



CITY OF CHICAGO

COMMITTEE ON ETHICS AND GOVERNMENT OVERSIGHT
CITY COUNCIL
CITY HALL - ROOM 300
121 NORTH LASALLE STREET
CHICAGO, ILLINOIS 60602

MONTHLY RULE 45 REPORT APRIL 2023

On Tuesday, April 18, 2023, at 2:00 pm, the Committee on Ethics and Government Oversight held a virtual meeting.

Attendance:

The following members were present at the April 18th meeting: Acting Chair Martin (47), Dowell (3), Lee (11), Curtis (18), Taylor (20), Scott (24), Cardona (31), Waguespack (32), Rodriguez Sanchez (33), Ramirez-Rosa (35), Nugent (39), Vasquez (40), Knudsen (43), Cappleman (46), and Hadden (49).

The following non-members were also present: Moore (17), Rodriguez (22), and Burnett (27).

Meeting Opening:

The Acting Chair instructed protocol to be used in the virtual forum. Roll call was taken and a quorum was established. The Acting Chair opened the floor for public comments, and there were none.

Rule 45 Monthly Report for January 2023

Alderwoman Hadden moved to approve the Rule 45 Monthly Report for January 2023, which reflected the last committee meeting held on January 23, 2023. There were no objections, and the motion was ordered based on the affirmative vote of all members present for the roll call used to determine a quorum. **Approved by Committee April 18, 2023.**

The Committee on Ethics and Government Oversight addressed the following items:

1. **Subject Matter Hearing on O2022-2928: Amendment of Municipal Code Chapter 2-56 to further regulate duties of the Office of Inspector General.**

The Acting Chair introduced the item before the committee and recognized Alderman Rodriguez, one of the lead sponsors of the ordinance, to discuss. Alderman Rodriguez thanked his many partners in the conversations that he has had regarding the ordinance. The ordinance's



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intent, per Alderman Rodriguez is to remove the discretion to release publicly reports of the Office of Inspector General (OIG) from the Corporation Counsel, and instead grant that discretion to the Inspector General. The motivation behind the ordinance is to move the discretion behind releasing these reports away from a party subject to investigation and towards a party independent of investigations. As the law currently stands, the public may understand the discretion of Corporation Counsel to be a conflict of interest, and the co-sponsors of this ordinance have seen specific instances in their wards of the withholding of reports as a cause for concern. Additionally, the intent is to adopt the best practices already followed at a state level by Illinois. Alderman Rodriguez stated that the intent of this subject matter hearing, as discussed with the Acting Chair and Alderwoman Hadden, is to facilitate discussion in preparation for the next City Council, which will take up the matter.

The Acting Chair next recognized Alderwoman Hadden, who is also a lead sponsor of this ordinance. Alderwoman Hadden reiterated the points made by Alderman Rodriguez and added that this ordinance will bring forward needed transparency and ensure the OIG is an objective party regarding its investigative matters. Alderwoman Hadden additionally noted the intent is to build better trust in government, especially the City Council, through accountability. There is strong public interest in sharing the results of investigations, especially on high profile matters, and the discretion by Corporation Council to hold back all or pieces of investigative reports damages trust. Alderwoman Hadden emphasized the concerns around discretionary powers being in the hands of parties that may be subject to the investigations, and that even in a scenario where the reasoning is sound and justified to withhold a report, the conflict of interest will harm the government's credibility.

Next, the Acting Chair recognized Michael Howlett, Director of the City Council's Legislative Reference Bureau. Mr. Howlett discussed the revised draft of O2022-2928, explaining that the ordinance as it stands would establish a process for mandatory and discretionary release of OIG reports and a process for mandatory and discretionary redactions. The ordinance is modeled after how similar reports are handled at the state level. The threshold for mandatory release will be met if the summary report contains a recommendation of discharge from the Inspector General, if the ultimate jurisdictional authority (city departments) indicate that they will pursue discipline of three days suspension or more, or if third-party contractors and licensees will be subject to a fine or other punishment. Mr. Howlett noted that summary reports that are sent to the Board of Ethics for adjudication are excluded from this ordinance due to an existing internal process.

