



# **National Association for Civilian Oversight of Law Enforcement**

## **Code of Ethics**

### **PREAMBLE**

*Civilian oversight practitioners have a unique role as public servants overseeing law enforcement agencies. The community, government, and law enforcement have entrusted them to conduct their work in a professional, fair and impartial manner. They earn this trust through a firm commitment to the public good, the mission of their agency, and the ethical and professional standards described herein.*

*The standards in the Code are intended to be of general application. It is recognized, however, that the practice of civilian oversight varies among jurisdictions and agencies, and additional standards may be necessary. The spirit of these ethical and professional standards should guide the civilian oversight practitioner in adapting to individual circumstances, and in promoting public trust, integrity and transparency.*

### **PERSONAL INTEGRITY**

Demonstrate the highest standards of personal integrity, commitment, truthfulness, and fortitude in order to inspire trust among your stakeholders, and to set an example for others. Avoid conflicts of interest. Conduct yourself in a fair and impartial manner and recuse yourself or personnel within your agency when a significant conflict of interest arises. Do not accept gifts, gratuities or favors that could compromise your impartiality and independence.

### **INDEPENDENT AND THOROUGH OVERSIGHT**

Conduct investigations, audits, evaluations and reviews with diligence, an open and questioning mind, integrity, objectivity and fairness, in a timely manner. Rigorously test the accuracy and reliability of information from all sources. Present the facts and findings without regard to personal beliefs or concern for personal, professional, or political consequences.

### **TRANSPARENCY AND CONFIDENTIALITY**

Conduct oversight activities openly and transparently, providing regular reports and analysis of your activities, and explanations of your procedures and practices to as wide an audience as possible. Maintain the confidentiality of information that cannot be disclosed and protect the security of confidential records.

### **RESPECTFUL AND UNBIASED TREATMENT**

Treat all individuals with dignity and respect, and without preference or discrimination including, but not limited to: age, ethnicity, citizenship, color, culture, race, disability, gender, gender identity, gender expression, housing status, marriage, mental health, nationality, religion, sexual orientation, socioeconomic status, or political beliefs, and all other protected classes.

## **OUTREACH AND RELATIONSHIPS WITH STAKEHOLDERS**

Disseminate information and conduct outreach activity in the communities that you serve. Pursue open, candid, and non-defensive dialogue with your stakeholders. Educate and learn from the community.

## **AGENCY SELF-EXAMINATION AND COMMITMENT TO POLICY REVIEW**

Seek continuous improvement in the effectiveness of your oversight agency, the law enforcement agency it works with, and their relations with the communities they serve. Gauge your effectiveness through evaluation and analysis of your work product. Emphasize policy review aimed at substantive organizational reforms that advance law enforcement accountability and performance.

## **PROFESSIONAL EXCELLENCE**

Seek professional development to ensure competence. Acquire the necessary knowledge and understanding of the policies, procedures, and practices of the law enforcement agency you oversee. Keep informed of current legal, professional and social issues that affect the community, the law enforcement agency, and your oversight agency.

## **PRIMARY OBLIGATION TO THE COMMUNITY**

At all times, place your obligation to the community, duty to uphold the law and to the goals and objectives of your agency above your personal self-interest.

The following oversight agencies have adopted the NACOLE Code of Ethics:

- Citizen Oversight Board, City & County of Denver, CO
- Citizens' Law Enforcement Review Board, San Diego County, CA
- Citizens' Review Board on Police Practices, San Diego, CA
- Civilian Review Board, Eugene, OR
- Independent Review Panel, Miami, FL
- Milwaukee Fire and Police Commission, Milwaukee, WI
- Office of Citizen Complaints, San Francisco, CA
- Office of Community Complaints, Kansas City, MO
- Office of Police Complaints, Washington, D.C.
- Office of Professional Accountability, Seattle, WA
- Office of the Community Ombudsman, Boise, ID
- Office of the Independent Monitor, City & County of Denver, CO
- Office of the Independent Police Auditor, Bay Area Rapid Transit District, San Francisco, CA
- Office of the Independent Police Auditor, San Jose, CA
- Office of the Police Auditor, Eugene, OR
- Office of the Police Ombudsman, Spokane, WA
- Richmond Police Commission, Richmond, CA

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# Trauma, Resilience & Healing: *A Context for our Work*

*Brian Corr, Past President, NACOLE*

*Danielle Killian, Consultant, Fear LESS Project*

*Tina Barr, Director of Training & Education, NACOLE*

29<sup>th</sup> Annual NACOLE Conference

Chicago, Illinois • November 12, 2023



## CONTENT NOTICE

**This session will include discussion of a range of traumatic incidents and how they affect people, including discussion of violence and death, and some people might find it disturbing.**

Please take care of yourself and if you need to step away from or leave the session, there will be no judgment or questions about why.

**If you or someone you know is suicidal, please contact your physician, go to your local ER, or call the suicide prevention hotline in your country. For the United States, the numbers are as follows:**

**The National Suicide & Crisis Lifeline is 988 as well as the older number: or 800-273-TALK (8255). You can also send a message to the Crisis Text Line at 741741.**

(Both programs provide free, confidential support 24/7)

# WHAT IS PSYCHOLOGICAL TRAUMA?

- Individual trauma results from an event, or series of events, that is experienced by an individual as physically or emotionally harmful or threatening – and that has lasting adverse effects on the individual’s functioning and physical, social, emotional, or spiritual well-being.

— *Definition from the U.S. Substance Abuse and Mental Health Services Administration (SAMHSA)*



# TRAUMA VS. TRAUMATIC RESPONSE

## What is trauma?

- Any event – or series of events – that shatters an individual’s sense of safety in the world and overwhelms their capacity to adapt and cope.

## What is a “traumatic response”?

- Traumatic stress reactions are normal reactions to abnormal circumstances.
- Reactions to trauma can vary greatly and are significantly influenced by the individual’s sociocultural history.

# WHAT DOES “BEING TRAUMA-INFORMED” MEAN?

## TRAUMA- INFORMED?

- **Realizing** the widespread impact of trauma and understands potential paths to recovery
- **Recognizing** the signs and symptoms of trauma in clients, families, staff and others involved with the system
- **Responding** by fully integrating knowledge about trauma into policies, procedures and practices
- Seeking to actively **Resist** re-traumatization

# UNIVERSAL TYPES OF TRAUMA

Interpersonal  
trauma (abuse,  
violence)

Terrorism &  
mass-casualty  
events

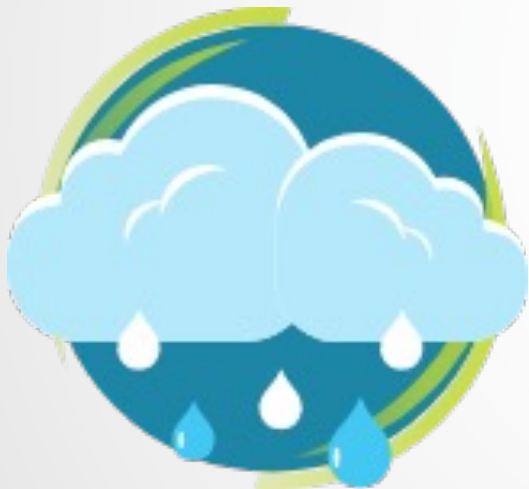
Natural or  
human-made  
disasters

Vicarious  
(secondary)  
trauma

Oppression &  
marginalization

Historical &  
community  
trauma

# EXPERIENCES THAT MAY BE TRAUMATIC



- Physical, sexual, and emotional abuse
- Childhood neglect
- Living with a family member with mental health or substance use disorders
- Sudden, unexplained separation from a loved one
- Poverty
- Racism, discrimination, and oppression
- Violence in the community, war, or terrorism

From: <https://www.traumainformedcare.chcs.org/what-is-trauma/>

# EFFECTS OF TRAUMA

- Physical
- Emotional
- Cognitive
- Behavioral
- Social

## APPENDIX E: TRAUMA RESOURCE GUIDE

### UNDERSTANDING TRAUMA

#### The brain during trauma

The brain can sometimes focus on survival during traumatic events, such as a sexual assault. Sometimes our brains lose the ability to think rationally and can turn to "survival instincts," which are reflex responses that happen automatically. This can look different for each person, but sometimes it includes:

#### *Dissociation*

feeling disconnected from one's body and/or going on 'autopilot.'

#### *Freezing*

a feeling of being unable to move or speak.

#### *Habit responses*

responding in ways that we learned to lighten tension such as being nice, polite or responding in "face-saving" ways.

#### Memories

Memories of traumatic events are processed differently than other memories. You may have clear memories of specific details but may have trouble organizing them in order that they happened. Memories often will be scattered, and some memories may come back days or weeks after an assault. You may have a hard time recalling some direct details after an assault, such as the person's face or build; however, it is also not unusual for you to have a very clear memory of related but not direct details, such as the sound of traffic outside or the pattern of ceiling tiles, or feel of the fabric on your skin. Again, the brain is focused on surviving the trauma and sometimes that means zoning out of what is happening in the moment.

Please remember, be kind to yourself and practice self-compassion. Everything discussed here can be a response to a traumatic event as well as a response to a reminder (trigger) to the event, such as talking about it. It is important to validate your responses no matter when they occur or why.

There are resources and support to cope with the effects of the trauma.

#### What to expect after trauma

There is no "right" way to respond to a trauma. After trauma there is a wide range of things you might experience. You may have some of these responses now, or you may have them in the future - all of this is normal. There are resources available if you would like support with any of these impacts:

#### *Thinking*

You may have a difficult time focusing or feel like your thoughts are sped up or slowed down; you may be having flashbacks (re-experiencing the event) or intrusive images (replaying the event).

#### *Behavior*

You may feel easily overwhelmed, angry or impatient; you may want to be surrounded by people, or you might want to be by yourself.

#### *Emotions*

You may feel like you are on an emotional rollercoaster; you may feel overwhelmed; you may feel numb; you may feel grief, guilt or shame.

#### *Physical*

You may notice changes in your sleep or eating habits; you may notice changes physically, like headaches and body aches, or nausea.

**Coping strategies** can help you manage these trauma responses in a way that allows you to move to the next moment. It is not about fixing or making them go away. Each person will be comforted by different things and some will be helpful one time but not another.

#### *Distraction*

Read, watch a favorite tv show, clean and tidy up, do a puzzle, talk to friends.

#### *Grounding*

Take deep breaths, count your breaths, meditate, squeeze a stress ball.

#### *Emotional release*

Yell or scream, take a cold shower, let yourself cry, watch funny videos.

#### *Self-love*

Cook a special meal, buy a small treat, take a long shower.

#### *Thought challenge*

Write down negative thoughts and list all the reasons they may not be true. If someone you love had these thoughts, what advice would you give?

#### *Access your higher self*

Volunteer, do random acts of kindness, help others.

# TRAUMA: WHY DO PEOPLE RESPOND DIFFERENTLY TO THE SAME EVENT?

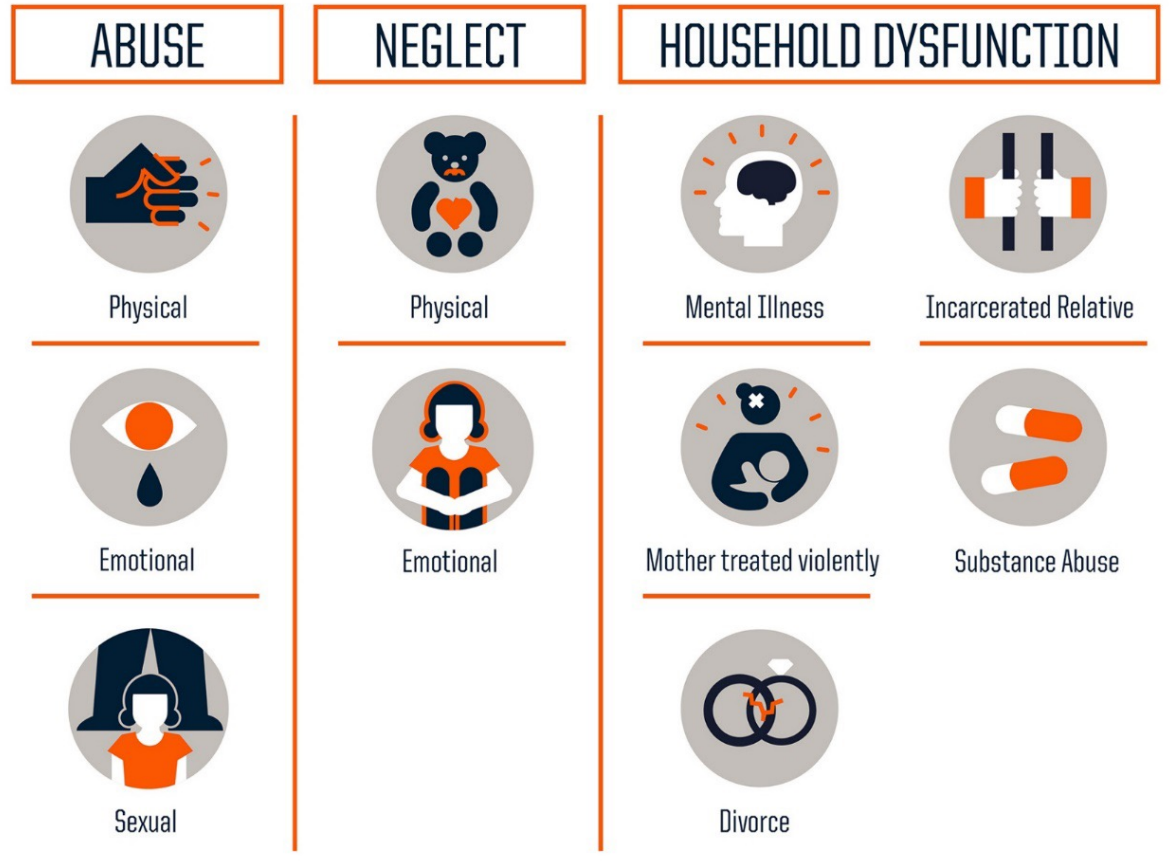
## **Risk Factors for Deeper Traumatic Impact**

- Age of onset
- Relationship to perpetrator
- Chronicity, severity, frequency, and mode
- Duration of trauma(s)
- History of prior trauma(s)
- Gender

# TRAUMA: ACES HIGH?

Although trauma can occur at any age, it has particularly debilitating long-term effects on children's developing brains.

Often referred to as Adverse Childhood Experiences (ACEs), exposure to these experiences is common across all sectors of society:



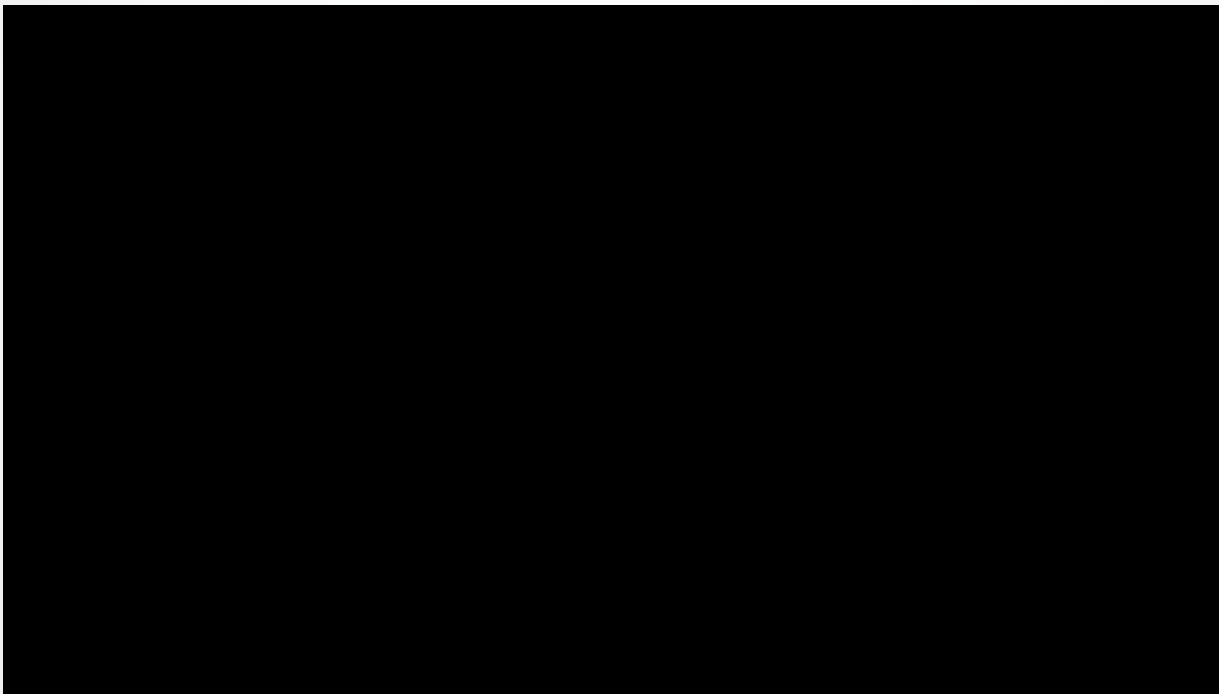
55% of adults report experiencing at least 1 ACE, and 1 in 5 adults report experiencing 4 or more.

# TRAUMA AND RESILIENCE: WHAT'S THE CONNECTION?

## **Important Things to Note:**

- ACEs: Childhood exposure to trauma can have a unique impact
- Cumulative nature of trauma
- Neurophysical impact of trauma
- People in “helping professions” may be “exercising agency”
- Trauma affects oversight practitioners and police officers

# ADVERSE CHILDHOOD EXPERIENCES



<https://www.youtube.com/watch?v=95ovlJ3dsNk>

# TRAUMA AND RESILIENCE: WHAT'S THE CONNECTION?

## **Important Things to Note:**

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# IMPACT OF TRAUMA ON LAW ENFORCEMENT

## **Higher risk of Sudden Cardiac Death**

(Joseph, Violanti, Donahue, Andrews, Trevisan, Burchfield, & Dorn, 2009; McCraty & Atkinson, 2012)

**Higher rates of depression** (Wang et al., 2010), **post-traumatic stress disorder (PTSD;** Marmar et al., 2006), and **alcohol use disorders** (Rees & Smith, 2008)

**More likely to die from suicide than in the line of duty & LEO; those with 15 to 19 years of experience have the highest rates of completed suicides** (Miller, 2006)

**Higher risk for developing diabetes, obesity, and metabolic syndrome** (O'Hara, Violanti, Levenson, & Clark, 2013; Paton, Johnston, Clarke, Violanti, Burke, & Deenan, 2008)

**Police officers forfeit seven to ten years of their life for their vocation** (Violanti 1996)

# Trauma and Resilience in Policing

*5ª Conferencia Nacional de Asuntos Internos*

**Brian Corr**

Past President

National Association for Civilian  
Oversight of Law Enforcement  
(NACOLE)

September 30, 2022



# BEING TRAUMA-INFORMED: FOUR BASIC IDEAS

Realizing the widespread impact of trauma and understanding resilience and how individuals can recover.

Recognizing the signs and symptoms of trauma in community members, victims and their families, police officers, staff, and others involved with the system.

Including knowledge and understanding about trauma in policies, procedures and practices.

Actively working in ways that avoid re-traumatization and support recovery



## RESILIENCE AND SELF-CARE

## BUILDING RESILIENCE: IDEAS FROM THE MAYO CLINIC (1 OF 3)

### **To become more resilient, consider these ideas:**

- Get connected. Building strong, positive relationships with loved ones and friends can provide you with needed support, guidance and acceptance in good and bad times.
- Make every day meaningful. Do something that gives you a sense of accomplishment and purpose every day.
- Learn from experience. Think of how you've coped with hardships in the past. Consider the skills and strategies that helped you through difficult times.

*<https://www.mayoclinic.org/tests-procedures/resilience-training/in-depth/resilience/art-20046311>*

## BUILDING RESILIENCE: IDEAS FROM THE MAYO CLINIC (2 OF 3)

### **To become more resilient, consider these ideas:**

- Remain hopeful. You can't change the past, but you can always look toward the future. Accepting and even anticipating change makes it easier to adapt and view new challenges with less anxiety.
- Take care of yourself. Tend to your own needs and feelings. Participate in activities and hobbies you enjoy. Include physical activity in your daily routine.
- Get plenty of sleep and create consistent bedtime rituals. Eat a healthy diet. Practice stress management and relaxation techniques, such as yoga, meditation, guided imagery, deep breathing or prayer.

<https://www.mayoclinic.org/tests-procedures/resilience-training/in-depth/resilience/art-20046311>

## BUILDING RESILIENCE: IDEAS FROM THE MAYO CLINIC (3 OF 3)

### **To become more resilient, consider these ideas:**

- Reduce stress. Relaxation techniques can reduce stress symptoms and help you enjoy a better quality of life, especially if you have an illness. Explore relaxation techniques you can do by yourself.
- Be proactive. Don't ignore your problems. Instead, figure out what needs to be done, make a plan and take action.
- Although it can take time to recover from a major setback, traumatic event, or loss, know that your situation can improve if you work at it.

