

Before reading the proposed amendments to the Office of the Independent Police Monitor (OIPM) ordinance 5.19 and Police Civilian Oversight Board (PCOB) ordinance 5.20 and reasons why we urge you to oppose them all, it is important to acknowledge 4 facts that frame the relationship between the OIPM/PCOB and the driving force behind these amendments: the City Attorney's Office.

1. **The main goal of the city attorney** is to prevent successful lawsuits and, if need be, they will do so at the expense of civil rights, and the health and safety of city residents. Given their mission, they have to deny that civil rights violations ever occur.
2. **The main goal of the OIPM/PCOB** is to ensure the civil rights, health, and safety of city residents and police officers through community engagement, independent investigation, and review, transparency and recommendations. By default, this reduces the need for lawsuits.
3. **The city attorney does not offer the same level of respect and client or collaboration privileges to the OIPM/PCOB** as they do other city entities. Some in key leadership positions have repeatedly demonstrated this by violating their ordinance and Roberts Rules, talking down to the OIPM/PCOB and surprising them with debilitating amendments that were in the works for weeks, sometimes months, without ever once reaching out to express concerns or collaborate. They do not do this to MPD.
4. **The city attorney's mission is in direct conflict with that of the OIPM/PCOB** and they act like it and therefore, the city attorney must not serve as their legal oversight.

OIPM ordinance 5.19

https://library.municode.com/wi/madison/codes/code_of_ordinances?nodeId=COORMAWIVOICH1--10_CH5PODEPORE_5.19OFINPOMO

PCOB ordinance 5.20

https://library.municode.com/wi/madison/codes/code_of_ordinances?nodeId=COORMAWIVOICH1--10_CH5PODEPORE_5.20POCIOVBO

THE AMENDMENTS

The most recent amendments to OIPM/PCOB ordinance are summarized below along with why we believe they are harmful. The amendments discussed in A-C are sponsored by Alders MGR and Sabrina Madison. The amendment discussed in D is sponsored by Alder Davy Mayers.

A. Restricting data and records access.

- No access to computer databases
 - This is obstructive and incongruent with the national standard for police oversight.
- Play with confidentiality to restrict access.
 - Arbitrary definition of key records as confidential could, in combination with this ordinance amendment, end up greatly restricting the ability of OIPM to carry out its functions.
- Reducing access to MPD Records
 - In contrast with current ordinance language, which requires that MPD provide absolutely "unfettered access" to its records (to the extent permitted by law), the amendment would require negotiation "to define the degree of access to specific MPD records". And it mandates insertion of the City Attorney's Office, which has a structural conflict of interest with OIPM, into the execution of any negotiated agreement.

B. Requiring that OIPM must follow all city rules and procedures, without exception.

- Adding this language to ordinance is unnecessary, because the city rules and procedures (on hiring, budgeting and purchasing, information technology systems, etc.) are already being followed by the OIPM/PCOB.
- This addition might seem harmless, but the added language undercuts the Independence provision within the OIPM ordinance.

- Under the existing ordinance language, a new Mayoral policy that targets the OIPM/PCOB would be without effect, because ordinances (laws) supersede policies (that can be written by a single person). Because the amendment would effectively give all policies the weight of law, mandating compliance without exception, it would allow a Mayor to write policies that infringe on OIPM/PCOB function and independence, or an administration, via the City Attorney, to interpret and enforce policies in a manner that infringes on OIPM/PCOB function and independence.
- This is a particular problem because of an underlying structural conflict of interest. Elected officials often depend on the support of police officials, police unions, etc. in elections, and want to avoid embarrassing revelations, and thus tend to compromise the function and independence of civilian police oversight agencies. This has occurred repeatedly with civilian police oversight agencies across the country, crippling those agencies.

C. Requiring that OIPM/PCOB use the City Attorney for most legal work, rather than an independent attorney.

- As stated at the start, this creates a severe problem, given the inherent conflict of interest.
- It allows use of an independent attorney only for a very restricted set of functions, mandating that the City Attorney be used for all else. This includes use of the City Attorney for four specific areas where city attorney offices and civilian police oversight offices are most often in conflict.
- For example, it mandates use of the City Attorney for all public records work. But the primary clients of city attorney are elected officials (especially mayors) and police departments (with whom they necessarily have a close working relationship). City attorneys strive to prevent records that would embarrass elected officials or police departments from becoming public, undercutting transparency.

- Placing the amendment in the ordinance would greatly expand the City Attorney's power over OIPM/PCOB, and make it much more difficult for OIPM/PCOB to challenge the City Attorney's opinion, undermining OIPM/PCOB INDEPENDENCE.
- Because of the same inherent conflict of interest, the Police & Fire Commission uses an independent attorney for all its functions, rather than the City Attorney. It makes no sense to, in contrast, require OIPM/PCOB to use the City Attorney.

D. Adding an alder to the PCOB.

- Putting an elected official on a police oversight board directly curtails independence and contradicts universally recognized best principles for police oversight.
- As the National Association for Civilian Oversight of Law Enforcement (NACOLE) states: "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."
- As noted above, there is a fundamental structural conflict of interest between elected officials and civilian police oversight.
- For the very same reason, elected officials are not given seats on the Police & Fire Commission.

Closing comments

These proposed changes in ordinance language, in essence, violate the letter and intent of the original ordinance. Contrary to claims the City Attorney has made, they are the opposite of what Alders Kemble, Moreland and Bidar wrote and intended when the council passed the original ordinance.

The proposed amendments are being promoted based on past issues that are long since resolved or alleged issues that never actually occurred. They represent a failure to acknowledge that a new IPM, who started only four months ago, managed to already process multiple cases and put out an annual report with novel, important data analyses. They also represent a failure to acknowledge improvements, and how the volunteer board and understaffed/underfunded office are exceeding past goals and functioning effectively with excellent attendance. Such actions by alders cause frustration, exhaustion and burnout.

Misinformation and accusations of rule violations without evidence are driving repeated attempts to amend the ordinance in ways harmful to the board's independence, credibility, and commitment to police oversight. This pattern demonstrates a high level of unwarranted scrutiny that is disproportionately applied to this body when other groups that are violating rules experience no such attention. For example: without large scale, repetitive community advocacy, the police department sees no such reaction in response to repeated serious and costly rule violations by their members. This behavior is the antithesis of collaboration. It demonstrates harmful biases and disrespect, and it harms the relationship between the OIPM/PCOB, staff, and Council.