



Safety and Well-being Committee Summary Minutes

Tuesday, February 03, 2015 1:30 PM City & County Building, Room 391

Committee Members: López, Chair; Faatz, Vice-Chair; Brooks; Kniech; Lehmann; Susman

Committee Staff: Zach Rothmier

Council Members Present: Faatz, Kniech, Lehmann, Lopez, Brooks, Susman, Shepherd, Herndon, Ortega

Members Absent: None

Presentations

- 1 Independent Monitor Nicholas E. Mitchell will be giving a short presentation on best practices and the need for the ordinance change.**
There will be 15 minutes of public comment after the presentation

*** Lopez called the meeting to order ***

Introductions, all members present.

Lopez introduced the amendments to the Office of the Independent Monitor (OIM)

Nicholas Mitchell presented on the amendments to the OIM

*** Shepherd joined the meeting ***

Discussion related to access to information. Citizen oversight is commonplace in a variety of comparable cities. Mr. Mitchell used Boise, San Francisco, Seattle, and Los Angeles as examples.

Lopez clarified that the amendments are not a criticism of the peace officers in Denver. The goal of the amendments is to streamline the process and policies of the OIM.

*** Speakers called ***

Lisa Calderon - Colorado Latino Forum, Denver Chapter.

Paul Childs was killed in 2003, the impetus of the creation of the OIM. Opportunity for a better law enforcement process. Shooting by officers in Denver are on the rise since 2009. Charges have not been brought by the District Attorney since 2002. This is a common sense reform and the Colorado Latino Forum Supports.

Denise Maez - Public Policy Director for ACLU - Colorado

The ACLU looked at proposed changes to the ordinance that was passed in 2005. The review committee's recommendations were dismissed. The ordinance amendment helps with the initial intent of the OIM ordinance. The ACLU supports the change.

*** Ortega joined the meeting ***

Rich Dubbs - City Attorney's Office. An additional amendment would like to be included to sec. 2-388 to clarify that the monitor would not be involved in criminal investigations.

Mitch Morris - District Attorney. We would like to define 'internal investigations' to support the OIM. The investigations must be apart from the criminal side of any investigation.

Nick Mitchell - The intent of the amendments are not to interfere with any criminal investigations. I have no objection to clarifying 'internal investigations', but should not exclude the office from criminal investigations relating to discharge of weapons by peace officers.

Mitch Morris - The ordinance needs to define certain terms, such as 'present' to clarify roles of OIM. Concern with infringing upon gathering of evidence.

Lopez - This is the first time I have heard of the proposal. The issue on the table are the amendments on the table.

Morris - Physical evidence laws may prohibit access to physical evidence.

Lopez - OIM needs access to information. The issue is not with the physical evidence, but cooperation with the departments.

*** Questions ***

Susman - I have no issue with the internal language being clarified. The language states that the OIM may monitor - not asks questions. Room for judgement on what is legal and not legal.

Brooks - Clarify what is CORA applicable and what is above that?

Dubbs - Colorado Criminal Justice Records Act regulates the CORA requirements.

Mitchell - The ordinance has a gap between what is covered by CORA and the OIM ordinance.

Ortega - Is there a definition of 'actively' monitoring? Can you interpret what that means in practice? Definition of internal would be helpful.

Mitchell - We will be there when evidence is coming in and be able to make suggestions and suggest areas of inquiry. Interrogations would not have to wait for the OIM.

Herndon - Stephanie O'Malley (Director, Dept. of Safety) may have some thoughts on the ordinance proposal.

Stephanie O'Malley - We encourage transparency, but we need to be mindful that we anticipate requests for certain types of records that would require exceptions - IE medical records, sexual assaults, juvenile records, etc.

We support the proposal.

Herndon - I have a concern with unintended consequences - does this require legislation or can this be done administratively?

Mitchell - We have a good relationship, the issues wouldn't be classified as rampant, but it is an issue that should be addressed. Delay in cooperation can affect public safety.

Kniech - I think this has been characterized as an expansion of the role of the OIM. The language states that the OIM makes policy recommendations and needs access to more than individual case records. This is more of a clarification of the original intent of the ordinance. I would want to see any amendment language prior to being debated.

Lopez - My intent is to move this language forward and not hold up this product. Any clarification amendments will certainly be considered before this hits the floor. I would like the Mayor's office to weigh in on any new language as well.

Faatz - Do you have any concern with the language of the ordinance? (To Ms. O'Malley)

O'Malley - I have reviewed the proposed language and conferred with the city attorney's office. The language about citizen participation is already in the ordinance. Ms. O'Malley indicated she was sufficiently satisfied with that aspect of the proposal.

Faatz - Does the OIM have unfettered access to new data, such as body cameras or does it require a complaint? Who has discretion?

Mitchell - Legal concerns of whether the OIM would have access to that database. City Attorney would determine legality of access.

Susman - Clarification - Is the language underlined in the original language?

Dubbs - Yes - it is being moved to the section, new language.

Herndon - In legal interpretation in the final authority will be done by the City Attorney - who defines cooperation?

Dubbs - If it is a legal question, it will be determined by City Attorney's Office.

Lehmann - I am uncomfortable with moving out of committee without amendments.

Faatz - I would like to hear from Mayor's office and the unions on the proposed ordinance on unintended consequences. The OIM has grown in budget from \$500k to \$1.2 million.

Susman - Important that the OIM have access to the information they need. I would also like to see the language prior to moving forward.

Lopez - We have been working at this for awhile. When there is misconduct there has been an issue with compliance with the OIM

Ortega - No disagreement with making the change on adding internal - but that needs to be defined still. Can be done before filing. How are frivolous complaints weeded out?

Mitchell - Triage process involves evaluating complaints of misconduct. Evidence is vetted and if it is determined that it is a frivolous complaint.

Shepherd - What is a "reasonable amount of time"? How will that be determined?

Mitchell - Purposefully allows for flexibility.

Kniech - Comfortable with moving forward with clarifying amendment.

Herndon - Still concerns with legislating this matter

Brooks - Seems to be a logical next step to clarify these details.

*** End of discussion ***

Lopez - This ordinance has been vetted. The OIM needs to be able to carry out the duties that it was assigned to do.

Bill Requests

BR15-0067 Amendment to OIM Ordinance. a) Presentation. b) Fifteen (15) minutes of public comment on proposal. Two minutes per speaker and equal opportunity for opposing perspectives as determined by the Committee Chair. Individuals wishing to speak must sign up in the Council conference room (3rd Floor, City & County Building, Rm. 391) between 1:00pm and 1:15pm. The order of speakers is determined by the Committee Chair. c) Discussion/Action.

Councilman Lopez

A motion offered by Councilmember Kniech, duly seconded by Councilmember Lehmann, to file the bill carried by the following vote:

AYES: Faatz, Kniech, Lehmann, Lopez, Brooks, Susman(6)
NAYS: (None)
ABSENT: (None)
ABSTAIN: (None)