<https://www.mayoclinic.org/tests-procedures/resilience-training/in-depth/resilience/art-200463> | 1



# TRAUMA & CIVILIAN OVERSIGHT



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Vicarious  
Trauma

Collective  
Trauma

Betrayal  
Trauma

Institutional  
Betrayal

The long-term psychological distress a person experiences after learning about someone else's victimization (McCann and Pearlman, 1990)

The emotional residue of exposure that individuals have from working with people as they are hearing their trauma stories and become witnesses to the pain, fear, and terror that trauma survivors have endured (Perlman & Saakvitne, 1995)

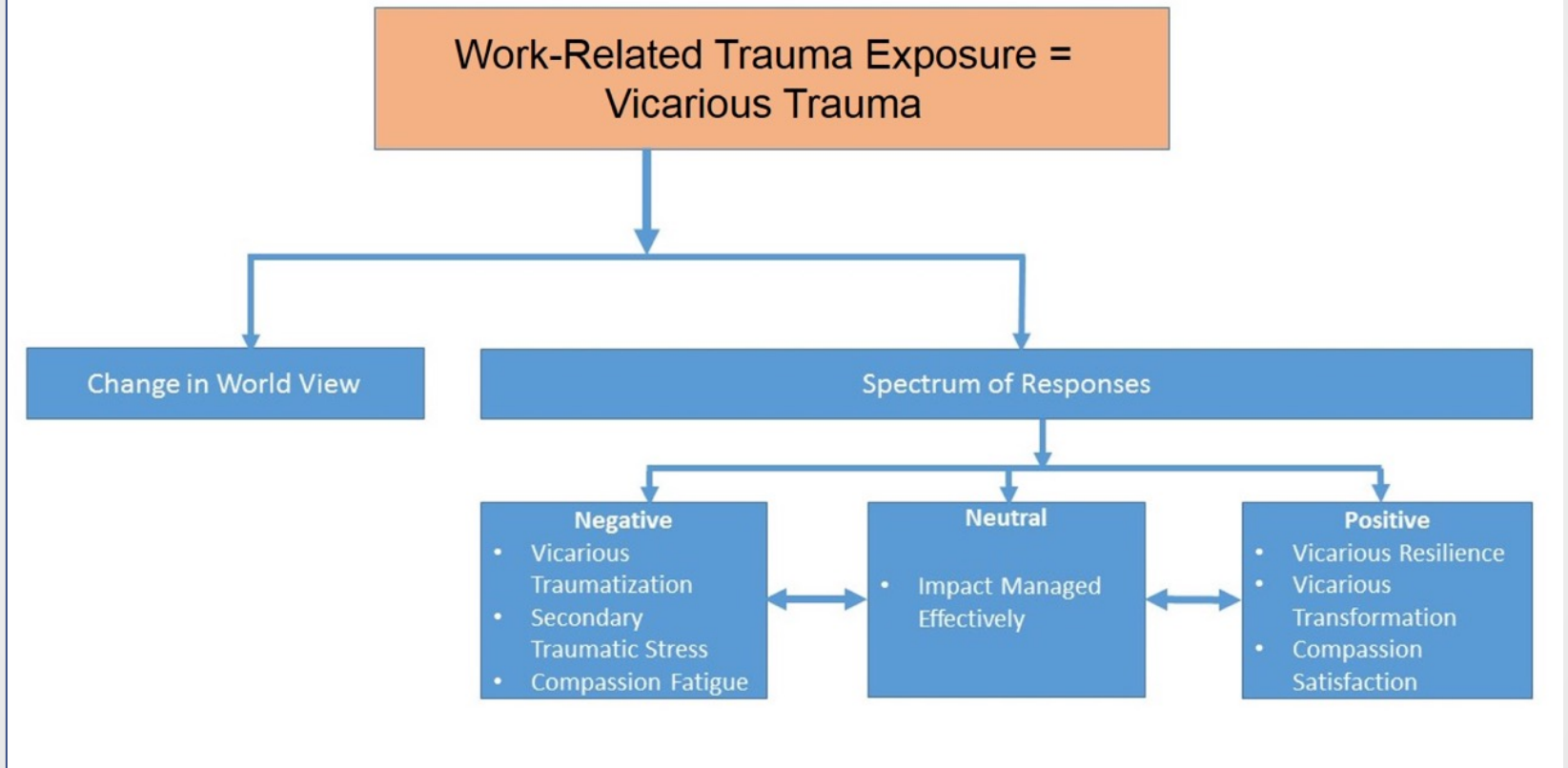
Indirect exposure to trauma through a first-hand account or narrative of a traumatic event (Vicarious Trauma Institute, n.d.)

*Indirect exposure to trauma can changes one's cognitive schemas and beliefs about the self, others, and the world.*

# Vicarious Trauma



# Vicarious Trauma Toolkit Model

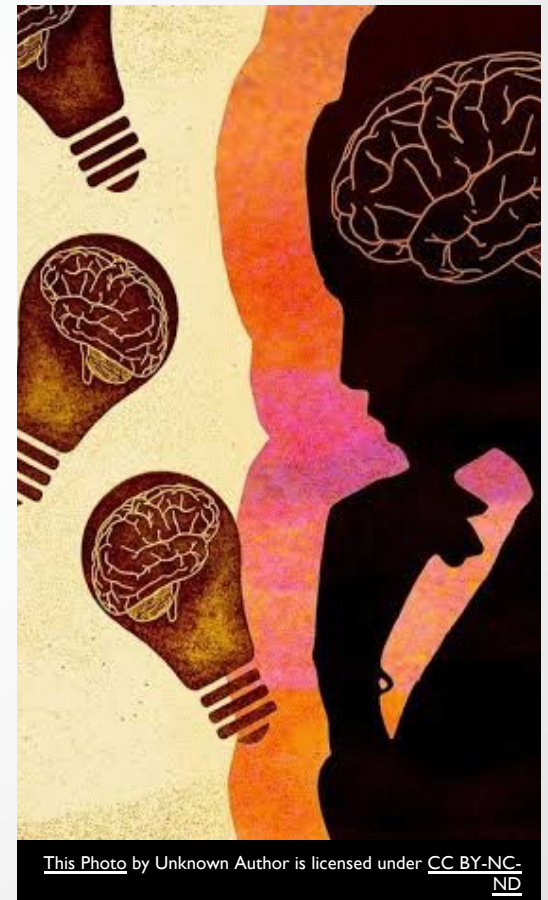


# Negative Reactions to Vicarious Trauma

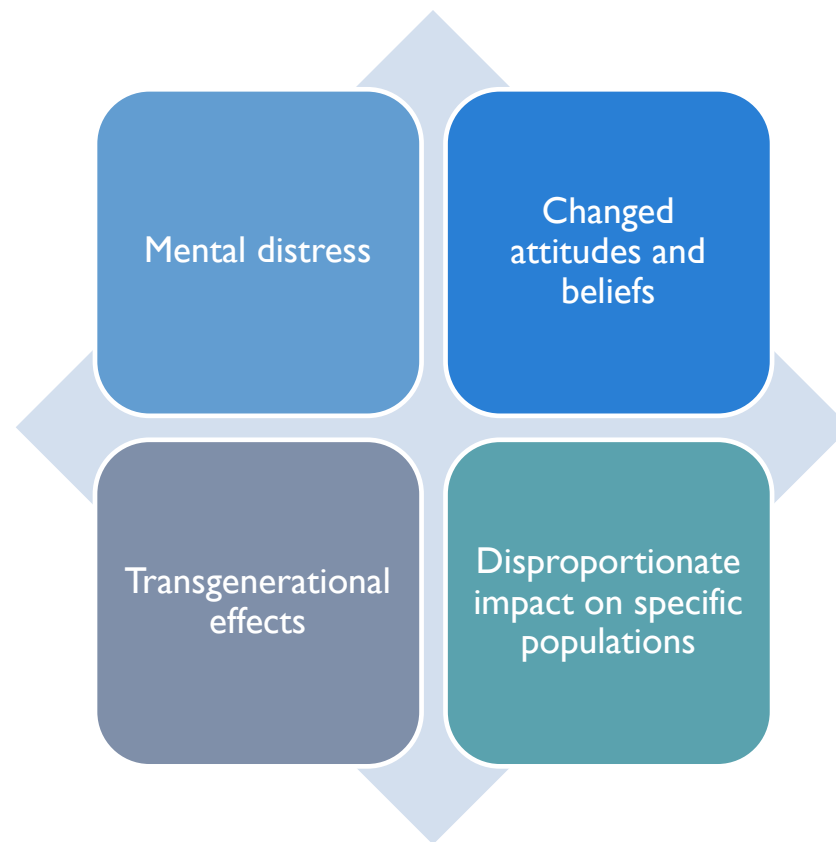
- Unwelcome thoughts/imagery
- Social withdrawal
- Decreased participation in activities that used to be enjoyable
- Negative coping skills
- Increasingly pessimistic worldview
- Loss of work-related motivation; avoiding work
- Stress-related medical conditions
- Decreased resistance to illness
- Difficulty managing emotions
- Feeling emotionally numb
- Fatigue, sleepiness, difficulty falling asleep
- Loss of a sense of meaning in life and/or feeling hopeless about the future
- Relationship problems
- Feeling vulnerable or worrying excessively about potential dangers in the world and loved ones' safety;
- Increased irritability

# Collective Trauma

- Shared psychological and emotional reaction to a catastrophic event affecting a very large number of people.
  - Bad memories
  - Attempt to make sense of the traumatic event (Meridian University)
- Collective memory of trauma  $\neq$  Individual memory of trauma
  - Collective memory persists beyond the lives of the direct survivors and is remembered by people who may be far removed from the events in time and space (Hirshberger, 2018).



# Effects of Collective Trauma



# Collective Trauma: The Victims/Survivors

Trauma memory (adaptive for group survival)



Elevates existential threat



Prompts search for meaning



Construction of a trans-generational  
collective self

# Collective Trauma: The Perpetrators

Trauma memory poses a threat to collective identity that may be addressed by:

- denying history,
- minimizing culpability for wrongdoing,
- transforming the memory of the event,
- closing the door on history, OR
- accepting responsibility.



# Betrayal Trauma & Institutional Betrayal

**Betrayal trauma** occurs when the people or institutions on which a person depends for survival significantly violate that person's trust or well-being (Freyd, 2008).

**Institutional betrayal** refers to wrongdoings perpetrated by an institution upon individuals dependent on that institution, including failure to prevent or respond supportively to wrongdoings within the institution (Freyd, 2023).

# Suggestions Regarding Vicarious Trauma

## Oversight Practitioners

- Talk about the impact of the work with supervisors, trusted individuals
- Establish a consistent work-to-home transition that creates an important boundary and safe place outside the workplace
- Maintain daily life routines (predictability helps)
- Stay connected with family and friends. Attend to the basics—sleep, healthy eating, physical activity

## Supervisors

- Refer to organizational supports (e.g., peer support team, employee assistance program, chaplain)
- Allow flexible work schedules, recognizing the need for and protecting down time, while staying attuned to the possibility of withdrawal or isolation
- Create time and a physical space at work for reflection through reading, writing, prayer, and meditation, among other activities

# Potential Strategies to Reduce Social-cultural Aspects of Collective Trauma

Setting	Overall Goal	Strategies	Potential Application
Social-Cultural	Counter community trauma symptoms, support connection and healing, and establish norms that encourage healthy behaviors.	Rebuild social relationships, social networks, and social support.	Utilizing restorative justice within the community.
		Promote social norms that encourage healthy behaviors.	Implementing positive youth development programming.
		Encourage collaboration and community-level solutions.	Encourage relationships and communication between community organizations.
		Provide community members a voice and restore/promote a sense of cultural identity.	Organize regular, positive community activities.

# Institutional Courage



Photo by [Michael Schofield](#) on [Unsplash](#)

- An institution commits to seek the truth and engage in moral action.
- An institution pledges to protect and care for those who depend on it.
- Institutional courage transforms institutions into more accountable, equitable, healthy places.

(Freyd, 2014)

# Resources

- The Vicarious Trauma Toolkit:  
<https://ovc.ojp.gov/program/vtt/blueprint-for-a-vicarious-trauma-informed-organization>
- Center for Institutional Courage:  
<https://www.institutionalcourage.org/resources-for-changemakers>



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“If you have come to help me you are wasting your time.

But if you have come because your liberation is bound up with mine, then let us work together.”

*Australian Aboriginal activists in Queensland, 1970s*

# Civilian Oversight of Law Enforcement

## Report on the State of the Field and Effective Oversight Practices

Michael Vitoroulis  
Cameron McElhiney  
Liana Perez



**COPS**  
Community Oriented Policing Services  
U.S. Department of Justice





# Civilian Oversight of Law Enforcement

**Report on the State of the Field and  
Effective Oversight Practices**

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We must also thank the experts and oversight agency leadership we consulted to gain additional insight. To all those who helped us make this project accessible to those who have an existing knowledge base and those who are just now learning about civilian oversight of law enforcement and how it can benefit their community, we are grateful.

Last, special thanks are due to those individuals who made a specific commitment to the success of this report. In particular, we would like to thank NACOLE staff members Cameron McElhiney, Liana Perez, and Michael Vitoroulis as well as immediate past president Brian Corr, current president Susan Hutson, vice-president Margo Frasier, members-at-large Florence Finkle and Janna Lewis, and former member-at-large Karen Williams. In addition, we thank past president Brian Buchner for initiating this effort and the National Police Foundation for their work on this project.

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Finally, we thank those individuals who gave their time to answer questions, provide insight, and explain the practices they felt brought effectiveness to the practice of civilian oversight of law enforcement: Jillian Aldebron, Matthew Buttice, Philip K. Eure, Samuel Walker, and Jayson Wechter.

# Introduction

In the 2010s, viral videos of seemingly routine police encounters depicting tragedy have sent shockwaves through both communities and law enforcement agencies across the country, setting off a national conversation on the relationship communities have with law enforcement. At the national level, these encounters have coincided with reduced public confidence in American policing,<sup>1</sup> particularly among youth and minority populations.<sup>2</sup> While low levels of trust have existed in certain communities throughout history, the most recent wave of high-profile incidents has prompted widespread calls to meaningfully address issues of community concern, such as officer-involved shootings and excessive force, discriminatory policing, aggressive crime fighting strategies, and accountability for misconduct. Across the nation, law enforcement leaders, academics, and government officials have seemingly reached a consensus that addressing such issues with a focus on public trust and legitimacy is integral to fair and effective public safety in an increasingly diverse nation.

The response by governments, law enforcement executives, community groups, and technical advisors to the challenge of mending police-community relations has been significant. In the aftermath of unrest in Ferguson, Missouri, and elsewhere, then President Barack Obama established the Task Force on 21st Century Policing to identify policing practices that promote public safety and build community trust in law enforcement.<sup>3</sup> *The Final Report of the President's Task Force on 21st Century Policing*, published in May 2015, offered several recommendations, including many relating to public trust, procedural justice, and legitimacy; accountability and transparency; community policing efforts; and the inclusion of community members in policy development, training programs, and review of force incidents.

In addition, the task force's report recommended that civilian oversight of law enforcement be established in accordance with the needs of the community and input from local law enforcement stakeholders.<sup>4</sup> Civilian oversight of law enforcement can contribute significantly to the implementation and institutionalization of many of the task force's recommendations and further the development of public trust, legitimacy, cooperation, and collaboration necessary to improve police-community relations and enhance public safety.

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1. Jones, "In U.S., Confidence in Police Lowest in 22 Years."
  2. Norman, "Confidence in Police Back at Historical Average."
  3. President's Task Force on 21st Century Policing, *Final Report*, 1.
  4. President's Task Force on 21st Century Policing, *Final Report*, 26.

Community efforts to address the issue of police-community relations increasingly include civilian oversight of law enforcement as a means of building trust. Traditionally, high-profile incidents have spawned the creation of new or strengthened civilian oversight.<sup>5</sup> However, decision makers in jurisdictions throughout the country are increasingly establishing civilian oversight proactively in recognition of its ability to promote public trust in law enforcement and reduce exposure to the risks of misconduct.

At its core, civilian oversight can be broadly defined as the independent, external, and ongoing review of a law enforcement agency and its operations by individuals outside of the law enforcement agency being overseen. Civilian oversight may entail, but is not limited to, the independent investigation of complaints alleging officer misconduct, auditing or monitoring various aspects of the overseen law enforcement agency, analyzing patterns or trends in activity, issuing public reports, and issuing recommendations on discipline, training, policies, and procedures. Taken together, these functions can promote greater law enforcement accountability, increased transparency, positive organizational change, and improved responsiveness to community needs and concerns.

By acting as an independent and neutral body reviewing the work of the law enforcement agency and its sworn staff, civilian oversight of law enforcement offers a unique element of legitimacy that internal accountability and review mechanisms simply cannot. Because civilian oversight agencies operate outside of the overseen law enforcement agency, and report to local stakeholders outside of its chain of command, the findings and reports of an oversight agency are free from the real or perceived biases that are often the source of mistrust in a law enforcement agency's internal systems. Similarly, a civilian oversight agency's impartiality, neutrality, and adherence to findings of fact can alleviate officer skepticism in internal systems and bolster procedural fairness within the law enforcement agency as a whole.

The organizational structure and authority of civilian oversight agencies in the United States varies widely. While civilian oversight agencies can be broadly categorized into *review-focused*, *investigation-focused*, or *auditor/monitor-focused* models, no two oversight agencies are exactly alike. There is no one-size-fits-all approach that makes one form of civilian oversight better than another.<sup>6</sup> Effective civilian oversight systems will reflect the particular needs of their local partners and incorporate feedback from community members, law enforcement and their unions, and government stakeholders in order to achieve the most sustainable and appropriate structure. As the field of civilian oversight grows in sophistication, many cities are combining various aspects of traditional oversight models to produce "hybrid" forms best suited for their local context.

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5. De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement: Assessing the Evidence*, 64. (Table B2). Note that agencies were able to select multiple factors that served as triggers for the creation of oversight in their jurisdiction.

6. De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement: Assessing the Evidence*.

While the establishment of civilian oversight alone cannot restore law enforcement's legitimacy, it is difficult, if not impossible, to maintain public trust without it. As such, developing effective and adequately resourced civilian oversight is among the several strategies that must be employed to rebuild community relations with law enforcement.

This report is intended to provide the reader with the information necessary to better understand civilian oversight, its principles, and its history; discuss effective practices; and guide communities in the establishment of sustainable civilian oversight mechanisms.

The first half of this report provides a brief overview of the history of civilian oversight, the features of traditional oversight models, and original insights on trends and developments on the current state of the field. This includes information on the geography of civilian oversight, patterns in oversight agency functions and authority, oversight staffing and resourcing, oversight agency access to department records and information, and developments in community outreach functions performed by oversight agencies across the country. This information is intended to fill existing gaps in the literature on civilian oversight and provide stakeholders with a broader understanding of the contemporary civilian oversight landscape.

The second half of this report focuses on the principles that underlie effective civilian oversight and the recommended practices that bolster an oversight agency's ability to adhere to these principles. In total, this report offers 73 recommendations across 16 core areas of civilian oversight, such as independence, access to information, processing and managing complaints, analyzing law enforcement policies and data, issuing public reports, evaluating a civilian oversight agency, and performing community outreach. These recommendations have been developed with input from seasoned oversight professionals throughout the country and include commentary as well as additional references that can assist in their implementation. While these recommendations do not cover all aspects of civilian oversight, stakeholders should take them into consideration and determine their propriety in their local contexts.

As a whole, this report is one of many ongoing efforts to expand and improve civilian oversight of law enforcement throughout the country. Moving forward, additional research and resources from a variety of sources are still necessary to develop further guidance and understanding of this rapidly growing and evolving field.



# I. STATE OF THE FIELD

## 1. Research Methodology

### Literature review and collected information

In determining the most relevant trends and developments in contemporary civilian oversight, this report's authors considered the history of civilian oversight, the evolution of oversight models in the United States, and several other sources of written information and information collected first-hand, including the following:

- Academic articles, books, and industry-level publications
- NACOLE's nine case studies of civilian oversight agencies<sup>7</sup>
- NACOLE's report *Civilian Oversight of Law Enforcement: Assessing the Evidence*, published in 2016 with support from the U.S. Department of Justice (DOJ) Office of Justice Programs (OJP)<sup>8</sup>
- Newspaper and periodical articles pertaining to civilian oversight of law enforcement, law enforcement and criminal justice reform, and law enforcement accountability
- Oversight agency reports, data, and other materials
- Discussions with oversight practitioners and stakeholders in various jurisdictions
- Observations at NACOLE conferences and training events

Because civilian oversight is a highly varied and rapidly evolving field, including every development or trend in the field was not possible. Therefore, the authors of this report resolved to focus on key topics of civilian oversight, such as oversight models, jurisdiction, and authority, reporting structures, oversight legislation, agency budgets and staffing, access to records and information, and evaluation.

The following sections focus on the state of contemporary civilian oversight. Here the authors have included additional insights found throughout the course of their research. However, the sections on civilian oversight history and models of oversight provided here should not be considered exhaustive. NACOLE's *Civilian Oversight of Law Enforcement: Assessing the Evidence*<sup>9</sup> includes a more comprehensive overview of civilian oversight models and their strengths and weaknesses, as well as a collection of publications providing more extensive historical information and general guidance on the field.

7. NACOLE, *Atlanta Citizen Review Board (Atlanta, GA)*; NACOLE, *Police Review and Advisory Board (Cambridge, MA)*; NACOLE, *Office of the Independent Monitor (Denver, CO)*; NACOLE, *Citizens' Police Complaint Office (Indianapolis, IN)*; NACOLE, *Office of the Inspector General (Los Angeles, CA)*; NACOLE, *Civilian Investigative Panel (Miami, FL)*; NACOLE, *Office of the Independent Monitor (New Orleans, LA)*; NACOLE, *Police Advisory Commission (Philadelphia, PA)*; NACOLE, *Office of Police Complaints (Washington, D.C.)*.