Mr. Howlett further explained that if mandatory release is warranted, the OIG must release within 60 days. OIG must redact information that would be an unwarranted invasion of privacy; if it would interfere with due process of an ongoing disciplinary action, an investigation or law



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enforcement action; if it would reveal a confidential source or a witness; if it would disclose privileged information; or if it would violate any law, court order, or collective bargaining agreement. Reports must be sent to Corporation Counsel and relevant departments to solicit non-binding suggestions for additional redactions. Corporation Counsel may also submit a legal opinion to OIG as to whether any information would be implicated by the release of the report, and the Inspector General can make additional redactions or withhold the report entirely if it's determined that the information may be implicated. Corporation Council is required to submit such an opinion if the Inspector General requests it.

The more recent draft of the ordinance also includes changes to confidentiality provisions that would permit the OIG to share investigatory files with law enforcement agencies and the Inspectors General of other legal jurisdictions. Additionally, the original version of the ordinance included a look-back period, but the more recent draft no longer does. The Acting Chair asked if that meant this ordinance would only apply prospectively, to which Mr. Howlett confirmed.

Alderdwoman Dowell asked Mr. Howlett about the various State rules that the ordinance was based on, to which he responded that he would follow up with the requested information after the meeting. Excerpts of the administrative rules relevant to the State of Illinois were distributed to the committee via email.

The Acting Chair then introduced Inspector General Witzburg. The Inspector General provided context to this ordinance, stating that OIG performs its investigatory duties through two channels: the program and policy work that already results in public reports, and its misconduct investigations that do not. The latter misconduct investigations are what are at issue with this ordinance. The misconduct investigations under current municipal law are confidential, and OIG is restricted in most scenarios from making public statements about the investigations. The sole venue for public release of the investigative work is through de-identified summaries in OIG's quarterly reports.

Currently, the investigative reports can only be fully released under the discretion of Corporation Counsel, and even so only under circumstances where the investigation involves a death or a felony that is of public interest. The Inspector General indicated that very few reports have ever been released.

The Inspector General then thanked the Committee for this discussion and agreed that the work of OIG must work to the ends of transparency and accountability, while also maintaining an appropriate balance between public interest and investigative confidentiality. The Inspector



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General's opinion is that the status quo is not an appropriate balance and appreciates the conversation about determining what is the appropriate balance.

Alderdwoman Nugent asked about differences between State law and the proposed legislation, notably the lack of an equivalent to the State's Executive Ethics Commission. The Inspector General explained that the Executive Ethics Commission functions as an oversight structure over many state processes that has no equivalent in Chicago's municipal government. Such an entity could be created by City Council, but at a municipal level other jurisdictions have struggled with various issues such as conflicts of interest and confidentiality. The Inspector General specifically noted that Baltimore is an example of a city that has attempted to create an advisory board. Alderdwoman Nugent expressed her interest in working with the lead sponsors in determining what would be the best practice regarding such an entity for Chicago.

Alderdwoman Dowell asked the Inspector General her opinions on the complications regarding moving the authority from Corporation Council to the Inspector General, including concerns with giving OIG unilateral authority over the release. The Inspector General responded that the process to be set up wouldn't necessarily give OIG unilateral authority, as it builds in a requirement to consult with a number of other stakeholders including Corporation Counsel and the relevant city departments. The Inspector General further emphasized that, pursuant to the status quo, Corporation Counsel does hold unilateral authority despite it being an entity subject to the oversight. Further, in addition to staffing hurdles, the Inspector General noted that thoughtful consideration will be required of the discretionary authority that OIG will have, especially in balancing confidentiality with the public interest. The Inspector General noted that the type of work involved with balancing those interests is qualitatively what the OIG is built to do, and the office is well equipped to handle it.

