison Police Department for crowd control, the Independent Police Monitor will begin an after-action review within thirty (30) days and share their findings with the Common Council, with the Police Civilian Oversight Board being the referral body for the purposes of reviewing Madison Police Department's adherence to the Madison Police Department Standard Operation Procedure policy. ~~While on duty, all commissioned officers employed by the Madison Police~~

Department and any commissioned officers employed by any other law enforcement agency responding to a request for Mutual Aid by the Madison Police Department are prohibited from using the following weapons that indiscriminately affect any individual other than the intended target for the purposes of crowd control:

- (a) Tear gas, the active ingredient of which includes but is not limited to Chloroacetophenone (CN) or o-Chlorobenzylidene malononitrile (CS), chloropicrin (PS), bromobenzylcyanide (CA), dibenzoxazepine (CR), and combinations of various agents.
- (b) Any other chemical agent such as mace, pepper mace or pepper gas, otherwise defined as oleoresin capsicum (OC) spray.
- (c) Impact projectile devices, including but not limited to 40mm sponge rounds, small beanbags, pepper balls, foam baton round, stingball grenade.

(2) The prohibition in subsection (1) shall not apply to circumstances in which urgent and imminent physical harm to the public or law enforcement officers is threatened or when significant property damage exists and escalation of property damage is threatened.

(3) Within thirty (30) days of the use of any substance, agent or device described in subsection (1) by either the Madison Police Department or any law enforcement agency responding to a request for Mutual Aid by the Madison Police Department, the Madison Police Department shall submit a written report to the Police Civilian Oversight Board and the Public Safety Review Committee. The Police Department shall also attend a meeting of such Board and Committee to discuss the report."