8. De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement: Assessing the Evidence*.

9. De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement: Assessing the Evidence*.

## Data collection and analysis

Civilian oversight researchers have thoroughly documented the absence of comprehensive and systematic data on civilian oversight of law enforcement.<sup>10</sup> Such data could produce insight regarding how civilian oversight functions in addition to laying the groundwork for developing a robust framework for evaluating the impact and performance of civilian oversight. With this in mind, NACOLE has embarked on two attempts to gather comprehensive data on civilian oversight in the United States. This report draws heavily from these two initiatives:

1. NACOLE / Office of Justice Programs (OJP) survey (2016)

NACOLE's report *Civilian Oversight of Law Enforcement: Assessing the Evidence*, created with support from the OJP, drew insights from data gathered by an electronic survey issued to 97 civilian oversight agencies.<sup>11</sup> This survey captured agency organizational information as well as information about oversight directors' attitudes and perceptions regarding their agencies. Because the survey captured potentially identifying information about oversight practitioner perceptions and attitudes, the data cannot be made available to the public. Nonetheless, findings from the original report have been reproduced here, where relevant, to convey information about the state of the field. In addition, new data analysis based on the NACOLE/OJP survey was produced specifically for this report.

2. *Civilian Oversight Agency Directory (COAD) survey* (2017–present)

NACOLE's *Civilian Oversight Agency Directory* survey was developed with support from the DOJ Office of Community Oriented Policing Services (COPS Office). The COAD has been developed for the purposes of providing oversight practitioners, researchers, and community members with a comprehensive and up-to-date database of civilian oversight agencies. The COAD is an ongoing survey that will be updated regularly as civilian oversight agencies continue to respond and add to the database.

NACOLE began issuing the COAD survey questions in 2017 to capture additional information on oversight agency authority, functions, processes, resources, and legislation. The survey database was made publicly available online in 2019 and includes a front-end interface that permits users to filter, search, and sort through the 69 organizational variables the survey captures. The web application, survey, and database can be accessed at <http://directory.nacole.org>.

Throughout this report, data from each survey will be referred to as the "NACOLE/OJP survey" and "COAD," respectively.

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10. Prenzler and Lewis, "Performance Indicators for Police Oversight Agencies;" Alpert et al., "Citizen Oversight in the United States and Canada: Applying Outcome Measures and Evidence-Based Concepts;" De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement Assessing the Evidence*.

11. De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement: Assessing the Evidence*, 18.

## 2. History of Civilian Oversight

### 1880s–1920s: Police commissions in the Progressive Era

While law enforcement in the United States has evolved significantly throughout the nation’s history, public perceptions of law enforcement continue to be affected by corruption, distrust, and tense relations with minority communities. The earliest forms of American policing can be traced back to efforts to control enslaved people in the pre–Civil War era<sup>12</sup> and working-class populations<sup>13</sup> during early industrialization. Efforts to professionalize American police departments can be traced back to developments in 19th-century London. In 1892, amid increased crime and urbanization, British statesman Sir Robert Peel proposed creating a police force to replace the constables, night watchmen, and private security guards tasked with maintaining social order.<sup>14</sup> Peel established a set of nine principles<sup>15</sup> concerning the roles and responsibilities of a legitimate police force that would later be adopted by the New York City Police Department (NYPD) when it was created in 1844.<sup>16</sup>

Mayors and other elected politicians, who appointed police chiefs or commissioners, were the primary official mechanism for holding early American police forces accountable during this time. These 19th- and early 20th-century accountability mechanisms proved ineffective, as elected officials often used their influence over the police for graft and patronage.<sup>17</sup> Efforts by reformists, journalists, and community leaders to expose and combat this corruption at times proved effective; in New York City, for example, revelations of widespread corruption in the NYPD resulted in a probe of the department by the New York State Senate in 1894.<sup>18</sup>

Initial forms of civilian oversight of law enforcement began during the Progressive Era amid calls for eliminating municipal corruption and disentangling the police from such corruption. In some cities, volunteer civilian police commissions were appointed by the mayor or city council to act as the board of directors for the police department, often with the authority to hire and fire the police chief and set department policy.<sup>19</sup> Ultimately, these early police commissions proved ineffective due to the political entrenchment of the appointed commissioners<sup>20</sup> and their frequent deference to the police chief.<sup>21</sup>

12. Hadden, *Slave Patrols: Law and Violence in Virginia and the Carolinas*.

13. Sadler, *Pennsylvania’s Coal and Iron Police*.

14. Police Assessment Resource Center, *Review of National Police Oversight Models for the Eugene Police Commission*, 4–5.

15. Law Enforcement Action Partnership, “Sir Robert Peel’s Policing Principles.”

16. Police Assessment Resource Center, *Review of National Police Oversight Models for the Eugene Police Commission*, 5.

17. Walker, *Police Accountability: The Role of Citizen Oversight* 4.

18. Czitrom, *New York Exposed*.

19. De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement Assessing the Evidence*, 18; Police Assessment Resource Center, *Review of National Police Oversight Models for the Eugene Police Commission*, 7.

20. Attard and Olson, *Overview of Civilian Oversight of Law Enforcement in the United States*, 1–2.

21. Police Assessment Resource Center, “Review of National Police Oversight Models for the Eugene Police Commission,” 8.

## 1920s–1960s: Early civilian review boards

Tensions between police and minority communities, as well as the Civil Rights Movement, led to a more formalized concept of civilian oversight and the first civilian review boards. A more formalized concept of civilian oversight first emerged in 1928, when the Los Angeles Bar Association established a Committee on Constitutional Rights to record complaints of police misconduct.<sup>22</sup> As a nongovernmental body, the commission had no authority to act on the complaints received.<sup>23</sup>

In 1931, the Wickersham Commission—established by then President Herbert Hoover to review the criminal justice system and issue recommendations for reform—asserted in its final report that “. . . physical brutality was a widespread, almost universal, police practice”<sup>24</sup> and recommended that “some disinterested agency” in “every locality” take complaints against police.<sup>25</sup> During this period, the majority of police departments resolved civilian complaints alleging misconduct internally and informally. Police frequently threatened, cajoled, and discouraged individuals from filing complaints altogether.<sup>26</sup>

Riots over race relations and police violence in urban areas throughout the 1930s to 1950s gave way to strengthened movements for police accountability and improved civilian complaint processes.<sup>27</sup> In 1935, a race riot in New York City’s predominantly Black neighborhood of Harlem resulted in a mayoral task force recommending the creation of a committee of citizens who would receive complaints against police.<sup>28</sup> This recommendation was ultimately rejected by the city’s elected officials.

A breakthrough came about in Washington, D.C., in 1948, when the nation’s first civilian review board (CRB) was established in response to community concerns over police using excessive force against African Americans and lobbying efforts by the Urban League and National Conference of Christians and Jews.<sup>29</sup> The District’s civilian review board consisted of three volunteers tasked with reviewing and recommending the disposition of complaints referred to it by the police chief.<sup>30</sup> This first CRB had limited visibility and effectiveness, reviewing just 54 cases in its first 16 years.<sup>31</sup> The board membership was expanded to five members in 1965 and given independent investigative authority and subpoena power in 1980, but it was eventually abolished in 1995 amid a fiscal crisis and unmanageable backlog of cases.<sup>32</sup>

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22. Alpert et al., “Citizen Oversight in the United States and Canada: Applying Outcome Measures and Evidence-Based Concepts,” 181.

23. Walker, “Chapter 1. The History of Citizen Oversight,” 3.

24. President’s Commission on Law Enforcement and Administration of Justice, *The Challenge of Crime in a Free Society*, 105.

25. De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement: Assessing the Evidence*, 19.

26. Perez, “Police Accountability: A Question of Balance,” 198.

27. Perez, “Police Accountability: A Question of Balance;” Walker, *Police Accountability: The Role of Citizen Oversight*, 21.

28. Walker, “Chapter 1. The History of Citizen Oversight,” 3.

29. Miller, *Civilian Oversight of Policing*, 36; De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement: Assessing the Evidence*, 19.

30. Walker, *Police Accountability: The Role of Citizen Oversight*, 23.

31. Walker, *Police Accountability: The Role of Citizen Oversight*, 23; Miller, *Civilian Oversight of Policing*, 10.

32. The Office of Police Complaints (OPC) now provides civilian oversight in Washington, D.C. For more on the history and evolution of civilian oversight in Washington, D.C., see NACOLE’s case study on the Office of Police Complaints.

In the late 1950s, there were several attempts to establish civilian review boards in other jurisdictions such as Minneapolis, Minnesota; Rochester, New York; and York, Pennsylvania; but these attempts failed due to fierce union opposition and a lack of political support.<sup>33</sup>

In Philadelphia, the local American Civil Liberties Union (ACLU) lobbied for a Police Review Board (PRB). Although the PRB was met with opposition by city council members, it was established by mayoral executive order in 1958.<sup>34</sup> This board was authorized to receive complaints, review the police department's investigations of allegations regarding officer misconduct, and issue disciplinary recommendations to the police commissioner.<sup>35</sup> While innovative at the time, the PRB faced frequent legal opposition from the Philadelphia Fraternal Order of Police (FOP), did not have a budget until 1960, and had no full-time staff until 1963.<sup>36</sup> In 1967, the Philadelphia Court of Common Pleas ruled that the executive order creating the PRB violated the Philadelphia city charter. Subsequently, the mayor issued an executive order formally disbanding the board despite a Philadelphia Supreme Court ruling that overturned the initial court's ruling that same year.<sup>37</sup> Despite its challenges, Philadelphia's early experience with civilian oversight was largely considered a notable development for the civilian oversight movement.<sup>38</sup>

Nationally, the Civil Rights Movement thrust issues of racial discrimination and police misconduct to the forefront as civil unrest spread across the nation. In 1967, then President Lyndon Johnson appointed an 11-member commission, known as the Kerner Commission, to investigate the causes of race riots throughout the United States. The commission's report highlighted the "abrasive relationship between the police and minority communities" and recognized that the lack of "effective mechanisms for handling complaints against the police" aggravated police-community tensions.<sup>39</sup> The report further asserted that "an internal review board—in which the police department itself receives and acts on complaints—regardless of its efficiency and fairness, can rarely generate the necessary community confidence [in the police department] or protect the police against unfounded charges."<sup>40</sup> As a result, the Kerner Commission recommended that "a specialized agency, with adequate funds and staff, be created separate from other municipal agencies to handle, investigate and to make recommendations on citizen complaints."<sup>41</sup> Although the Civil Rights Movement led to the nation's initial reckoning with race and law enforcement misconduct, civilian oversight struggled to gain traction in the late 1960s.

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33. Walker, *Police Accountability: The Role of Citizen Oversight*, 23.

34. Terrill, "Police Accountability in Philadelphia."

35. Terrill, "Police Accountability in Philadelphia," 82.

36. Terrill, "Police Accountability in Philadelphia," 83.

37. Tal, *Civilian Oversight of Police in Philadelphia: The First 50 Years*.

38. Beral and Sisk, "The Administration of Complaints by Civilians against the Police," 513–514.

39. Kerner et al., *Report of the National Advisory Commission on Civil Disorders*, 8.

40. Kerner et al., *Report of the National Advisory Commission on Civil Disorders*, 162.

41. Kerner et al., *Report of the National Advisory Commission on Civil Disorders*, 163.

In 1966, then New York City mayor John Lindsey sought to add community participation to the board by appointing four civilians to the Civilian Complaint Review Board (CCRB). Originally established in 1953, the CCRB was created as an internal accountability system composed of three deputy police commissioners who reviewed NYPD investigations into civilian complaints. Lindsey's attempt to modify the board's composition sparked fierce opposition by the police department and the Patrolmen's Benevolent Association (PBA), the union representing NYPD police officers. In response, the PBA launched an "all-out campaign" against civilian members of the board, using heavily racialized scare tactics and claims that the change would negatively affect officer morale.<sup>42</sup> The PBA circulated petitions in opposition to the mayor's effort and gathered enough signatures to place a referendum banning civilian participation on the board to a city-wide vote.<sup>43</sup> Voters approved the referendum and the CCRB remained entirely composed of NYPD members until 1986, when the city council passed legislation restructuring the board's composition to include six civilian mayoral appointees serving alongside six police commissioner appointees.<sup>44</sup> It would not be until 1993 that the CCRB became a fully independent investigative oversight agency situated outside the police department.

The Office of Community Complaints (OCC) in Kansas City, Missouri, was established in 1969 and authorized by state statute to hire professional staff and receive, review, and mediate complaints as well as analyze and make recommendations regarding all external complaint investigations conducted by the Kansas City Police Department (KCPD).<sup>45</sup> The Kansas City OCC remains operational to this day, currently making it the oldest continuously operational oversight agency. The OCC's establishment by state statute, as opposed to executive order, and relative support by officials within the Kansas City Police Department have contributed to its stability over time.<sup>46</sup>

This early period in the development of civilian oversight can be summarized by three broad trends. First, social unrest regarding policing and the Civil Rights Movement prompted greater scrutiny of the fairness and integrity of civilian complaint processes. Second, the civilian oversight agencies established during this period were created as reactions to local crises of confidence in the local police force.<sup>47</sup> Third, the agencies created were responsible for reviewing complaint investigations conducted internally by the police department. As told by the stories of Philadelphia and Washington, D.C., the early oversight movement struggled with instability, a lack of political support and resources, and forceful opposition by police departments and police unions. In New York City, the PBA's resistance to adding civilians to the CCRB demonstrated the fierceness of opposition to independent, external oversight.

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42. Pace, "P.B.A. Asks Public to Oppose Board;" Flamm, "'Law and Order' at Large."

43. Flamm, "'Law and Order' at Large."

44. CCRB, *2006 Annual Report*, 5.

45. De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement: Assessing the Evidence*, 20.

46. Ferdik, Rojek, and Alpert, "Citizen Oversight in the United States and Canada," 106.

47. De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement: Assessing the Evidence*, 19.

## 1970s–1980s: The emergence of investigative models

Civilian oversight gained traction in the 1970s, and its development accelerated throughout the 1980s. During this period, several municipalities created new civilian oversight agencies with greater resources and independent investigative authority.

In 1973, after several failed attempts to bring about police reform and accountability, a group of community organizations in Berkeley, California, mounted a successful campaign prompting the voters of the city of Berkeley to pass an ordinance establishing the Police Review Commission—the first civilian oversight agency specifically authorized to independently investigate police complaints.<sup>48</sup> That same year, voters in Detroit, Michigan, approved a city charter amendment creating the all-civilian Detroit Board of Police Commissioners (BOPC), authorized to set department policy and independently investigate and resolve complaints.<sup>49</sup>

Although the Detroit BOPC signaled a return to the civilian police commission form of oversight, it did so with a more explicit role in addressing police accountability, given its charter mandate to receive and investigate complaints of misconduct.

In 1982, the San Francisco Office of Citizen Complaints (OCC; now known as the Department of Police Accountability) was incorporated into the city's charter. The OCC signaled a unique development, in that the agency replaced the civilian complaint investigation functions of the San Francisco Police Department.<sup>50</sup>

This decade also brought about independent oversight of federal agencies, including the Federal Bureau of Investigation and U.S. Department of Justice (DOJ), through the Inspector General Act of 1978.<sup>51</sup> This statute established 12 inspectors general to conduct reviews and investigations aimed to prevent and detect fraud, waste, corruption, and abuse within federal government, as well as to recommend policy changes that promote efficiency and economy within the overseen agencies.

By 1980, there were approximately 13 civilian oversight agencies across the United States.<sup>52</sup> Their levels of success varied greatly. The United States Commission on Civil Rights' 1981 review of police practices attributed this variation to a lack of proper authority, resources, and investigative staff but still acknowledged that civilian review boards had encountered some success in reviewing police misconduct.<sup>53</sup> Others attributed the uneven outcomes of this era to the political compromises forced by law enforcement and union

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48. Andi, "Berkeley's Establishment of a Police Review Commission;" Walker, "Chapter 1. The History of Citizen Oversight," 4.

49. City of Detroit, "Police Commissioners History;" Walker, *Police Accountability: The Role of Citizen Oversight*, 34.

50. De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement: Assessing the Evidence*, 20.

51. Francis, *Statutory Inspectors General*, 2.

52. Walker, "Chapter 1. The History of Citizen Oversight," 4.

53. U.S. Commission on Civil Rights, *Who Is Guarding the Guardians?*, 125.

opposition, which produced civilian oversight that was weak in both authority and independence.<sup>54</sup> Despite these challenges, agencies that possessed independent investigative powers and whose creation stemmed from charter amendments or legislation represented significant developments for the civilian oversight movement. Furthermore, the formation of the International Association for Civilian Oversight of Law Enforcement (IACOLE) in 1985 signaled a turn towards the legitimization and professionalization of the field more generally.

## 1990s–2000s: Independent police auditors and federal intervention in local law enforcement

The 1990s brought about significant changes to American policing, reform efforts, and civilian oversight of law enforcement. This decade experienced sharp increases in police recruitment and resources,<sup>55</sup> a 41 percent spike in drug-related arrests,<sup>56</sup> and a focus on quality-of-life policing that contributed to the dramatic expansion of practices such as stop and frisk.<sup>57</sup> Racial disparities in such enforcement,<sup>58</sup> as well as national media coverage of police misconduct and corruption, markedly increased unfavorable public perceptions of police, particularly within minority communities.<sup>59</sup> Concurrently, a new wave of civilian oversight agencies with expanded powers emerged, as did new efforts by the DOJ to reform police departments engaging in patterns of unconstitutional policing.

During this period, a new model of civilian oversight focused on systemic issues in law enforcement policies and procedures began taking shape. In 1991, the Seattle, Washington, city council passed an ordinance establishing an independent civilian auditor to audit and review civilian complaint investigations completed by the Seattle Police Department's Internal Investigations Section.<sup>60</sup> Two years later, city councilmembers in San Jose, California, proactively approved an ordinance creating an Independent Police Auditor (IPA). While modeled after Seattle's civilian auditor,<sup>61</sup> the San Jose IPA was given a broader mandate and was authorized to review the complaint investigations completed by the San Jose Police Department (SJPD), analyze complaint trends and statistics, and review and recommend improvements to SJPD policies and procedures.<sup>62</sup>

54. Walker, *Police Accountability: The Role of Citizen Oversight*, 35.

55. Koper, Moore, and Roth, *Putting 100,000 Officers on the Street*.

56. King and Mauer, "The War on Marijuana," 3.

57. Fagan and Davies, "Street Stops and Broken Windows;" Fagan et al., "Street Stops and Broken Windows Revisited: The Demography and Logic of Proactive Policing in a Safe and Changing City."

58. King and Mauer, "The War on Marijuana," 3; Fagan et al., "Street Stops and Broken Windows Revisited: The Demography and Logic of Proactive Policing in a Safe and Changing City," 2–3; Mitchell and Caudy, "Examining Racial Disparities in Drug Arrests."

59. Lasley, "The Impact of the Rodney King Incident;" Tuch and Weitzer, "Trends: Racial Differences in Attitudes Toward the Police;" Weitzer, "Incidents of Police Misconduct and Public Opinion;" Tyler and Fagan, "The Impact of Stop and Frisk Policies."

60. ACLU of Washington, "Seattle: A Call for an Independent Office for Police Accountability."

61. ACLU of Washington, "Seattle: A Call for an Independent Office for Police Accountability."

62. Walker, "Chapter 1. The History of Citizen Oversight," 5; Ferdik, Rojek, and Alpert, "Citizen Oversight in the United States and Canada," 112–113.

In the city of Los Angeles, the unrest following the acquittal of the officers involved in the 1991 beating of Rodney King incident prompted the strengthening of oversight functions of the Los Angeles Police Department's (LAPD) civilian Board of Police Commissioners (BOPC), which was originally established in 1920 to set LAPD policy and recruit the chief of police.<sup>63</sup> In the aftermath of the incident, then mayor of Los Angeles Tom Bradley convened an independent commission, known as the Christopher Commission, to conduct a "full and fair examination of the structure and operation of the LAPD," including its "recruitment, training, internal disciplinary system and citizen complaint system" and offer relevant recommendations.<sup>64</sup> Among the recommendations contained in the Christopher Commission's final report, issued in 1991, was that the BOPC review and audit LAPD complaint investigations and discipline through a newly established Office of the Inspector General (OIG).<sup>65</sup> In 1995, an inspector general with broad oversight authority over the LAPD was incorporated into the city charter by Los Angeles voters.

In Los Angeles County, the board of supervisors appointed a special counsel to "investigate and review the operations of the Los Angeles County Sheriff's Department [LASD] as they related to allegations of excessive force, the community sensitivity of deputies, and the Department's citizen complaint procedure,"<sup>66</sup> yielding several reform recommendations to be implemented by the LASD.<sup>67</sup> The special counsel was thereafter appointed by the board of supervisors to oversee the implementation of the recommended reforms and audit, investigate, and monitor any aspect of the sheriff's department as necessary.<sup>68</sup> In the course of 21 years, the special counsel, reporting directly to the board of supervisors, issued detailed reports analyzing data and describing management issues in the LASD, including recruitment, training, officer assignments, sexual discrimination, and excessive force.<sup>69</sup> The experiences of both the LAPD and LASD during the early 1990s signaled a new era of independent oversight, with wider authority to audit, investigate, monitor, and issue recommendations relating to a broad range of department activity well beyond the complaints-focused approach of the preceding decades.