Alderdwoman Dowell also asked the Inspector General what other cities are doing, to which the Inspector General responded that while OIG has not done comparative policy work themselves, the Better Government Association has. The consensus from the BGA analyses was generally that other jurisdictions have more independent and more transparent legal structures around the release of the reports. Further, in comparison with the state, Illinois' balance of interest more heavily favors public release than the status quo in Chicago. Additionally, within the city, agencies such as BIA and COPA also have the authority to publish their reports.

Alderman Vasquez commended the lead sponsors and other parties for their work, noting its importance in transparency and empowering the Inspector General's oversight role.

Ordinance Held in Committee.



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2. Subject Matter Hearing Advisory on Interdepartmental Coordination and the City's Administrative Officer Position.

The Acting Chair introduced Inspector General Witzburg to discuss the advisory released by OIG regarding interdepartmental coordination. The Inspector General began by stating that the advisory covers themes seen over the last five years in OIG's work, notably opportunities for city departments to work together for a better and more efficient city government. The advisory notes that the municipal code requires that the Mayor shall appoint, with the consent of the City Council, an officer to be known as the City's Administrative Officer. Among the powers granted to this Administrative Officer is to provide for the coordination of city departments. The position has been vacant since 1988, although Chief of Staff-like positions in administrations have sometimes referred to such duties.

The advisory identified 11 OIG inquiries over the last 5 years in which missed opportunities in terms of interdepartmental coordination. OIG recommended to the Mayor's Office that the Mayor appoint for City Council confirmation an Administrative Officer, as the code requires. The recommendation is meant to improve the effectiveness of coordination among city departments, but also impressing on the Mayor's Office that the law requires it. The Inspector General noted that if the city no longer believes the office necessary, it is in their power to change the municipal code, but short of that it is intended as a mandate. As it stands, city government is ignoring provisions of the law. The Mayor's Office responded that it disagreed that there is a need for the coordination and disagreed that there is a legal mandate. The Mayor's Office's response was published alongside the advisory.

The Inspector General noted that a different structure than the one laid out in the code could accomplish the goals of better coordination and efficient government, but as it stands this is what the law requires.

The Acting Chair asked the Inspector General about examples from the advisory regarding which an Administrative Officer would have been especially well positioned to improve the situation. The Inspector General highlighted a report published in 2022 involving the use of litigation data in managing risk associated with the Chicago Police Department. Between a period of 2017 and 2020, the city paid out approximately \$250 million in settlements and judgments for misconduct. The report indicated that the city has failed to learn lessons from the quarter of a billion dollars spent, and specifically highlighted critical gaps in the way departments collect and report data about these incidents. Departments such as the Law Department, COPA, CPD, and the Mayor's Office are stakeholders in this data, but between the departments there are no standardized practices around what data is collected or how it is stored.



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Specifically, there is no way to efficiently match the data collected from the Law Department on the costs of the settlements and judgments to the discipline or investigations within CPD.

The Acting Chair also asked if there are inherent powers that an Administrative Officer would have that a Chief of Staff, Deputy Mayor, or other roles that have existed within administrations wouldn't have. The Inspector General noted that it is important as a policy question to know where these powers should be situated. Pieces of the responsibilities have landed in other roles despite them not being compliant with what the law requires and have been conducted admirably. One important area lacking is the lack of a confirmation process by City Council over such a role. Additionally, there are mandated reporting obligations that are not being met by the confirmed officer.

Held in Committee.

Meeting Closing:

The Acting Chair indicated no further business was before the committee and requested a motion to adjourn. Alderwoman Hadden so motioned, and there were no objections. The meeting was adjourned at 3:57 pm.

A handwritten signature in blue ink, appearing to read "Matt J. Martin".

Matthew J. Martin,
Acting Chair, Committee on Ethics and Government Oversight