Notably, this decade also brought about new mechanisms for federal intervention into troubled police departments, presenting new opportunities for the expansion and strengthening of civilian oversight. The Violent Crime Control and Law Enforcement Act of 1994,<sup>70</sup> enacted with the goal of supporting law enforcement efforts to reduce crime, also established two mechanisms empowering the DOJ to promote reform within American law enforcement. First, the act established the DOJ's Office of Community Oriented Policing Services (COPS Office), which through "collaborative reform initiatives" would, at the request of an individual law enforcement agency, assess the subject agency's policies and procedures, recommend reforms, and offer

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63. In its current form, the LAPD BOPC has additional oversight responsibilities, such as adjudicating officer-involved shootings, in-custody deaths, neck restraints, deliberate strikes to the head with an impact weapon, and any use of force resulting in the hospitalization of the subject. For more on civilian oversight of LAPD, see NACOLE's case study on the LAPD's Office of the Inspector General.

64. Independent Commission on the Los Angeles Police Department, *Report of the Independent Commission* (Appendix I).

65. Independent Commission on the Los Angeles Police Department, *Report of the Independent Commission* (Appendix I), 171–178.

66. Bobb, *First Semiannual Report*, 1.

67. Kolts Commission, *The Los Angeles County Sheriff's Department: A Report by Special Counsel James G. Kolts & Staff*.

68. Bobb, *First Semiannual Report*, 1.

69. Walker and Archbold, *The New World of Police Accountability*, 22–23; Walker, *Police Accountability: The Role of Citizen Oversight*, 39.

70. Violent Crime Control and Law Enforcement Act of 1994.

technical assistance in their implementation.<sup>71</sup> Police departments in cities such as Las Vegas, Nevada; Philadelphia; Fayetteville, North Carolina; Milwaukee, Wisconsin; and San Francisco have embarked on such voluntary collaborative reform initiatives.

In addition, the act authorized the Attorney General to review and investigate law enforcement agencies' practices and determine whether the agency had engaged in a "pattern or practice" of unconstitutional policing. These federal "pattern or practice" investigations, may lead either to court-enforced consent decrees containing wide-ranging reforms whose implementation is actively overseen by a federal court, or to more narrowly focused memoranda of agreement that serve as contracts, enforceable in federal court, between the jurisdiction and the United States.<sup>72</sup> In the majority of cases, an independent monitoring team jointly selected by the Civil Rights Division and local jurisdiction is appointed to oversee the implementation of reforms.

To date, the Civil Rights Division has initiated 69 formal "pattern or practice" investigations and entered into 40 reform agreements.<sup>73</sup> At least 10 of those reform agreements included requirements that the municipality strengthen or create civilian oversight during the reform process.<sup>74</sup> As will be discussed later in this report, federal court mandates regarding establishing new or strengthening pre-existing civilian oversight became increasingly prevalent in the 2010s.

While this practice has been curbed in recent years, the attorneys general of California and Illinois have initiated their own pattern-or-practice cases mandating reforms of the police departments in Riverside and Chicago, respectively.

## 2000s–Present: Correctional oversight and police-community relations in the era of social media

The turn of the century brought renewed attention to issues surrounding law enforcement misconduct. Several violent and sometimes fatal encounters captured on video and widely circulated through social media—such as the deaths of Laquan McDonald in Chicago; Eric Garner in Staten Island, New York; Tamir Rice in Cleveland, Ohio; and Sandra Bland in Prairie View, Texas—have yielded coalitions of community groups and campaigns organizing for police accountability and racial justice nationwide.<sup>75</sup> In addition, the growing sophistication of data-based, investigative journalism has brought attention to these issues in many localized contexts.<sup>76</sup>

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71. Civil Rights Division, *The Civil Rights Division's Pattern and Practice Police Reform Work: 1994–Present*, 50.

72. Civil Rights Division, *The Civil Rights Division's Pattern and Practice Police Reform Work: 1994–Present*, 20–21.

73. Civil Rights Division, *The Civil Rights Division's Pattern and Practice Police Reform Work: 1994–Present*, 3.

74. Civil Rights Division, *An Interactive Guide to the Civil Rights Division's Police Reforms*.

75. For an overview of some of the organizing work sparked by these events, see Lowery, *They Can't Kill Us All*.

76. See, for example: Kelly, Lower, and Rich, "Fired/Rehired: Police Chiefs Are Often Forced to Put Officers Fired for Misconduct Back on the Streets;" NJ Advance Media, "The Force Report;" Taggart, Hayes, and Pham, "Here Are The Secret Records."

Significant investments have since been undertaken in an effort to improve police-community relations. The fatal officer-involved shooting of Michael Brown in Ferguson, Missouri, which was not captured by body-worn camera, was followed by \$75 million in federal grants for police departments around the country to purchase body-worn cameras<sup>77</sup> and the formation of the President's Task Force on 21st Century Policing.<sup>78</sup> Among the recommendations contained in the *Final Report of the President's Task Force on 21st Century Policing* were that jurisdictions establish some form of civilian oversight of law enforcement to strengthen trust with their communities.<sup>79</sup>

One of the most notable expansions of civilian oversight has been in the field of corrections. Whereas NACOLE has been able to identify at least two agencies performing correctional oversight before 1990,<sup>80</sup> there are currently an estimated 15 oversight agencies with jurisdiction over county sheriff's departments, which in most jurisdictions are responsible for managing local jails.<sup>81</sup>

Several jurisdictions have given increased attention to correctional oversight amid heightened scrutiny over jail conditions and corrections officer misconduct. The budget and staffing for the New York City Board of Correction, responsible for overseeing the New York City Department of Correction (DOC), nearly doubled between the years 2016–2018,<sup>82</sup> after the DOC came under federal monitoring in 2015.<sup>83</sup>

For example, the County of San Diego, California, Citizen's Law Enforcement Review Board, established by municipal charter in 1990, is authorized to receive, review, and investigate complaints concerning peace or custodial officers within the sheriff's and probation departments, including all deaths arising in connection to sheriff's or probation department employees.<sup>84</sup> The board also issues policy recommendations to the sheriff's and probation departments.<sup>85</sup> The Onondaga County Justice Center Oversight Committee, created in 2015 and based in Syracuse, New York, similarly reviews and investigates incidents and complaints and issues policy, procedure, and training recommendations to the Onondaga County Sheriff.<sup>86</sup>

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77. Lee, Roth, and Timm, "Obama to Announce \$75 Million for Body Cameras."

78. President's Task Force on 21st Century Policing, *Final Report*.

79. President's Task Force on 21st Century Policing, *Final Report*, 26.

80. This includes the New York City Board of Correction, incorporated in the New York City charter in 1977 to perform oversight of the city's Department of Correction, and the San Diego Citizen's Law Enforcement Review Board, established in 1990.

81. De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement: Assessing the Evidence*, 64. Note: This number assumes that civilian oversight agencies with jurisdiction over the county sheriff perform correctional oversight. This is because sheriffs in the United States typically manage jails within the county or municipality in the majority of jurisdictions. This number does not include correctional oversight where county or municipal jails are managed by a law enforcement agency other than the sheriff's department, such as a Department of Corrections or similar. Similarly, it is possible that some of the agencies in this figure oversee a sheriff's department's patrol function and are not involved in overseeing activities and conditions within county jails.

82. New York City Council, *Report of the Finance Division on the Fiscal 2019 Preliminary Budget and the Fiscal 2018 Preliminary Mayor's Management Report for the Board of Correction*.

83. Consent Judgment, *Nunez and United States of America v. City of New York et al.*

84. City Charter of the City of San Diego, Article VI, Section 606(f).

85. City Charter of the City of San Diego, Article VI, Section 606(f).

86. Onondaga County Legislature of the County of Onondaga, *A Local Law Creating an Onondaga County Justice Center Oversight Committee*.

In Los Angeles County, the sheriff's department is now overseen by the Office of the Inspector General (OIG), established in 2014, and a civilian oversight commission established in 2016. The Los Angeles County OIG's mandate is "comprehensive oversight, monitoring of, and reporting about" the sheriff's department patrol functions and management of jail facilities.<sup>87</sup> The OIG has published detailed analyses and reports on topics such as the tracking and reporting of jail violence,<sup>88</sup> ensuring the safe release of vulnerable persons,<sup>89</sup> improving the safety of juvenile facilities,<sup>90</sup> and services provided to mothers and pregnant women who are incarcerated.<sup>91</sup>

A handful of jurisdictions have established civilian oversight agencies responsible for providing oversight of both the municipal police department and the county sheriff. In Denver, Colorado, the Office of the Independent Monitor is responsible for monitoring internal investigations, overseeing the disciplinary process, and issuing policy recommendations to both the Denver Police Department and Denver Sheriff's Department. The Independent Office of Law Enforcement Review and Outreach (IOLERO) in Sonoma County, California, provides oversight of both the police and sheriffs' departments as well.

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87. Los Angeles County Code of Ordinances 6.44.190

88. Los Angeles County OIG, *A Review of the Jail Violence Tracking and Reporting Procedures of the Los Angeles County Sheriff's Department*.

89. Los Angeles County OIG, *Safe Release from Los Angeles County Jails*.

90. Castro-Silva, "Report Back on the OIG Investigation and Improving Safety in the Juvenile Facilities."

91. Huntsman, "Services and Programs Offered to Pregnant Prisoners and Mothers."

# 3. Models of Oversight

## Overview

Both scholars and practitioners of civilian oversight in the United States have made attempts to classify various approaches to oversight in relation to their most common functions, legal authority, and organizational features. There is a general consensus in the contemporary literature that American civilian oversight agencies broadly follow the *review-focused*, *investigation-focused*, or *auditor/monitor-focused* models distinguished by relatively minor organizational differences.<sup>92</sup> The prevalence of each of these three oversight models in the NACOLE/OJP survey is shown in table 1.

**Table 1. Prevalence of oversight models in the United States**

Model type	Frequency (n)	Percentage (%)
Review-focused	97	61.8
Investigation-focused	29	18.5
Auditor/monitor-focused	31	19.7
Number of agencies	157	100

Source: Compilation of civilian oversight agencies produced by Jillian Aldebron, JD, Howard University, for the National Institute of Justice W.E.B. DuBois Program of Research on Race and Crime, Grant No. 2016-R2-CX-0055, *Do DOJ Intervention and Citizen Oversight Improve Police Accountability?*, with additions made by NACOLE researchers.

Developing a clear-cut scheme for delineating civilian oversight models presents several practical challenges. NACOLE’s review of contemporary civilian oversight models identified three aspects of the field that make the task particularly difficult.<sup>93</sup> First, there is a tremendous amount of variation in the organizational structures of civilian oversight, particularly in jurisdiction size, staffing counts, and agency budgets. Second, a civilian oversight agency’s level of authority over common oversight functions—such as complaint intake, classification, and investigation; role in the disciplinary process; authority for setting and recommending policy; and access to department records—differs among jurisdictions and even within model types themselves. Third, contemporary oversight agencies are increasingly taking hybrid forms that blur the lines between reviewing, investigating, and auditing or monitoring.

92. Police Assessment Resource Center, *Review of National Police Oversight Models for the Eugene Police Commission*; Attard and Olson, *Overview of Civilian Oversight of Law Enforcement in the United States*; De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement: Assessing the Evidence*; Walker, *Police Accountability: The Role of Citizen Oversight*.

93. Walker, *Police Accountability: The Role of Citizen Oversight*, 22.

Indeed, NACOLE's COAD survey of 58 oversight agencies revealed that while many agencies can self-identify with one of the three primary oversight models, many of those agencies perform functions or are organized in ways that go beyond the traditional definitions of the review-focused, investigation-focused, or auditor/monitor-focused models. This is particularly true for newer civilian oversight agencies, which have adopted what has been called a holistic approach—combining several oversight functions in an effort to create an oversight system that is both proactive and reactive.<sup>94</sup> Others have noted that the involvement of various stakeholders with differing perspectives in the process of establishing civilian oversight has contributed to this hybridity and the development of individualized systems for each jurisdiction.<sup>95</sup>

## Review-focused models

Review-focused agencies represent the earliest and most common form of civilian oversight in the United States, accounting for nearly 62 percent of civilian oversight agencies in the United States.<sup>96</sup> In their most basic form, review-focused agencies provide community members outside of and unaffiliated with the law enforcement agency with an opportunity to review the quality of misconduct complaint investigations performed by the overseen department.<sup>97</sup>

The level of authority given to review-focused agencies varies. In addition to reviewing completed internal investigations, review-focused models are often permitted to receive civilian complaints and forward them to the department for investigation; remand cases back to the department's internal affairs unit for further investigation; hear appeals from complainants or subject officers; recommend case dispositions, discipline or revised departmental policies and procedures; hold public forums; and conduct community outreach.<sup>98</sup>

There are certain types of authority that review-focused agencies typically do not have. While nearly all of them may review misconduct complaints filed by civilians, only half of them reported that they have jurisdiction over internal complaints filed by officers or deputies within the department.<sup>99</sup> Moreover, just one-fifth of the review-focused agencies in the NACOLE/OJP survey indicated that they are authorized to review complaints filed against non-sworn employees.<sup>100</sup> Review-focused agencies typically have less comprehensive access to department records compared to investigation-focused or auditor/monitor-focused agencies.<sup>101</sup> Similarly, roughly one-third of review-focused models are authorized to subpoena records or witnesses.<sup>102</sup>

94. Harris, "Holding Police Accountability Theory to Account."

95. Attard and Olson, *Overview of Civilian Oversight of Law Enforcement in the United States*, 2–3.

96. Compilation of civilian oversight agencies produced by Jillian Aldebron, JD, Howard University, for the National Institute of Justice W.E.B. DuBois Program of Research on Race and Crime, Grant No. 2016-R2-CX-0055, *Do DOJ Intervention and Citizen Oversight Improve Police Accountability?*, with additions made by NACOLE researchers.

97. Bobb, "Civilian Oversight of Police in the United States," 13.

98. De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement: Assessing the Evidence*, 27–28; Police Assessment Resource Center, *Review of National Police Oversight Models for the Eugene Police Commission*, 11–13; Attard and Olson, *Overview of Civilian Oversight of Law Enforcement in the United States*, 4–5; Bobb, "Civilian Oversight of Police in the United States," 18–19.

99. De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement: Assessing the Evidence*, 67 (Table B9).

100. De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement: Assessing the Evidence*, 67 (Table B9).

101. De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement: Assessing the Evidence*, 69 (Table B11).

102. De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement: Assessing the Evidence*.

In terms of organizational structure, review-focused models typically take the form of volunteer boards or commissions.<sup>103</sup> Individuals are most commonly appointed to the review board or commission either entirely or partially by the mayor or city council. In some jurisdictions, the enabling legislation creating the board or commission allots seats to representatives from local community groups.<sup>104</sup> In some cases, representatives from either the law enforcement agency itself or the labor union representing the department's officers serve as volunteers on these boards. This is the case with the Indianapolis Civilian Police Complaint Board, which designates nonvoting board seats to two *ex officio* police advisory members and one seat to an *ex officio* rank-and-file consulting member.<sup>105</sup>

These appointment structures are intended to ensure that a broad cross-section of the community is represented, and that various perspectives and forms of knowledge are included in the feedback given to the department. In most cases, volunteer review boards or commissions are assisted by a small number of professional staff who carry out the board's administrative and clerical functions. As will be discussed in the following section, some agencies are titled civilian review boards but in practice perform independent investigations. In this case, a group of civilians—the board—review the investigations and reach dispositions and, in some cases, make disciplinary recommendations.

## Investigation-focused models

Investigation-focused models are currently the second-most common form of civilian oversight in the United States.<sup>106</sup> Agencies that fit within the investigative model employ professionally trained investigative staff to conduct investigations of allegations of misconduct independently of the overseen department's internal affairs unit or replace critical functions of a standard internal affairs unit altogether.<sup>107</sup> These types of agencies can vary greatly in both authority and organizational structure, but tend to be the most cost- and resource-intensive forms of oversight given their staffing needs.<sup>108</sup>

Many agencies may have investigative jurisdiction over certain types of allegations, thereby only partially replacing the complaint investigation function of an internal affairs unit. One such agency is the Civilian Complaint Review Board in New York City, which investigates allegations of unnecessary or excessive force, abuse of authority, discourtesy, or offensive language.<sup>109</sup> Another example is the Citizen Complaint Authority in Cincinnati, Ohio, which retains jurisdiction over in-custody deaths and civilian complaints alleging excessive use of force; discrimination; and improper entries, searches, seizures, and stops.

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103. De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement: Assessing the Evidence*, 27.

104. Ofer, "Getting It Right," 1044.

105. Revised Code of the Consolidated City and County of Indianapolis/Marion § 202-802(a).

106. De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement: Assessing the Evidence*, 24. (Table 1).

107. Attard and Olson, *Overview of Civilian Oversight of Law Enforcement in the United States*, 3; Police Assessment Resource Center, *Review of National Police Oversight Models for the Eugene Police Commission*, 14–17.

108. De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement: Assessing the Evidence*, 25.

109. New York City Charter 18-A(c). Note: the interpretation of "abuse of authority" encompasses many forms of alleged misconduct, and as of 2018 this includes allegations of sexual assault.

Elsewhere, the agency may have investigative jurisdiction based on the origin of the complaint, such as whether the complaint was originally filed with the oversight agency or the law enforcement agency. For example, the Civilian Investigative Panel in Miami, Florida, investigates complaints filed with the agency and reviews internal investigations into complaints originally filed with the Miami Police Department. Some investigation-focused agencies conduct misconduct investigations that are parallel to or duplicate the work performed by the department's internal affairs unit.<sup>110</sup> The Citizen Review Board in Atlanta, Georgia, which conducts concurrent complaint investigations alongside the Atlanta Police Department's Office of Professional Standards, is an example of one such agency.

The San Francisco Department of Police Accountability, which reports to the civilian police commission, maintains jurisdiction over all complaints except for those filed by members of the San Francisco Police Department.<sup>111</sup> In Seattle, the Office of Professional Accountability (OPA) assumes responsibility for all complaints and replaces the traditional functions of an internal affairs unit.<sup>112</sup> The civilian-led OPA is uniquely structured in that it is physically and operationally independent of the Seattle Police Department (SPD), but within it administratively.<sup>113</sup>

Investigation-focused agencies typically have greater access to law enforcement records and databases than review-focused agencies, particularly with regard to body-worn camera and in-car video.<sup>114</sup> They are more likely to have the ability to subpoena documents and witnesses than either review-focused or auditor/monitor-focused models in order to expedite the collection of evidence.<sup>115</sup>

In many jurisdictions, in addition to the investigative agencies' professional staff, the agencies include a volunteer board or commission. The roles of these boards or commissions can vary greatly. In some cases, the board or commission acts in an advisory or a leadership capacity. Some may conduct votes to initiate investigations, issue subpoenas, and determine the dispositions of misconduct allegations based on staff investigations.<sup>116</sup> Elsewhere, boards or commissions hold public hearings, conduct community outreach, determine policy-related matters the agency should investigate further, or make specific policy recommendations.

## Auditor/monitor-focused models

The auditor/monitor-focused model is a relatively recent innovation spurred by a desire to promote systemic change in law enforcement agencies through policy and trend analysis. These models emerged as civilian oversight agencies as a result of political compromises between community activists pushing for civilian

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110. De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement: Assessing the Evidence*, 24.

111. San Francisco City Charter § 4.127.

112. Office of Professional Accountability, *Office of Professional Accountability Internal Operations and Training Manual*, 11.

113. Office of Professional Accountability, *Office of Professional Accountability Internal Operations and Training Manual*, 4.

114. De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement: Assessing the Evidence*, 69 (Table B11). Also see table 7 on page 42 of this report.

115. De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement: Assessing the Evidence*, 69 (Table B11).

116. Attard and Olson, *Overview of Civilian Oversight of Law Enforcement in the United States*, 3.

oversight and law enforcement agencies opposed to civilian review boards or independent investigative agencies.<sup>117</sup> Auditor/monitor-focused models tend to be less expensive than investigation-focused models, but more expensive than review-focused models.<sup>118</sup>

These agencies differ from court-appointed monitors assigned to oversee the implementation of specific reforms associated with federal or state-level pattern or practice settlements in two fundamental ways.<sup>119</sup> First, auditor/monitor-focused agencies are most commonly established by municipal ordinance or charter amendment and, as such, are more permanent than court-appointed monitors that exist only for the duration of a settlement agreement or consent decree. Second, these agencies typically have broad mandates authorizing them to audit, monitor, investigate, and review a wider range of law enforcement policies, practices, and procedures than those that may be identified as specific points of reform in a court-approved monitoring plan.

Sometimes referred to as inspectors general or police monitors,<sup>120</sup> these types of oversight agencies tend to vary more in their authority than in their organizational structure. In general, they are created to promote broad organizational change by addressing systemic issues, analyzing patterns and trends, and addressing deficiencies in policies and procedures.<sup>121</sup> Their work may cover virtually any aspect of the overseen law enforcement agency, such as complaints, discipline, training, staffing and recruitment, use of force, and crime-prevention strategies. They can typically issue recommendations regarding any aspects of the law enforcement agency that are in their purview.

Because their mandates can be broad, these models tend to have access to a broader range of department records and information.<sup>122</sup> Their access to information is more direct as well. Of the 58 COAD respondents that reported having back-end access to internal affairs databases, auditor/monitor-focused agencies accounted for 27.5 percent.<sup>123</sup>

The staff of auditor/monitor-focused agencies are often professionals with backgrounds in the social sciences, auditing, data analysis, law and law enforcement, and community outreach.

Auditor/monitor-focused agencies typically review and monitor the overall complaints process to ensure that it is fair, thorough, and complete.<sup>124</sup> They may audit both civilian and internally generated complaints and review aspects such as complaint intake, classification, investigation, adjudication, and discipline. They may also conduct audits and reviews of select aspects and operations of the department such as crime pre-

117. Walker and Archbold, *The New World of Police Accountability*, 180.

118. De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement: Assessing the Evidence*, 31.

119. Walker and Archbold, *The New World of Police Accountability*, 180.

120. De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement: Assessing the Evidence*, 29.

121. De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement: Assessing the Evidence*, 30; Attard and Olson, *Overview of Civilian Oversight of Law Enforcement in the United States*, 3–4; King, “Effectively Implementing Civilian Oversight Boards,” 101–104.

122. De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement: Assessing the Evidence*, 69 (Table B11). Also see table 7 on page 42 of this report.

123. De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement: Assessing the Evidence*, 69 (Table B11). Also see table 7 on page 42 of this report.

124. Attard and Olson, *Overview of Civilian Oversight of Law Enforcement in the United States*, 4.

vention strategies, litigation, policy compliance, early-intervention systems, and encounters with certain sections of the population. Because their focus is on systemic, department-wide issues, reporting requirements are typically robust<sup>125</sup> and allow them to make public any follow-up on particular issues and ensure that reforms remain in place.<sup>126</sup>

Although the monitoring role of these agencies, with respect to internal investigations, can vary, in most cases their authority pertains to ensuring individual complaint investigations comply with established policies and procedures.<sup>127</sup> Some monitor-focused agencies can actively involve themselves in ongoing investigations by observing interviews, asking questions, and overseeing the overall direction of the department's investigation.<sup>128</sup> Similarly, these agencies may monitor the disciplinary process in order to ensure that it is carried out fairly, consistently, and according to the department's disciplinary protocols.

## Hybrid civilian oversight models and systems

As previously mentioned here and by other authors,<sup>129</sup> civilian oversight agencies—particularly newly established ones—are increasingly adopting forms of oversight that go beyond the traditional review-focused, investigation-focused, and auditor/monitor-focused delineations by combining functions of several models. There are several reasons why these hybrids have emerged. First, the overall discourse on law enforcement reform and accountability has turned towards holistic approaches that focus on root-cause analyses and proactive, preventative efforts in addition to addressing individual instances of misconduct.<sup>130</sup> Second, as in the creation of the auditor/monitor-focused model, the involvement of community and other stakeholder perspectives in civilian oversight has produced more complex organizational forms, balancing the interests of involved or affected stakeholders. Third, opposition from law enforcement and their unions, as well as limitations imposed by relevant laws and collective bargaining agreements, have resulted in political compromises influencing an oversight system's final form.

Hybrid civilian oversight exists in two ways: hybrid *agencies* and hybrid *systems*. In the first case, an agency may primarily focus on one oversight function while also performing other functions (such as reviewing internal investigations and auditing policy compliance). In the latter case, a single jurisdiction may have multiple agencies overseeing the same department, such as an independent investigative agency and an inspector general, or a monitor agency and a civilian board acting in an advisory capacity to the law enforcement agency or other civilian oversight agency. Individual agencies assuming hybrid forms are increasingly common, but several jurisdictions have also created multiple agencies responsible for performing different oversight functions of the same law enforcement department.

125. De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement: Assessing the Evidence*, 30.

126. Walker and Archbold, *The New World of Police Accountability*, 179.

127. Attard and Olson, *Overview of Civilian Oversight of Law Enforcement in the United States*, 4.

128. De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement: Assessing the Evidence*, 30.

129. Attard and Olson, *Overview of Civilian Oversight of Law Enforcement in the United States*; De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement: Assessing the Evidence*; Harris, "Holding Police Accountability Theory to Account."

130. Harris, "Holding Police Accountability Theory to Account;" Walker and Archbold, *The New World of Police Accountability*.

## Hybrid agencies

Hybrid agencies perform some combination of oversight functions. An investigative agency, for example, may be primarily responsible for conducting independent complaint investigations as well as performing regular audits or reviews of the overseen department. The additional types of oversight functions performed by an agency may be broad, such as performing audits of all use of force investigations, or narrow, such as monitoring particular activities and incidents. Many such agencies have a complementary civilian board that is independent but involved in the work they perform.

The Office of the Independent Police Auditor (OIPA) for the Bay Area Rapid Transit (BART) Police Department (BPD) is one example of an oversight agency that exhibits significant hybridity and provides comprehensive oversight across nearly all functions of the BPD. The OIPA may independently investigate or review internal investigations into civilian complaints; monitor any complaint investigated by the BPD; review legal claims, lawsuits, or settlements relating to BPD personnel; roll out on-scene to critical incidents and review all use of force incident investigations; review reports and data from the department's early intervention system; perform systemic audits of BPD functions; and issue recommendations concerning the department's policies, procedures, and training.<sup>131</sup> The OIPA also reports regularly to the BART Police Citizen Review Board, a separate but complementary entity in the BPD's civilian oversight system.

In Washington, D.C., the Office of Police Complaints (OPC) is primarily responsible for investigating alleged misconduct by officers of the Metropolitan Police Department (MPD) and the D.C. Housing Authority Police Department (DCHAPD). In addition, the OPC may perform audits of either department's internal investigations that are outside its jurisdiction, monitor the MPD's handling of public demonstrations and assemblies, and issue recommendations concerning the policies and procedures of both departments that it oversees.<sup>132</sup>

## Common combinations of oversight functions for hybrid agencies

A cursory review of contemporary civilian oversight legislation reveals that certain combinations of oversight functions are more common than others. One goal of the COAD was to understand oversight hybridity in a more systematic fashion by asking agencies two questions regarding the oversight functions they perform.

Responding agencies were asked to self-identify with a "primary" model type of either review-focused, investigation-focused, or auditor/monitor-focused, based on the definition that best fits the agency's day-to-day responsibilities. A separate, multiple-choice question asked agencies to select additional oversight functions performed, if any. The options for this second question included the following: reviewing completed internal investigations; auditing completed internal investigations and/or compliance with department policies and procedures; monitoring open internal investigations and/or compliance with department

131. San Francisco Bay Area Rapid Transit District, *Citizen Oversight Model*.

132. District of Columbia Law 12-208.

policies and procedures; conducting independent complaint investigations; and analyzing patterns and trends in complaints, discipline, or other department activities, policies, and procedures.<sup>133</sup> Table 2 presents a cross-tabulation of survey responses.<sup>134</sup>

**Table 2. Combinations of oversight functions by oversight model**

	Auditor/monitor-focused	Investigation-focused	Review-focused	All agencies
<b>Auditing completed investigations and/or department policies and procedures</b>	74 %	35 %	44 %	51 %
<b>Conducting independent complaint investigations</b>	32 %	100 %	25 %	55 %
<b>Monitoring open investigations and/or department activity</b>	74 %	40 %	38 %	51 %
<b>Reviewing completed IA investigations</b>	95 %	35 %	100 %	75 %
<b>Number of agencies</b>	19	20	16	55

Source: COAD

Note: Agencies that did not select any oversight functions in the second question were dropped from this calculation.

Several preliminary insights can be drawn from the COAD data, showing that further research on the nature of “hybridity” in civilian oversight is merited.

First, three-quarters of agencies reported that they review completed internal affairs investigations, making it the most common oversight function across all model types. This result may be because reviewing completed internal investigations is typically less resource-intensive than other oversight functions that may still be of interest to auditor/monitor-focused or investigation-focused agencies.

Second, performing investigations into individual complaints of misconduct is relatively rare for both review-focused and auditor/monitor-focused agencies. This result may be expected for review-focused agencies, given that they generally have limited authority, few staff, and limited resources. For auditor/monitor-focused agencies, the rarity of performing independent investigations is consistent with their broader mandate of focusing on systemic, organizational change. This may also be because, as mentioned earlier, the auditor/monitor-focused model emerged as a political compromise in response to union opposition to investigation-focused civilian oversight.

133. For this second question, agencies were asked to include the oversight function that corresponds to their “primary” oversight function. For example, an agency identifying as investigation-focused in the first question would also select the independent investigations function in the second question.

134. The calculations in table 2 exclude the “analyzing patterns and trends in complaints, discipline, or other departmental activities, policies, and procedures” option in the second question in order to return results more closely aligned with the three oversight models.

## Hybrid oversight systems

In recent years, several cities have developed more complex civilian oversight systems, consisting of multiple agencies performing distinct oversight functions. These agencies typically function independently of each other and the overseen law enforcement agency but share an interrelated goal of providing external oversight and civilian input into the department's functions. In several jurisdictions, these systems manifest as investigation-focused or auditor/monitor-focused offices of professional staff who receive input and feedback from boards or commissions representing the community. In these cases, the civilian board or commission often evaluates the other oversight entity or entities in addition to addressing local law enforcement matters of community concern. In other jurisdictions, new agencies have been established to perform oversight functions that are outside the purview of pre-existing entities already overseeing the particular law enforcement agency.

Over time, oversight of the SPD has evolved into a complex, multi-agency system. These changes emerged in the context of a consent decree entered into in 2012 between the city of Seattle and the U.S. Department of Justice (DOJ), which brought about sweeping reforms to the SPD's use of force, policies, procedures, training, data collection, and transparency. These department-wide changes have been accompanied by a major overhaul of Seattle's civilian oversight system. In 2017, the Seattle city council passed an ordinance that brought large-scale changes to its investigation-focused Office of Police Accountability (OPA), made the consent decree-mandated Community Police Commission (CPC) a permanent entity, and established an Office of the Inspector General (OIG) for the SPD.<sup>135</sup> Each entity in this three-pronged hybrid system assumes a distinct role in providing civilian input and overseeing the SPD.

The OPA is responsible for investigating all allegations of misconduct by SPD employees. The agency itself is unique in that it is composed of a mix of both civilian and sworn investigators and operationally and physically independent from the SPD, but administratively within the SPD so as to ensure complete and immediate access to all SPD records.<sup>136</sup> The OPA's director, deputy director, and investigative supervisors are all civilians.<sup>137</sup>

Seattle's CPC consists of 21 commissioners, with the mayor, city council, and existing CPC commissioners each appointing seven individuals.<sup>138</sup> Representing a broad cross-section of the city, the CPC provides community input and convenes working groups on reforming and improving the SPD, OPA, and the OIG; holds public meetings and issues public reports; and reviews closed OPA investigations for the purpose of recommending systemic improvements to SPD and the oversight system itself.<sup>139</sup>

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135. City of Seattle, Ordinance 125315.

136. City of Seattle, Ordinance 125315 § 3.29.105.

137. City of Seattle, Ordinance 125315 § 3.29.140.

138. City of Seattle, Ordinance 125315 § 3.29.350.

139. City of Seattle, Ordinance 125315 § 3.29.360.

The OIG performs audits and reviews of any and all SPD operations, including but not limited to the department's policies, budgets, contracts, investigations, data collection and reporting, early-intervention systems, and patterns in deployment, use of force, stops, searches, and arrests.<sup>140</sup> It also conducts regular audits of OPA complaint classifications and reviews certain investigations completed by the OPA.<sup>141</sup>

The OPA and OIG must regularly seek and share information with the CPC, and the CPC is to provide input on the work of the OPA and OIG.<sup>142</sup> In this way, the accountability system is intended to not only improve the SPD, but itself over time.

Similarly, in Denver, Colorado, the auditor/monitor-focused Office of the Independent Monitor (OIM) and Citizen Oversight Board (COB) provide oversight of the Denver Police Department (DPD) and Denver Sheriff's Department (DSD). The OIM monitors complaint investigations and addresses identified policy issues.<sup>143</sup> The COB assesses the effectiveness of the OIM and issues recommendations about policies, practices, and other issues of concern to the community.<sup>144</sup> As in the Seattle system, community members are directly involved in ensuring the oversight system meets their needs.

Civilian oversight in New York City has taken a different form of hybridity. In 2013, the New York City Council overrode a veto by the mayor to pass a package of bills reforming the NYPD and strengthening civilian oversight by establishing an Office of the Inspector General for the NYPD (OIG-NYPD) within the city's Department of Investigation.<sup>145</sup> OIG-NYPD complements New York City's investigation-focused Civilian Complaint Review Board by performing systemic oversight of NYPD policies, practices, training, and procedures through audits, reviews, and investigations.<sup>146</sup>

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140. City of Seattle, Ordinance 125315 § 3.29.250-270.

141. City of Seattle, Ordinance 125315.

142. Office of City Auditor, *Five Recommendations*, 4–5.

143. Denver Revised Municipal Code Art. XVIII § 2-373.

144. Denver Revised Municipal Code Art. XVIII § 2-377.

145. Communities United for Police Reform, *Support the Community Safety Act*.

146. Council of the City of New York, Local Law 70.

## 4. Growth of Civilian Oversight and Oversight Models

There are several challenges to determining the number of civilian oversight agencies in existence at a given time. While NACOLE maintains a comprehensive list of civilian oversight agencies throughout the United States, there are a handful of agencies that may still be unknown to NACOLE and the broader civilian oversight community. In addition, many early civilian oversight agencies have been disbanded and later re-established with new names or significantly different mandates. One such example is Washington, D.C., whose first civilian oversight board was established in 1948, disbanded in 1995, and then re-established under a new oversight model in 2001.<sup>147</sup> As such, survey-based estimates of the growth of civilian oversight agencies or oversight models over time may not account for early forms of oversight that have been later replaced.

The NACOLE/OJP report found that civilian oversight is now more stable than it was in its earlier stages. While early resistance from politicians and law enforcement unions resulted in the failure and elimination of many of the nation's early civilian oversight agencies, those established more recently have been more likely to survive. Over half of the oversight agencies that responded to the NACOLE/OJP survey indicated that their agency has been in existence for over 16 years.<sup>148</sup>

In mid-2005, an estimated 100 civilian oversight agencies were in existence.<sup>149</sup> By 2010, this had only increased to 102. After 2010, however, the rate of civilian oversight growth began to increase significantly; by 2016, NACOLE was able to identify 144 civilian oversight agencies.<sup>150</sup> As of late 2019, researchers had identified approximately 166 civilian oversight agencies operating in 140 jurisdictions: a 39 percent increase in the total number of civilian oversight agencies in just nine years.<sup>151</sup> Figure 1 on page 28 shows the significant growth of civilian oversight in recent decades.

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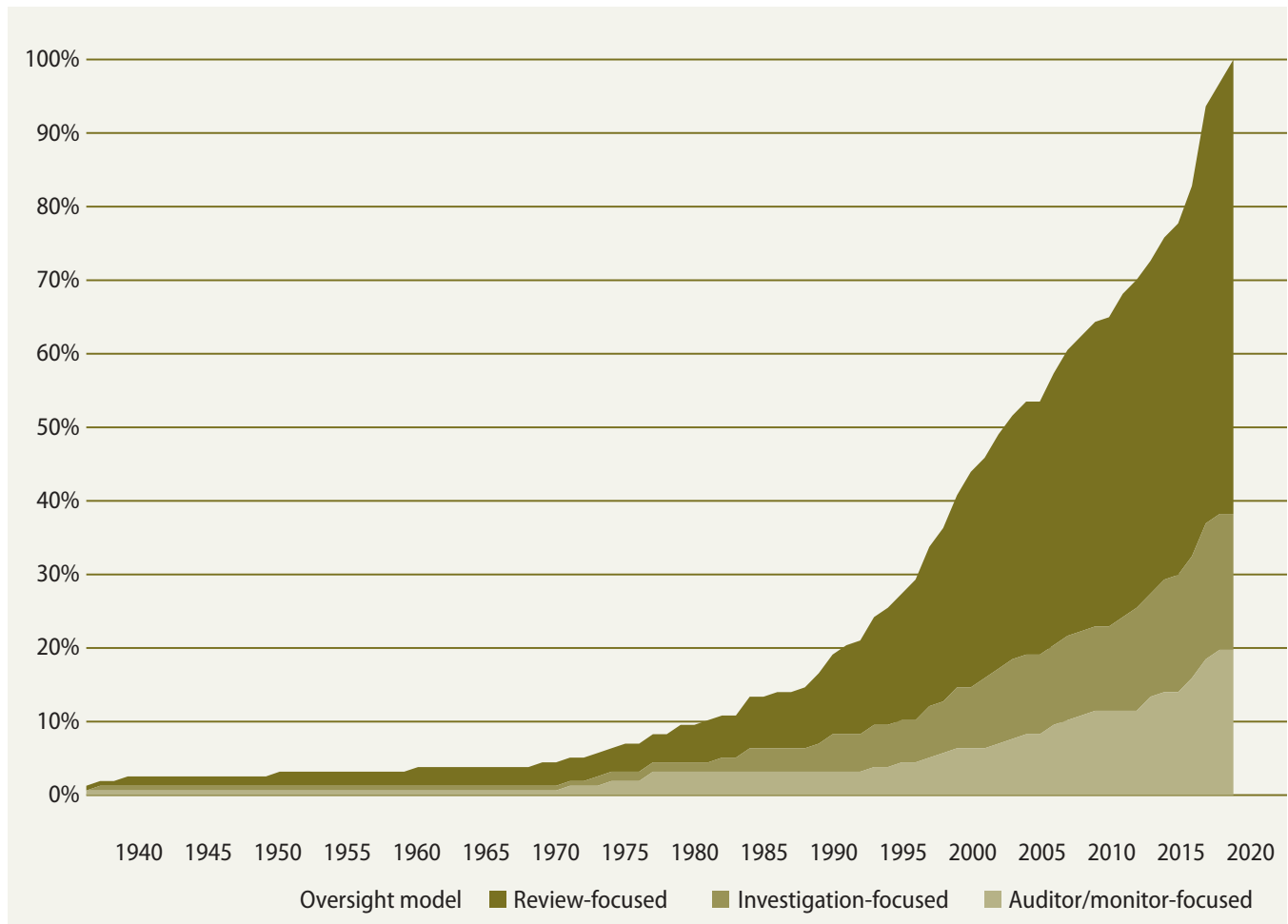
147. NACOLE, *Police Advisory Commission*, 2–3, 6.

148. NACOLE, *Police Advisory Commission*, 35.

149. Walker, "Chapter 1. The History of Citizen Oversight," 1.

150. De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement: Assessing the Evidence*, 7.

151. Compilation of civilian oversight agencies produced by Jillian Aldebron, JD, Howard University, for the National Institute of Justice W.E.B. DuBois Program of Research on Race and Crime, Grant No. 2016-R2-CX-0055, *Do DOJ Intervention and Citizen Oversight Improve Police Accountability?*

**Figure 1. Growth of oversight models, 1940–2019**

Source: Compilation of civilian oversight agencies produced by Jillian Aldebron, JD, Howard University, for the National Institute of Justice W.E.B. DuBois Program of Research on Race and Crime, Grant No. 2016-R2-CX-0055, *Do DOJ Intervention and Citizen Oversight Improve Police Accountability?*, with additions made by NACOLE researchers.

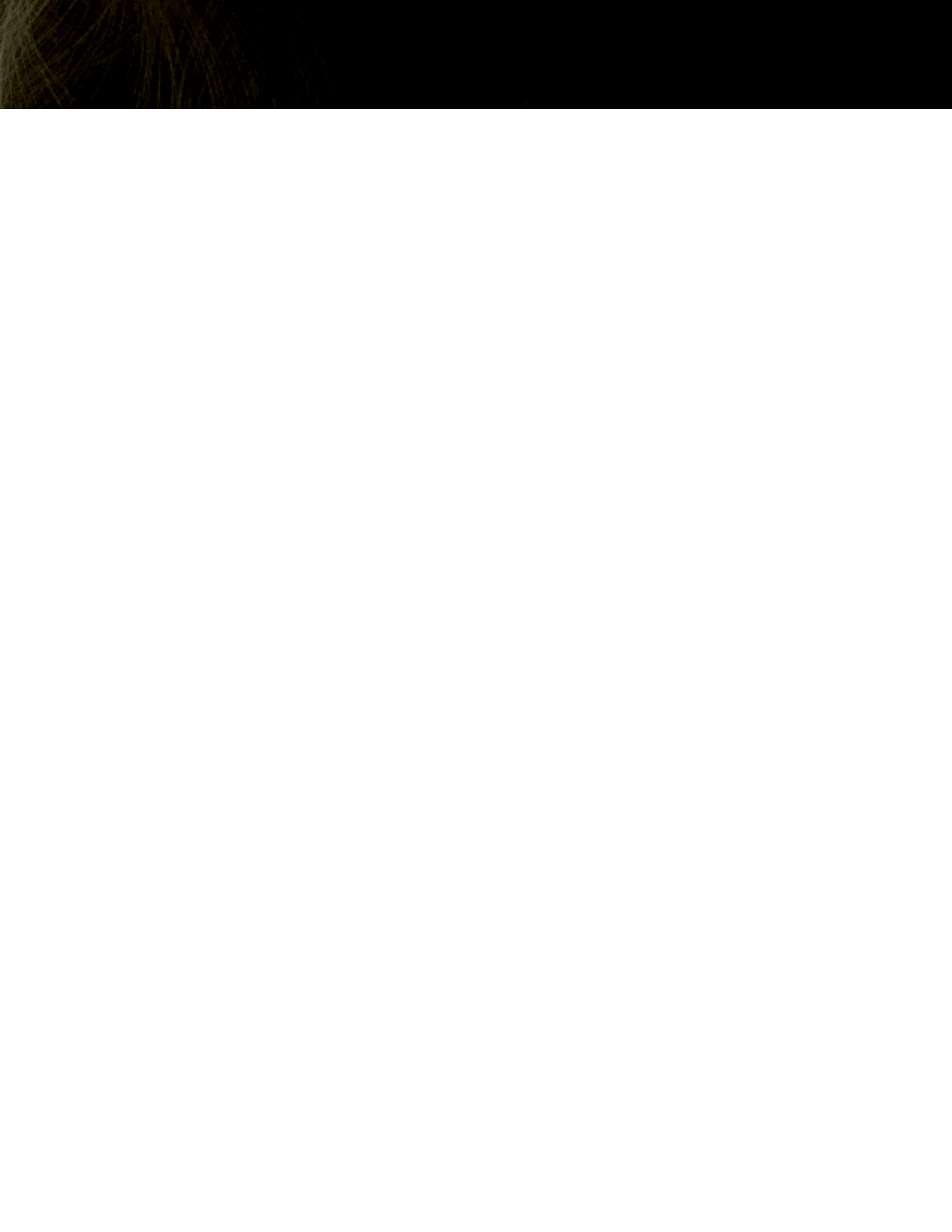
The compiled data similarly show that the auditor/monitor-focused model of oversight has expanded rapidly over the past decade. While review-focused models of oversight remain by far the most common, the auditor/monitor-focused model has recently surpassed the investigation-focused model as the second most common form of oversight. From 2010 to 2019, the auditor/monitor-focused model grew 42 percent compared to the investigation-focused model's 38 percent growth during the same period. Table 3 on page 29 shows the relative share of each oversight model over the past three decades.

**Table 3. Distribution of civilian oversight models by select decades**

<b>Year</b>	<b>Review-focused (%)</b>	<b>Investigation-focused (%)</b>	<b>Auditor/monitor-focused (%)</b>
1990	56	27	16
2010	65	19	15
2019	62	18	20

Source: Compilation of civilian oversight agencies produced by Jillian Aldebron, JD, Howard University, for the National Institute of Justice W.E.B. DuBois Program of Research on Race and Crime, Grant No. 2016-R2-CX-0055, "Do DOJ Intervention and Citizen Oversight Improve Police Accountability", with additions made by NACOLE researchers.

Within the realm of correctional oversight, both the NACOLE/OJP and COAD surveys indicate that the auditor/monitor-focused model is more common. The scope of correctional oversight agency authority ranges from reviewing and investigating incidents of alleged misconduct to addressing jail conditions and quality-of-life issues for incarcerated persons and performing broader analyses of the operations and procedures of the law enforcement departments that administer the jails.

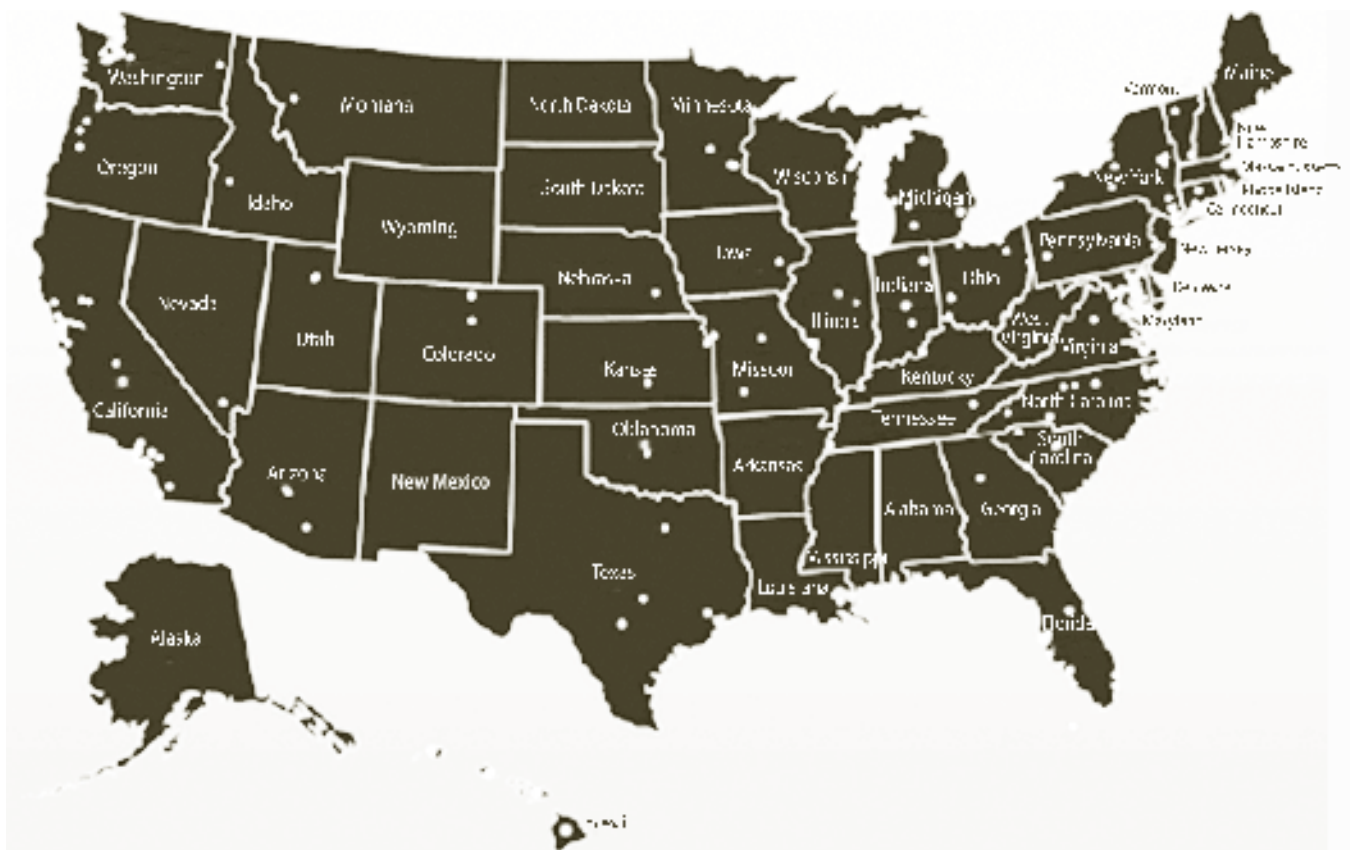


# 5. Geography of Civilian Oversight

The geography of civilian oversight is considerably uneven. Among the 140 jurisdictions identified to have some form civilian oversight, a large share of them are concentrated on the western and eastern coasts of the United States. A handful of states—largely in the southern and northern parts of the Midwest—do not have any form of civilian oversight.

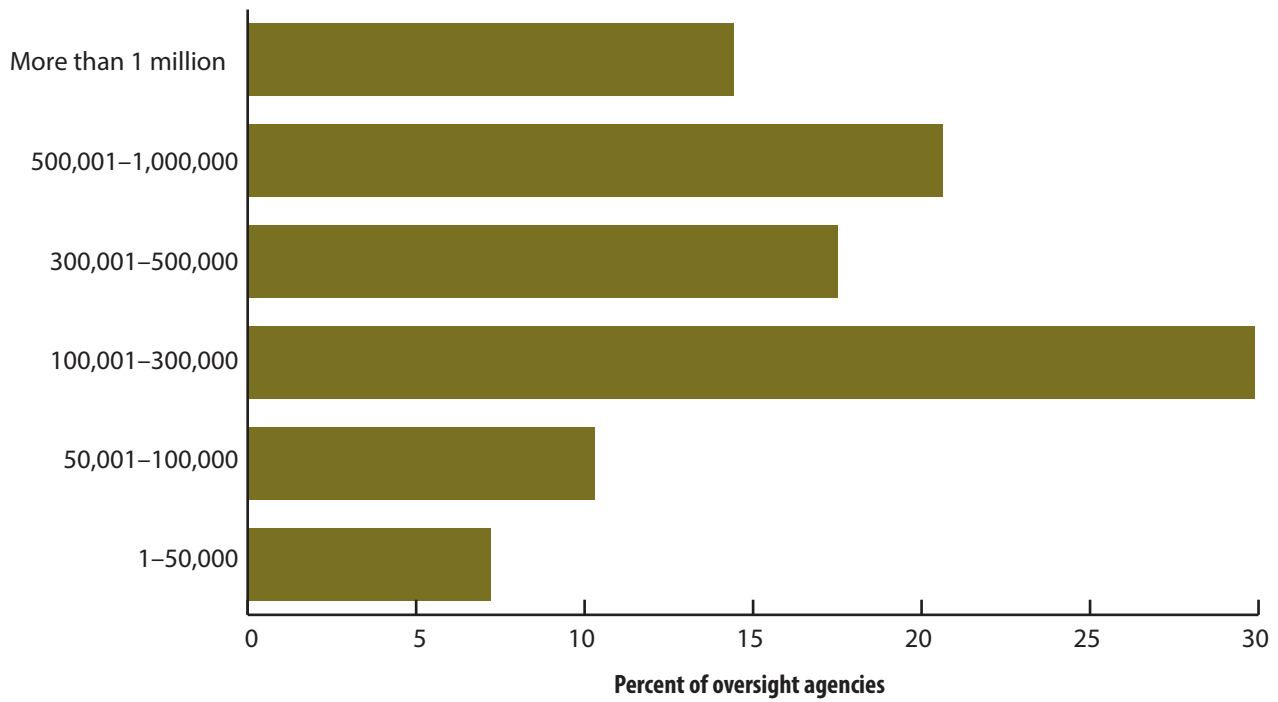
Many jurisdictions, particularly larger ones, have multiple oversight agencies in operation. This may include multiple agencies overseeing the same law enforcement agency (such as an auditor/monitor and a civilian review or advisory board), or individual agencies overseeing different law enforcement agencies within the jurisdiction (such as the police and sheriff).

**Figure 2. Map of jurisdictions with civilian oversight in the United States**



Civilian oversight is notably less unevenly distributed in terms of jurisdiction size. Whereas the first civilian oversight agencies were largely established in metropolitan areas, this is no longer necessarily the case. As shown in figure 3 on page 32, more than one-third of respondents to the NACOLE/OJP survey operate in jurisdictions with less than 300,000 residents.

**Figure 3. Distribution of oversight agencies by jurisdiction population**



N=97. Calculated from survey data obtained by NACOLE & OJP in 2016. Population data is taken from U.S. Census Bureau 2014 estimates.

## 6. Law Enforcement Agencies Subject to Civilian Oversight

As shown in table 4, municipal police departments account for 82 percent of the law enforcement agencies subject to civilian oversight; county sheriffs constitute 15 percent. Other types of law enforcement agencies are gradually being subjected to civilian oversight as well. Beginning in 2011, the Bay Area Rapid Transit (BART) Police Department was subjected to oversight from the BART Office of the Independent Police Auditor (OIPA) and the BART Police Citizen Review Board (PCRB) created in 2011. Civilian oversight has also been established for university police; for example, the University of California, Davis Police Accountability Board (PAB) was created to oversee the university's police force.

**Table 4. Types of law enforcement agencies overseen**

	Auditor/monitor-focused	Investigation-focused	Review-focused	All agencies
<b>Municipal police department</b>	67 %	85 %	90 %	82 %
<b>County sheriff</b>	25 %	12 %	13 %	15 %
<b>Campus law enforcement</b>	4 %	3 %	8 %	5 %
<b>Special police agency</b>	4 %	6 %	3 %	4 %
<b>Probation</b>	4 %	3 %	0 %	2 %
<b>Total number of agencies</b>	24	34	39	97

Source: NACOLE/OJP Survey, 2016.<sup>152</sup>

Note: Agencies could select multiple responses, so percentages will sum to more than 100 percent. The table reports the valid percent and excludes missing values from the calculation.

152. De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement: Assessing the Evidence*, Table B3.



# 7. Civilian Oversight in Civil Rights Division Investigations and Federal- and State-Level Consent Decrees

Federal pattern-or-practice investigations into the constitutionality of local police practices by the Civil Rights Division (CRD) of the U.S. Department of Justice (DOJ) under the Violent Crime Control and Law Enforcement Act of 1994<sup>153</sup> have been a strong impetus for reform, including the establishing or strengthening of pre-existing civilian oversight systems.<sup>154</sup> In some cases, a pattern-or-practice investigation did not lead to federal consent decrees and instead resulted in the jurisdiction executing a memorandum of agreement or embarking on a collaborative reform initiative with the overseen department. In fewer cases, a federal investigation into the department was not initiated but court-mandated reforms were initiated at the state level.

Table 5 presents the prevalence of CRD investigations, federal consent decrees, and state-level consent decrees in jurisdictions with civilian oversight.

**Table 5. Jurisdictions with civilian oversight where the overseen law enforcement agency has been investigated by DOJ CRD or entered into a federal or state-level consent decree**

	Review-focused	Investigation-focused	Auditor/monitor-focused	All agencies
<b>Investigated by DOJ CRD</b>	5 %	19 %	13.8 %	38 %
<b>Federal consent decree</b>	3.4 %	20.7 %	12.1 %	36.2 %
<b>State consent decree</b>	1.7 %	0 %	1.7 %	3.4 %
<b>Total number of agencies</b>	17	20	21	58

Source: COAD

153. Violent Crime Control and Law Enforcement Act of 1994.

154. For an overview of the Civil Rights Division's work on police reform, see United States Department of Justice Civil Rights Division, *The Civil Rights Division's Pattern and Practice Police Reform Work: 1994–Present*.

In some jurisdictions where federal intervention took place, requirements to either establish new oversight or strengthen pre-existing civilian oversight were included in the agreements. The cities discussed in the following sections had, as of 2017, entered into either a federal consent decree, settlement agreement, or memorandum of understanding that included provisions regarding civilian oversight.<sup>155</sup>

## Baltimore, Maryland

The consent decree in Baltimore, agreed to in 2017, called for the creation of a five-member Community Oversight Task Force to recommend reforms for improving Baltimore’s pre-existing civilian oversight system.<sup>156</sup> Among the areas of the task force’s assessment were the civilian review board’s complaint process, investigations, resources, independence, and authority; whether the community has sufficient information about civilian oversight of the Baltimore Police Department (BPD); whether additional or new oversight entities were necessary; and whether any changes to BPD’s community policing strategies were necessary.<sup>157</sup>

## Newark, New Jersey

In 2016, the city of Newark entered a consent decree regarding practices of the Newark Police Department (NPD) that violated individuals’ constitutional and civil rights. The court order required several reforms to NPD policy, training, supervision, stops and searches, internal accountability, and other procedures. As part of its effort to strengthen community partnerships, the order also required that

*[T]he City shall implement and maintain a civilian oversight entity. The duties and responsibilities of that entity shall, at a minimum, include the substantive and independent review of internal investigations and the procedures for resolution of civilian complaints; monitoring trends in complaints, findings of misconduct, and the imposition of discipline; and reviewing and recommending changes to NPD’s policies and practices, including, but not limited to, those regarding use of force, stop, search, and arrest.<sup>158</sup>*

## Ferguson, Missouri

Ferguson’s efforts in establishing civilian oversight began shortly after the officer-involved shooting death of Michael Brown in the summer of 2014. With assistance from the National Association for Civilian Oversight of Law Enforcement, the city convened a task force consisting of residents, clergy, business owners, police, and local officials to study civilian oversight and issue a report with recommendations regarding a civilian review board to the mayor and city council.<sup>159</sup> In 2016, the city entered a consent decree, which af-

155. Note: These sections do not include jurisdictions where collaborative reform initiatives with the U.S. Department of Justice Office of Community Oriented Policing Services contained civilian oversight.

156. Consent Decree, *United States of America v. Police Department of Baltimore City, et al.*, §§ 11–12.

157. Consent Decree, *United States of America v. Police Department of Baltimore City, et al.* § 13.

158. Consent Decree, *United States of America v. City of Newark*, § 13.

159. Civilian Review Board, “Civilian Review Board.”

firmed the city's commitment to meaningful civilian oversight by subjecting the city's civilian review board ordinance to approval by the monitor.<sup>160</sup>

In April 2016, the City passed a monitor-approved ordinance establishing the Ferguson Civilian Review Board based on the task force's recommendations.<sup>161</sup> The board's powers and authority include the ability to review and issue disciplinary recommendations on the police department's misconduct and Force Review Board investigations; reviewing and recommending modifications to the police department's policies, procedures, and training; serving on officer hiring and promotion panels; enhancing community policing efforts; and reviewing crime, racial profiling, and complaint data to identify patterns or trends. The consent decree also required that the civilian review board have "the resources, training, and capacity to fulfill each of these responsibilities."<sup>162</sup>

## Cleveland, Ohio

The 2015 settlement agreement required several modifications to Cleveland's Police Review Board (PRB). This included proposing a charter amendment to make the board's appointment process more transparent and independent; separating the PRB's budget from the city's Department of Public Safety; developing board member training requirements to be provided from within and outside the Cleveland Police Department; requiring the department's investigators to attend board meetings to answer questions regarding cases; and requiring the board to issue recommended findings and disciplinary action on the police department's internal investigations.<sup>163</sup>

## Albuquerque, New Mexico

Albuquerque's 2014 settlement agreement concerning the Albuquerque Police Department (APD) required the creation of a Civilian Police Oversight Agency (CPOA) that provides "meaningful, independent review of all citizen complaints, serious uses of force, and officer involved shootings" and has the authority to "review and recommend changes to APD policy and monitor long-term trends in APD use of force." The agreement emphasized the need for diversity in the agency's composition and independence from political stakeholders and the APD.<sup>164</sup> It further stipulated that the CPOA have a full-time investigative staff to perform independent misconduct investigations and review serious uses of force and officer-involved shootings.<sup>165</sup>

The settlement required the city to provide the agency with "sufficient resources and support" and comprehensive access to APD documents and other necessary material. It required APD to provide CPOA with all civilian complaints; the identities of officers under review and their disciplinary histories; documents

160. Consent Decree, *United States of America v. City of Ferguson*, § 410.

161. City of Ferguson Ordinance No. 2016-3615, § 1.

162. Consent Decree, *United States of America v. City of Ferguson*, §§ 405–406.

163. Settlement Agreement, *United States of America v. City of Cleveland* §§ 230–239.

164. Settlement Agreement, *United States of America v. City of Albuquerque*, §§ 271–273.

165. Settlement Agreement, *United States of America v. City of Albuquerque*, §279.

and reports related to any CPOA reviews; APD policies and training; “materials that may evince an overall trend in the APD’s use of force, internal accountability, policies, or training”; the ability to subpoena documents and witnesses; and access to APD facilities.<sup>166</sup> In addition, the agreement required the chief of the APD to provide written explanations detailing why a particular policy recommendation issued by CPOA would not be followed.<sup>167</sup>

## Portland, Oregon

The DOJ CRD’s 2012 settlement agreement with the city of Portland called for several modifications to improve the operations and efficiency of the city’s pre-existing Citizen Review Committee (CRC), Police Review Board (PRB), and Independent Police Review Division (IPR). Among these were eliminating redundant witness interviews by the police department and IPR; including a member of the Civilian Review Committee in the Police Review Board’s reviews of use of force cases; and strengthening confidentiality, anti-retaliation, and training requirements.<sup>168</sup>

## New Orleans, Louisiana

The DOJ CRD’s investigation into the New Orleans Police Department (NOPD), completed in 2011, addressed the city’s allocation of resources to the then–recently established Office of the Independent Police Monitor (IPM). The DOJ CRD’s findings articulated concern “regarding whether the IPM [had] received sufficient resources and latitude to carry out its duties effectively. Adequate staffing, as well as the ability and authority to promptly obtain internal NOPD records on officer conduct, [would] be critical to the IPM’s success as an oversight mechanism.”<sup>169</sup> The report was the first DOJ CRD report to explicitly mention the importance of civilian oversight:

*When combined with practices that ensure appropriate transparency in police department decisions related to misconduct and tactics, and with tools to measure, assess, and respond to changing community attitudes towards policing over time, civilian oversight can help create a powerful form of community engagement that will ensure that reforms are sustained over time, even after court-ordered oversight has ended.<sup>170</sup>*

In 2012, the city of New Orleans entered into a consent decree. The consent decree memorialized a memorandum of understanding, signed by the IPM and the New Orleans Police Department in 2010, outlining the IPM’s authority, procedures, and access to department information.<sup>171</sup>

166. Settlement Agreement, *United States of America v. City of Albuquerque*, §§ 282–283.

167. Settlement Agreement, *United States of America v. City of Albuquerque*, §§ 288–289.

168. Settlement Agreement Pursuant to Fed. R. Civ. P. 41(a)2), *United States of America v. City of Portland*, §§ 128–136.

169. Civil Rights Division, *Investigation of the New Orleans Police Department*, xxii.

170. Civil Rights Division, *Investigation of the New Orleans Police Department*.

171. Consent Decree Regarding the New Orleans Police Department, *United States of America v. City of New Orleans*, §§ 440–443.

## Cincinnati, Ohio

In 2002, the DOJ CRD and city of Cincinnati signed a collaborative agreement and memorandum of agreement that replaced the Citizen Police Review Panel and the Office of Municipal Investigations' authority to investigate police misconduct with the Citizen Complaint Authority (CCA).<sup>172</sup> The CCA is governed by a Board of Citizens, which serves in an advisory capacity to the CCA director and the CCA's staff. Pursuant to the agreements, the CCA is authorized to "investigate serious interventions by police officers, including but not limited to shots fired, deaths in custody, and major uses of force, and to review and resolve all citizen complaints in a fair and efficient manner."<sup>173</sup>

The memorandum of agreement further defined the CCA's jurisdiction and investigative processes. The CCA receives all complaints regardless of where they were initially filed, and the executive director determines which complaints are to be investigated by the CCA. The CCA's complaint jurisdiction includes, at a minimum, all complaints alleging excessive force, the improper pointing of firearms at persons, unreasonable searches and seizures, and discrimination.<sup>174</sup>

## Washington, D.C.

In 2001, the DOJ CRD, the District of Columbia, and the Metropolitan Police Department (MPD) entered into a memorandum of agreement regarding the MPD's policies and practices surrounding the department's use of force and accountability mechanisms. The memorandum required the MPD to develop written protocols delineating the roles and responsibilities of the Office of Citizen Complaint Review (OCCR, now known as the Office of Police Complaints) concerning the receipt, investigation, and review of complaints against MPD officers; each entity's responsibility in conducting outreach; how the OCCR and MPD should share information; and the role of the MPD official serving on the OCCR's accompanying Civilian Complaint Review Board.<sup>175</sup> In addition, the memorandum required the district to provide the OCCR with "sufficient qualified staff, funds and resources to perform the functions required [...] including the conduct of timely, thorough, and independent investigations of alleged police misconduct; the conduct of mediation; the conduct of hearings; and the operation of a professional office."<sup>176</sup>

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172. Collaborative Agreement, *In Re: Cincinnati Policing*, § 55.

173. Collaborative Agreement, *In Re: Cincinnati Policing*, § 55.

174. Civil Rights Division, "Memorandum of Agreement between the United States Department of Justice and the City of Cincinnati, Ohio and the Cincinnati Police Department," §§ 51–56.

175. Civil Rights Division, "Memorandum of Agreement between the United States Department of Justice and the District of Columbia and the D.C. Metropolitan Police Department," § 85.

176. Civil Rights Division, "Memorandum of Agreement between the United States Department of Justice and the District of Columbia and the D.C. Metropolitan Police Department," § 86.

## Los Angeles, California

The 2001 consent decree between the DOJ CRD, city of Los Angeles, the Los Angeles Board of Police Commissioners (BOPC), and the Los Angeles Police Department (LAPD) assigned significant additional oversight responsibilities to the BOPC and the Office of the Inspector General (OIG), which was established by charter amendment in 1995, following the Rodney King incident.

It required the LAPD OIG to evaluate the quality, completeness, and findings of all department audits; review all serious use of force investigations; and audit random samples of nonserious use of force and complaint investigations.<sup>177</sup> It further required the LAPD OIG to conduct regular audits, through trend analysis, of the department's early-warning system to identify officers demonstrating at-risk behavior and at-risk practices and procedures.<sup>178</sup> In the realm of critical incidents, the LAPD OIG was authorized to "roll out" to serious use of force scenes and attend Use of Force Review Board meetings, where the department issues findings and recommendations for the chief's, and then the BOPC's, consideration.<sup>179</sup> The LAPD OIG initially struggled to meet the demands of its workload, but came into compliance after several years, according to the independent monitor overseeing the implementation of consent decree reforms.<sup>180</sup>

The Los Angeles consent decree was extended for another three years in 2006 as LAPD worked to develop its early intervention system. In 2009, Los Angeles entered into a transition agreement, passing on the responsibility of overseeing ongoing LAPD reforms to the BOPC and OIG.<sup>181</sup> To date, the Los Angeles consent decree is unique in that a civilian oversight system assumed the responsibility of overseeing the agreement's final implementation.

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177. Consent Decree, *United States of America v. City of Los Angeles, California, Board of Police Commissioners of the City of Los Angeles, and the Los Angeles Police Department*, §§ 135–136.

178. Consent Decree, *United States of America v. City of Los Angeles, California, Board of Police Commissioners of the City of Los Angeles, and the Los Angeles Police Department*, § 138.

179. Consent Decree, *United States of America v. City of Los Angeles, California, Board of Police Commissioners of the City of Los Angeles, and the Los Angeles Police Department*, § 147.

180. Office of the Independent Monitor of the Los Angeles Police Department, *Final Report*.

181. Order re: Transition Agreement, *United States of America v. City of Los Angeles, California, Board of Police Commissioners of the City of Los Angeles, and the Los Angeles Police Department*.

## 8. Recommendation Authority

Historically, civilian oversight agencies have been given the authority to issue recommendations based on their work. Because the majority of law enforcement agencies subject to civilian oversight retain final authority over policy and discipline, non-binding recommendations have typically been the primary mechanism through which civilian oversight agencies have been able to influence the law enforcement agencies they oversee.

The types of recommendations civilian oversight agencies make include issuing or confirming investigative findings; appropriate discipline for subject officers when a misconduct allegation has been sustained; new training programs or retraining; and recommending modified or new department policies and procedures. Table 6 shows the share of COAD respondents indicating they are able to issue a particular type of recommendation. As depicted, recommendations regarding policy and procedure are the most common, while disciplinary recommendations are the least common.

**Table 6. Types of recommendations issued by oversight agencies**

	Review-focused	Investigation-focused	Auditor/ monitor-focused	All agencies
<b>Investigative findings</b>	76.5 %	95 %	90.5 %	87.9 %
<b>Discipline</b>	29.4 %	55 %	47.6%	44.8 %
<b>Training or retraining</b>	82.4 %	85 %	95.2 %	87.9 %
<b>Policy</b>	100 %	95 %	100 %	98.3 %
<b>Total number of agencies</b>	17	20	21	58

Source: COAD

While the ability to issue recommendations is relatively widespread, slightly more than half of civilian oversight agencies are entitled to a written response from the subject law enforcement agency regarding the civilian oversight agency's recommendations, as shown in table 7 on page 42.

**Table 7. Response requirements for civilian oversight recommendations**

	<b>Review-focused</b>	<b>Investigation-focused</b>	<b>Auditor/monitor-focused</b>	<b>All agencies</b>
<b>Response required</b>	47 %	75 %	43 %	55 %
<b>Response not required</b>	43 %	25 %	57 %	45 %
<b>Total number of agencies</b>	17	20	21	58

Source: COAD

## 9. Access to Law Enforcement Records and Information

Access to department records, databases, and facilities is a crucial component of providing effective oversight.<sup>182</sup> The issue of access to department information and facilities has been a long-running issue for civilian oversight agencies in many jurisdictions. An unwillingness to cooperate with civilian oversight, fear of outside scrutiny, and limitations imposed by state or municipal law or law enforcement labor agreements have traditionally been the primary factors constraining an agency's ability to receive the access required for its work.

There is significant variation in the types of law enforcement records and information that oversight agencies can access and the ways in which they are made accessible to the agency. Table 8 on page 44 shows agency responses from the COAD survey concerning the types of records oversight agencies can access. Consistent with their broad mandates, auditor/monitor-focused models generally have the most comprehensive access to records and information maintained by the law enforcement agency they oversee. Conversely, review-focused models tend to have the least comprehensive access; they are typically limited to viewing closed internal investigations and body-worn camera or in-car video.

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182. Walker, "Core Principles for an Effective Police Auditor's Office;" Police Assessment Resource Center, *Review of National Police Oversight Models for the Eugene Police Commission*; Attard and Olson, *Overview of Civilian Oversight of Law Enforcement in the United States*; King, "Effectively Implementing Civilian Oversight Boards."

**Table 8. Types of law enforcement records accessible to oversight agencies**

Record type	Review-focused	Investigation-focused	Auditor/monitor-focused	All agencies
Open IA files	56 %	55 %	81 %	65 %
Closed IA files*	87.5 %	75 %	100 %	88 %
Early-warning system records <sup>†</sup>	31 %	55 %	67 %	53 %
Computer-aided dispatch records <sup>‡</sup>	63 %	85 %	71 %	74 %
Personnel records <sup>§</sup>	38 %	50 %	71 %	53 %
Body-worn/in-car video*	94 %	90 %	95 %	93 %
Stop records*	69 %	80 %	91 %	81 %
Use of force reports*	75 %	90 %	95 %	88 %
Subpoenas (including sworn officers)	41 %	60 %	33 %	45 %
Subpoenas (excluding sworn officers)	6 %	10 %	5 %	7 %
Total number of agencies	17	20	21	58

Source: COAD

Note: Percentages show added “Yes” and “Sometimes” responses for each type of record.

\* - Excludes one investigation-focused model; † - Excludes three investigation-focused models and two auditor/monitor-focused models; ‡ - Excludes two investigation-focused models and one auditor/monitor-focused model; § - Excludes one investigation-focused model and one auditor/monitor-focused model.

A notable number of oversight agencies are granted direct access to the internal affairs databases (such as IAPro) of the law enforcement agencies they oversee. Direct access strengthens civilian oversight by reducing delays and providing the oversight agency with an opportunity to evaluate the law enforcement agency’s data and data collection. Front-end access to internal affairs databases allows oversight staff to search cases and generate standard summary reports of investigations. The same applies to back-end access to internal affairs databases, which also allows oversight staff to perform advanced queries of database contents and more sophisticated analyses of patterns and trends as may be necessary for the agency’s work.

Table 9 on page 45 shows agency responses to the COAD survey question concerning back-end access to internal affairs databases. Auditor/monitor-focused models tend to have both types of direct access more frequently than investigation-focused or review-focused models.

**Table 9. Back-end access to internal affairs databases**

	Auditor/ monitor-focused	Investigation-focused	Review-focused	All agencies
<b>Yes</b>	19 %	12.1 %	3.4 %	34.5 %
<b>Sometimes</b>	8.6 %	5.2 %	3.4 %	17.2 %
<b>No</b>	8.6 %	17.2 %	22.4 %	48.3 %
<b>Total number of agencies</b>	21	20	17	58

Source: COAD

While the types of records accessible to oversight agencies correlates to some degree with the oversight model, this is not necessarily the case with regard to *how* records are made accessible. Oversight agencies typically are empowered to secure access to department records and information through one or more ways: by law or enabling legislation; by memorandum of understanding or agreement with the overseen department; or as a matter of policy within the overseen department. As shown in table 10, half of the law enforcement agencies overseen by COAD respondents have implemented policies relating to their oversight agency's access to department records. Nearly one quarter of responding investigation-focused agencies reported that their access to the overseen department's records are authorized by law.

**Table 10. Means by which oversight agencies access law enforcement records**

Means of accessing records	Auditor/ monitor-focused	Investigation- focused	Review-focused	All agencies
<b>By law</b>	8 (13.8 %)	14 (24.1 %)	5 (8.6 %)	27 (46.6 %)
<b>By memorandum of understanding or contract with overseen department</b>	8 (13.8 %)	6 (10.3 %)	5 (8.6 %)	19 (32.8 %)
<b>By department policy</b>	11 (19 %)	9 (15.5 %)	9 (15.5 %)	29 (50 %)
<b>None of the above</b>	3 (5.2 %)	0	1 (1.7 %)	4 (6.9 %)
<b>Total number of agencies</b>	17	20	21	58

Source: COAD

Note: Agencies could select multiple responses, so percentages will sum to more than 100 percent. "None of the above" responses indicate that an agency's access to law enforcement records is not addressed in either law, memorandum or contract, or department policy. It does not mean that an agency cannot access law enforcement records.



# 10. Resources and Staffing

## Oversight agency budgets

The type of oversight model appears to be a strong determinant of oversight agency budgets. As noted in the NACOLE/OJP report, investigation-focused models are generally the most expensive forms of oversight because they are staffed by full-time professional investigators.<sup>183</sup> Conversely, review-focused models tend to be the least expensive because they rely on volunteer civilian boards or commissions to review completed internal investigations.<sup>184</sup>

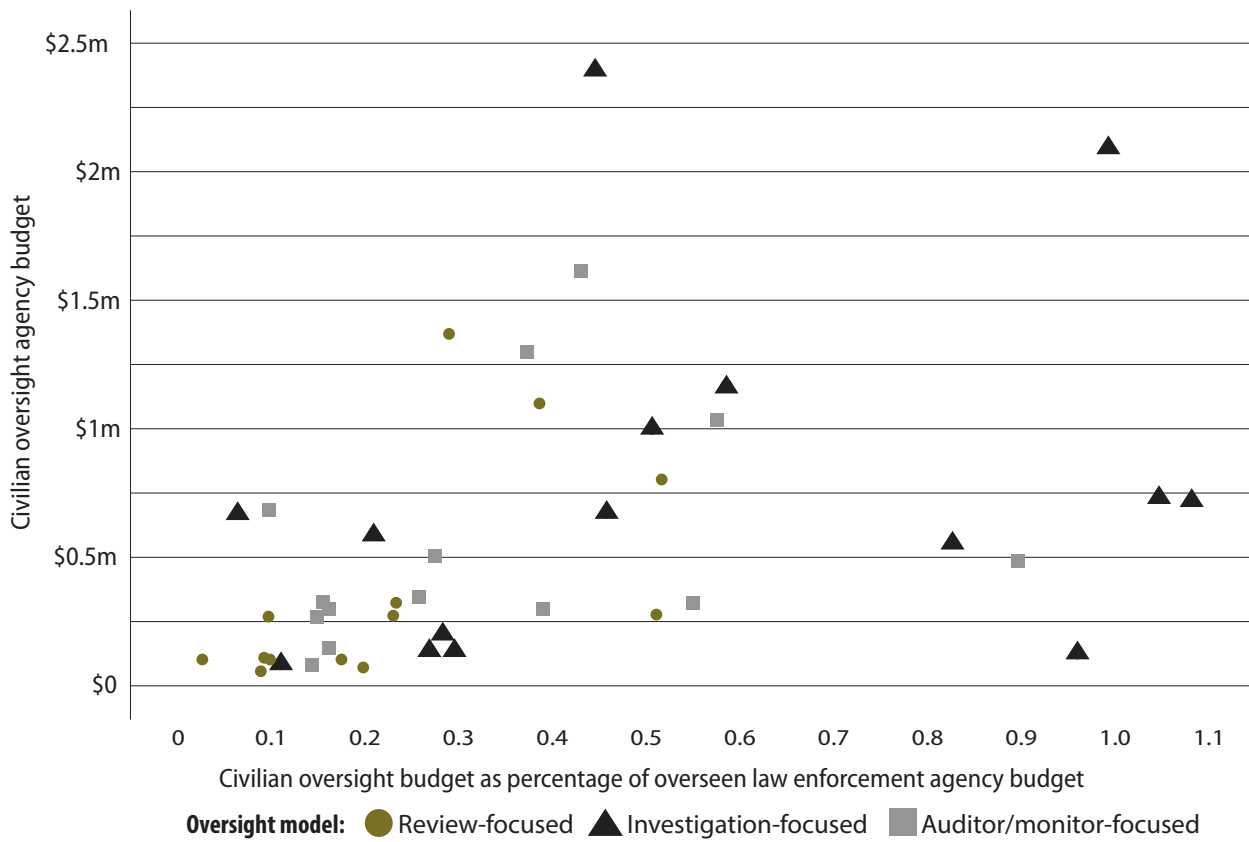
One trait shared by most oversight agencies is that their budgets rarely exceed 0.5 percent of the budget of the law enforcement agencies they oversee. Of the COAD's 58 respondents, nearly 70 percent of oversight agencies reported budgets less than or equal to 0.5 percent of the subject law enforcement agency's. Nine percent of agencies reported budgets exceeding 1 percent of the overseen agency's budget—most of which are investigation-focused models. As shown in figure 4 on page 48, investigation-focused models tend to have higher budgets both in an absolute sense and in relation to the budget of the law enforcement agency that they oversee.

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183. De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement: Assessing the Evidence*, 24–26.

184. De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement: Assessing the Evidence*, 28.

**Figure 4. Civilian oversight agency budgets**



Source: COAD

Note: Excludes oversight agencies with budgets of \$0 or greater than \$2.5 million and law enforcement agencies with budgets greater than \$1 billion. Budget years range from 2017–2019. N = 47.

## Percentage-based budget allocation

A growing number of jurisdictions have enacted legislation that sets their oversight agency’s budgets as a fixed percentage of the overseen law enforcement agency’s budget. This establishes a floor for oversight agency budgets and ensures that the agency’s resources increase or decrease relative to the size of the law enforcement agency. Percentage-based budgets also isolate oversight agencies from politically motivated budget cuts, thereby strengthening their independence.

Cities that have passed such legislation typically set their oversight budgets as a percentage of the personnel and salaries line item of the overseen law enforcement agency, essentially tying it to the number of officers and personnel employed by the law enforcement agency. Such is the case in the city of Miami, where in 2017 the city commission approved a revised ordinance requiring the Civilian Investigative Panel’s budget be “no less than one percent of the approved regular salaries and wages line item of the city’s police department.”<sup>185</sup>

185. City of Miami, Ordinance No. 13688 (June 8, 2017).

Similarly, in Chicago, the Civilian Office of Police Accountability's budget is set as "not less than one percent (1.0 percent) of the annual appropriation of all non-grant funds for the Police Department."<sup>186</sup>

Table 11 shows examples of civilian oversight budgets as a percentage of the total budget of the law enforcement agencies they oversee for select jurisdictions. Just three out of the COAD's 58 respondents reported budget appropriations exceeding 1 percent of the total budget of the law enforcement agency they oversee.

**Table 11. Examples of oversight budgets as percentage of overseen law enforcement agency budget**

Rank	Name	Model	Oversight budget relative to law enforcement budget (%)
1	Department of Police Accountability (San Francisco, CA)	Investigation-focused	1.2
2	Office of Professional Accountability (Seattle, WA)	Investigation-focused	1.09
3	Berkeley Police Review Commission (Berkeley, CA)	Investigation-focused	1.08
11	Office of Professional Accountability (Richmond, CA)	Investigation-focused	0.83
12	Civilian Investigative Panel (Miami, FL)	Investigation-focused	0.59
13	Office of the Independent Police Monitor (New Orleans, LA)	Auditor/monitor-focused	0.58
27	Civilian Complaint Review Board (New York, NY)	Investigation-focused	0.29

Source: COAD

Note: Ranks presented in descending order out of 58 COAD respondents. Percentages calculated using oversight agency budgets and total budgets for law enforcement agencies. As a result, percentages may not reach the legislated minimum for jurisdictions where oversight budgets are tied to the personnel budget line item for the overseen law enforcement agency. Budgets were reported by COAD respondents and span the years 2016–2019.

186. Municipal Code of Chicago Chapter 2-78-105.

## Ratio of sworn officers to investigators

Some jurisdictions with investigation-focused civilian oversight have adopted a personnel-based approach to resource allocation. These cities have established requirements that the oversight agency employ one investigator per fixed number of sworn officers in the overseen law enforcement agency. This practice rests on the assumption that such fixed ratios will ensure agencies can maintain staffing levels sufficient to handle caseloads and that investigations are completed in a timely manner.

This practice was first established for San Francisco's Office of Citizen Complaints (OCC, now the Department of Police Accountability, or DPA) in 1996.<sup>187</sup> According to the city charter, the DPA is required to employ one investigator for every 150 sworn officers employed by the San Francisco Police Department.<sup>188</sup>

In 2016, voters in Oakland approved charter amendment Measure LL, which established a civilian police commission and instituted a similar requirement for the city's investigation-focused Community Police Review Agency (CPRA). Measure LL mandates that the CPRA hire one investigator for every 100 sworn officers in the Oakland Police Department.<sup>189</sup>

Table 12 displays the number of sworn officers per civilian investigator for investigation-focused agencies that responded to COAD.

**Table 12. Sworn officers per oversight investigator for investigation-focused models**

Rank	Name	Number of sworn officers	Number of investigators	Sworn officers per investigator
1	Office of Professional Accountability (Richmond, CA)	178	2	89
2	Department of Police Accountability (San Francisco, CA)	2,474	24	103
3	Independent Police Review (Portland, OR)	950	7	135
4	Civilian Office of Police Accountability (Chicago, IL)	13,361	93	143
5	Community Police Review Agency (Oakland, CA)	780	5	156
9	Civilian Complaint Review Board (New York, NY)	38,422	110	349
10	Citizen Complaint Authority (Cincinnati, OH)	1,074	2	537
11	Civilian Investigative Panel (Miami, FL)	1,100	2	550

Source: COAD

Note: Ranks presented in ascending order out of 58 COAD respondents. Table shows results for COAD respondents identifying as investigation-focused agencies. Figures calculated by dividing the number of sworn officers by the number of investigators reported as employed by the oversight agency at the time they responded to the COAD survey. Staffing levels span the years 2016-2019.

187. Office of Citizen Complaints, *1999 Annual Report of the Office of Citizen Complaints*.

188. San Francisco City Charter § 4.136(c).

189. Charter of the City of Oakland § 604(e)(4).

## Legal representation of oversight agencies

Oversight agencies' legal representation has been a point of focus for both oversight practitioners and members of the public. As noted by several academics, a municipal attorney's dual representation of the municipality (and, by extension, the law enforcement agency) and the municipality's civilian oversight agency signals a conflict of interest.<sup>190</sup>

As shown in table 13, the majority—slight more than 70 percent—of COAD respondents reported being represented by the municipality's city attorney or corporation counsel. Investigation-focused models in COAD most commonly reported being represented by independent legal counsel.

**Table 13. Legal representation of civilian oversight agencies**

	<b>Auditor/ monitor-focused</b>	<b>Investigation- focused</b>	<b>Review-focused</b>	<b>Total</b>
<b>None</b>	4.8 %	0 %	5.8 %	3.4 %
<b>City attorney, corporation counsel, or similar</b>	66.7 %	65 %	82.4 %	70.7 %
<b>Independent legal counsel</b>	28.6 %	35 %	11.8 %	25.9 %
<b>Number of agencies</b>	17	20	21	58

Source: COAD

190. Tell, "Representing Police Officers and Municipalities;" Mishra, "When the Interests of Municipalities and Their Officials Diverge."



# 11. Mediation

Alternative dispute resolution, and mediation in particular, is an increasingly common means of resolving civilian complaints alleging low-level misconduct. Mediation involves informally resolving a complaint or dispute between two parties, through a face-to-face meeting in which a professional mediator serves as a neutral facilitator and where both parties ultimately agree that an acceptable resolution has been reached.<sup>191</sup> As shown in table 14, a little less than half of COAD respondents indicated that their oversight agencies have implemented a mediation program. Mediation is most prevalent with investigation-focused models.

The primary driver of mediation in civilian oversight has been its efficacy as an alternative to formally investigating certain types of complaints, such as those alleging discourteous or disrespectful behavior.<sup>192</sup> Research into the civilian complaint process has shown that traditional forms of investigation and discipline can suffer from a perceived lack of fairness, resulting in low satisfaction by both complainant and subject officers.<sup>193</sup> For complainants in particular, the sense of insult, injury, and mistrust and diminished confidence caused by low-level misconduct is often poorly addressed by the adversarial, evidence-driven, and quasi-judicial complaint investigation and disciplinary process.<sup>194</sup> Mediating civilian complaints affords both officers and complainants an opportunity to be heard by the other party in a face-to-face interaction. In addition, complaint mediation is significantly less expensive and resource-intensive than formal complaint investigations.<sup>195</sup>

**Table 14. Existence of civilian oversight mediation programs**

Established mediation program	Auditor/monitor-focused	Investigation-focused	Review-focused	Total
No	61.9 %	45 %	58.8 %	55.2 % (n=32)
Yes (officer participation is mandatory)	0 %	5 %	0 %	1.7 % (n=1)
Yes (officer participation is voluntary)	38.1 %	50 %	41.2 %	43.1 % (n=25)

Source: COAD

191. Walker, Archbold, and Herbst, *Mediating Citizen Complaints against Police Officers*, 1.

192. Quinn, "Chapter 10. Citizen Complaints and Mediation," 133.

193. Schaible et al., "Denver's Citizen/Police Complaint Mediation Program," 628–629.

194. Quinn, "Chapter 10. Citizen Complaints and Mediation," 131.

195. Quinn, "Chapter 10. Citizen Complaints and Mediation," 131.



## 12. Evolutions in Community Outreach

Civilian oversight outreach efforts have traditionally focused on increasing awareness and access to the complaint process. This is beginning to evolve. A handful of oversight agencies have developed more innovative and encompassing ways of reaching out to and soliciting input and feedback from segments of their community. The internet and social media have played a significant role in this evolution. A large number of oversight agencies maintain Twitter, Facebook, and YouTube accounts to share updates and information with the community. Agencies' public meetings are frequently streamed online live or are available as recordings on agency websites, as is the case with the New York City's Civilian Complaint Review Board,<sup>196</sup> Miami's Civilian Investigative Panel,<sup>197</sup> and Denver's Citizen Oversight Board.<sup>198</sup>

In some jurisdictions, outreach efforts are targeted to different groups within the community. Seattle's Community Police Commission (CPC), for example, has worked to maximize the diversity of its outreach recipients by partnering with local organizations that work with various segments of the community, holding meetings throughout the entire city, and translating outreach materials into non-English languages commonly spoken by Seattle residents.<sup>199</sup> The CPC's efforts to include perspectives from non-English speakers through both written and oral translation of outreach materials has yielded impressive results. Of the 3,001 community members who completed a CPC survey in 2014, over 15 percent completed the survey in one of the 23 languages other than English into which the survey was made available.<sup>200</sup>

The Independent Office of Law Enforcement Review and Outreach (IOLERO) in Sonoma County, California, regularly conducts targeted outreach to communities with strained relationships with law enforcement, and has convened focus groups bringing together individuals, community organizations, and representatives from the sheriff's department to discuss policies and procedures guiding interactions with members of the community.<sup>201</sup>

The Office of the Independent Police Monitor (IPM) in New Orleans, Louisiana, maintains a robust outreach program for both civilian members of the community and the New Orleans Police Department (NOPD). In addition to hosting and participating in outreach events, the IPM has issued surveys to the public asking questions regarding their concerns with the police department and priorities for the IPM.<sup>202</sup> The IPM also conducts

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196. New York City Civilian Complaint Review Board, "Board Meeting Schedule."

197. City of Miami Civilian Investigative Panel, "Meeting Calendar."

198. City and County of Denver, "Citizen Oversight Board."

199. Seattle Community Police Commission, *Community Outreach Report*, 14.

200. De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement: Assessing the Evidence*.

201. IOLERO, *FY 2017–2018 Annual Report*.

202. OIPM, *2017 Annual Report: Year in Review*, 11.

outreach to NOPD officers at roll calls and the police academy, providing information on the IPM's oversight role and mediation program, in addition to separate trainings on active listening and conflict resolution.<sup>203</sup> In addition, the IPM allows community members to request outreach presentations through its website.<sup>204</sup>

Other civilian oversight agencies have developed innovative outreach programs, based upon issues they have observed in their work. One notable example is the Denver Office of the Independent Monitor's (OIM) Youth Outreach Project (YOP), *Bridging the Gap: Kids and Cops*. The OIM developed the YOP after noticing a pattern of interactions between youth and Denver Police Department officers that appeared to have escalated due to miscommunication and misunderstanding.<sup>205</sup> In 2014, the OIM received a Justice Assistance Grant from the Colorado Division of Criminal Justice to develop a curriculum that would foster improved communications and interactions between Denver's youth and police officers. The YOP uses the curriculum for various trainings and sessions at schools and community centers. Young people learn their constitutional rights and responsibilities during encounters with law enforcement, proper police procedures, and what to do if officers do not follow those procedures.<sup>206</sup> Officers receive training on disproportionate minority contact, youth de-escalation, adolescent brain development and decision-making, emotional intelligence, positive youth development, mental health first aid, and restorative practices. Both groups participate in implicit bias exercises and share their stories and experiences with each other in facilitated sessions. A third-party evaluation of the project found significant improvements in youth perceptions of fairness and treatment by neighborhood police as well as a reported increased likelihood of cooperation with the police.<sup>207</sup>

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203. OIPM, *2017 Annual Report: Community-Police Mediation Program*, 30.

204. OIPM, "Community Relations."

205. OIM, *2016 Semiannual Report*, 2.

206. OIM, *2016 Semiannual Report*, 8.

207. OIM, *2018 Annual Report*, 5.

# 13. Agency Evaluation by Oversight Stakeholders

One relatively new practice in the field of civilian oversight is regularly scheduled evaluations of the oversight agency. Oversight-enabling legislation increasingly includes language requiring local stakeholders to develop quantitative and qualitative criteria by which the agency and its work can be evaluated. Although quantitative performance metrics for civilian oversight is a largely underdeveloped subject,<sup>208</sup> this emerging practice is a promising development that can allow for the continuous strengthening of oversight systems.

Regular evaluations from external stakeholders accomplish several goals. They promote continuous reflection on the strengths and weaknesses of the agency. They give stakeholders a formal voice in developing recommendations to improve the structure, authority, and operations of the oversight system. And they can hold oversight practitioners accountable to the standards and needs of the local community.

Where oversight-enabling legislation mandates periodic external evaluation, the task is typically assigned to a panel of community members, such as a community advisory board; a local government entity, such as the jurisdiction's auditor, controller, or inspector general; or an outside consultant or contractor with expertise in civilian oversight and law enforcement. In a handful of cases, some combination of these entities conduct the evaluation. Evaluations are generally performed on an annual or triennial basis.

In California's Bay Area, the Bay Area Rapid Transit Police Department's oversight system is evaluated every three years.<sup>209</sup> The BART Police Civilian Review Board, Independent Police Auditor, BART Police Association, BART's general manager and district secretary, complainants, and the public are all involved in determining changes and adjustments that would improve the system. In Denver, Colorado, the Citizen Oversight Board evaluates the Office of the Independent Monitor annually, with input from the police chief, sheriff, and local public safety stakeholders.<sup>210</sup> Chicago's Office of the Inspector General for Public Safety performs ongoing reviews and audits of the functions and operations of the Civilian Office of Police Accountability (COPA) and Chicago Police Board, as well as the Chicago Police Department. In New Orleans, Louisiana, the Office of the Independent Police Monitor is subject to a peer review by an outside entity every three years.<sup>211</sup>

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208. Walker, Archbold, and Herbst, *Mediating Citizen Complaints against Police Officers*, 13.

209. San Francisco Bay Area Rapid Transit District, *Citizen Oversight Model*.

210. Denver Revised Municipal Code, Art. XVIII § 2-377(b)(1).

211. City of New Orleans Code of Ordinances, Sec. 2-1121(22).

Table 15 presents agency responses to COAD's question concerning external evaluation.

**Table 15. Entities assigned to evaluate civilian oversight agencies**

<b>Evaluating entity</b>	<b>Auditor/monitor-focused</b>	<b>Investigation-focused</b>	<b>Review-focused</b>	<b>All agencies</b>
<b>Civilian entity (review or advisory board, appointed panel, or similar)</b>	5.2 %	15.5 %	8.6 %	29.3 %
<b>Government entity (auditor, controller, or similar)</b>	8.6 %	10.3 %	3.4 %	22.4 %
<b>Externally contracted entity</b>	3.4 %	1.7 %	3.4 %	8.6 %
<b>None of the above</b>	19 %	12.1 %	17.2 %	48.3 %
<b>Total agencies</b>	17	20	21	58

Source: COAD

Note: Agencies could select multiple responses, so percentages will sum to more than 100 percent. The table reports the valid percent and excludes missing values from the calculation.

## II. EFFECTIVE PRACTICES IN OVERSIGHT

### 1. Framing the Discussion: “Best Practices” vs. “Effective Practices”

*It is only sensible to see what kinds of solutions have been tried in other jurisdictions, agencies, or locales. You want to look for those that appear to have worked pretty well, try to understand exactly how and why they may have worked, and evaluate their applicability to your own situation. In many circles, this process is known as “best practices” research. Simple and commonsensical as this process sounds, it presents many methodological and practical pitfalls.<sup>212</sup>*

The surging growth and expansion of civilian oversight over the past decade has spurred conversations among practitioners, government officials, law enforcement, and other stakeholders regarding the application of about applying best practices in the field. As part of its recommendations on policy and oversight, the *Final Report of the President’s Task Force on 21st Century Policing* included an action item directing the U.S. Department of Justice (DOJ) Office of Community Oriented Policing Services (COPS Office) to “provide technical assistance and collect best practices from existing civilian oversight efforts.”<sup>213</sup> In addition, jurisdictions have expressed explicit interest in civilian oversight best practices throughout the country. For example, in 2018, the city council of Austin, Texas, passed a resolution directing its city manager to review and develop “evidence-based best practices regarding police oversight,” including “evidence-based evaluation tools to assess the effectiveness of any adopted accountability strategy.”<sup>214</sup> In Rochester, New York, the city council contracted a research firm to analyze the functions of its civilian review board and issue a report on oversight best practices.<sup>215</sup>

212. Bardach and Patashnik, *A Practical Guide for Policy Analysis*, 125.

213. President’s Task Force on 21st Century Policing, *Final Report*, 26.

214. Austin City Council, “Resolution No. 20180322-047.”

215. Rosenberg, *Police Oversight in Rochester*, 50.

The interest in this topic is natural. Stakeholders want to know what is proven to work or not work, how their oversight can be strengthened or improved, and how desired outcomes can be achieved most effectively and efficiently. It is important, however, to consider the limitations on the propriety and applicability of best practice approaches to civilian oversight; given these limitations, NACOLE proposes an “effective practices” approach, centered on thirteen foundational principles for successful and effective oversight.

To date, research has emphasized that civilian oversight should be established according to “best fit” rather than “best practice.”<sup>216</sup> A NACOLE report on the strengths and weaknesses of civilian oversight models found that there is not necessarily any best practice path to establishing civilian oversight, or any best oversight model that will be effective for all jurisdictions.<sup>217</sup> What can be considered best is a function of the unique elements and needs of the community and jurisdiction looking to establish or update its civilian oversight. These elements will ultimately shape what form of oversight is possible, feasible, and congruent with community expectations. As such, the best form of oversight depends on the local circumstances of the jurisdiction.

Similarly, in performing the actual work of civilian oversight, there are few to no existing prescribed approaches that will lead to the best outcomes. Just as there is no best model of oversight that will work for all jurisdictions, there is no single set of best practices that are guaranteed to be more successful in achieving civilian oversight’s goals of improving law enforcement’s accountability, transparency, and relationship with the communities it serves. Given the unique complexities of the field, the closest approximation to best practices that can most likely be attained is a set of recommendations that will strengthen an oversight agency’s work in relation to a set of principles that are widely accepted as preconditions for effective oversight. In order to recalibrate existing stakeholder, practitioner, and community expectations regarding best practices, the following section will address why the concept, as most commonly understood, is difficult to adopt for civilian oversight.

## Best practices in civilian oversight

Several areas of professional practice, such as medicine, manufacturing, and environmental management, are guided by academic and industry-level literature relating to practitioners’ best practice approaches to various aspects of their daily work. In such fields, these practices are commonly identified using empirical methods and research in which inputs and outputs (or outcomes) can be reliably quantified, evaluated, and compared.<sup>218</sup> While there have been attempts to adopt similar methodologies in the realm of public administration and organizational development, many social scientists have warned of the potential drawbacks of such approaches.<sup>219</sup> In general, they argue that the complexities of social and political contexts make identifying successful practices employed in one jurisdiction and transferring them to another a challenging

216. De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement: Assessing the Evidence*.

217. De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement: Assessing the Evidence*, 52.

218. Gill and Meier, “Ralph’s Pretty-Good Grocery versus Ralph’s Super Market.”

219. Bardach and Patashnik, *A Practical Guide for Policy Analysis*; Bardach, “Presidential Address—The Extrapolation Problem;” Bretschneider, Marc-Aurele Jr., and Wu, “Best Practices’ Research.”

and unreliable task fraught with potential errors of interpretation and extrapolation.<sup>220</sup> When the inputs and outputs used to evaluate a particular practice cannot be easily measured and compared, these challenges are exacerbated even further.

These challenges are particularly relevant in the field of civilian oversight of law enforcement. Many of the goals (or anticipated outcomes) of civilian oversight—including positive change within the law enforcement organization, improved community relations and public safety, increased accountability, and greater transparency—do not lend themselves easily to systematic, comparative measurement.<sup>221</sup> For example, while many civilian oversight agencies regularly maintain and publish data relating to their performance,<sup>222</sup> the meaning behind the most commonly reported measurements—such as the number of complaints, sustain rates, or uses of force—can be difficult to interpret or attribute directly to the work of a civilian oversight agency.<sup>223</sup> In addition, such metrics cannot account for incidents that are not properly reported or documented or are otherwise inaccessible to the oversight agency. While there is merit in collecting, analyzing, and publishing this data, the lack of standardized definitions makes cross-jurisdictional comparison inappropriate. Similarly, drawing from an example used by Walker and Bumphus, one jurisdiction may record an allegation that three officers verbally and physically abused a civilian as one complaint or incident, while another jurisdiction may record it as six.<sup>224</sup> Absent widely adopted, standardized definitions in law enforcement administration and oversight, these discrepancies clearly complicate comparing and evaluating outcomes that would be used to inform best practices.

There have also been attempts to evaluate civilian oversight and police-community relations through surveys of stakeholder perceptions.<sup>225</sup> The information that can be potentially gleaned through such survey instruments may be of use to an agency looking to collect feedback regarding local issues or the quality of its work.<sup>226</sup> However, these localized survey responses also suffer from an inability to be meaningfully compared across jurisdictions.<sup>227</sup>

The lack of standardization in civilian oversight itself presents another challenge for best practices research. No two civilian oversight agencies are the same. Because the field has expanded in a decentralized manner across jurisdictions with distinct and varying local contexts, oversight agencies across the United States are incredibly heterogeneous and vary greatly in terms of their organizational structure, level of authori-

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220. Bardach, “Presidential Address—The Extrapolation Problem.”

221. Walker and Bumphus, “The Effectiveness of Civilian Review: Observations on Recent Trends and New Issues Regarding the Civilian Review of the Police.”

222. Mohr, *The Use of Performance Measurement in Civilian Oversight*; Faull, *Monitoring the Performance of Police Oversight Agencies*.

223. Walker and Bumphus, “The Effectiveness of Civilian Review: Observations on Recent Trends and New Issues Regarding the Civilian Review of the Police;” Prenzier and Lewis, “Performance Indicators for Police Oversight Agencies.”

224. Walker and Bumphus, “The Effectiveness of Civilian Review: Observations on Recent Trends and New Issues Regarding the Civilian Review of the Police,” 11–12.

225. Rosenbaum et al., “The Police-Community Interaction Survey;” Walker and Herbst, *The Minneapolis CRA Quality Service Audit*

226. Note, however, that stakeholder perception surveys have historically suffered from low response rates not wholly representative of the community. See Rosenbaum et al., “The Police-Community Interaction Survey,” 360.

227. Rosenbaum et al., “Measuring Procedural Justice and Legitimacy at the Local Level,” 360.

ty, resources, and procedures.<sup>228</sup> Furthermore, civilian oversight is increasingly adopting hybrid forms of organization, encompassing several elements of the traditional oversight models within a single agency, or spreading functions across several agencies in a single jurisdiction.

Each jurisdiction's local and state-level political, legal, economic, social, and cultural contexts strongly shape and influence what approach to civilian oversight is taken and how that oversight agency will function.<sup>229</sup> This makes it particularly difficult to divorce the influence of local characteristics on particular outcomes when evaluating an individual practice. The wide differences in how civilian oversight is structured and organized make identifying and transferring "best practices" a significant challenge. When evaluating the effects of a practice in one jurisdiction, there may be unaccounted for and uncontrolled variables that can produce different outcomes when transferred and implemented in other jurisdictions.

Until researchers can overcome these challenges, oversight stakeholders should proceed with caution when implementing what has been deemed a best practice in another jurisdiction. As with any recommended practice under consideration by oversight practitioners, it is important to bring in relevant stakeholders to discuss the propriety, feasibility, and anticipated outcomes before proceeding with implementation. In the section that follows, a more robust concept—effective practices—will be introduced, along with a set of key principles upon which each practice can be evaluated.

## Effective practices and best fit: A framework

While it may currently not be possible to proceed with "best practices" research using standard evaluation methodologies, it is still possible to use alternative approaches to offer useful and practical guidance and recommendations to civilian oversight stakeholders. Rather than relying on heavily empirical methods, one approach is to develop a framework or set of criteria to use as evaluative standards for assessing and analyzing practices and outcomes.<sup>230</sup> Such an approach allows for flexibility and context specificity, but remains grounded in principles understood to be crucial to successful and effective civilian oversight. This report will therefore focus on what will be referred to as effective practices.

Effective practices take into consideration the core values and principles that should be satisfied to the greatest possible extent in order to produce better outcomes. Such practices value the diverse perspectives and wisdom of experienced practitioners, while acknowledging that, in the field of civilian oversight, there are several possible paths to success. Furthermore, they are consistent with the best fit approach to structuring civilian oversight and prioritizing stakeholder input and dialogue, rather than merely prescribing a single best approach in all contexts.

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228. De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement: Assessing the Evidence*, 22–23.

229. Goldman, "Importance of State Law in Police Reform," Keenan and Walker, "An Impediment to Police Accountability?"

230. Bardach and Patashnik, *A Practical Guide for Policy Analysis*, 28.

## 2. Thirteen Principles for Effective Oversight

Based largely on the NACOLE’s “Core Elements of Successful Oversight,”<sup>231</sup> the following set of 13 principles take into consideration findings that have emerged from the research undertaken for this project. They reflect information gleaned from pre-existing works by several scholars and oversight professionals, who have worked to identify the most important aspects of effective civilian oversight,<sup>232</sup> as well as conversations this report’s authors have had with experienced oversight practitioners. Together, these 13 principles form the preconditions for effective civilian oversight of law enforcement.

Many of these principles will be familiar to those who have a pre-existing knowledge of civilian oversight. In many ways, these principles are interrelated. An oversight agency cannot be successful by emphasizing one principle while de-emphasizing another. Building effective oversight requires balancing and prioritizing these principles, based on what stakeholders determine to be most important for the community the agency serves.

Finally, several of these principles exist on a continuum, and adherence to them is thus a matter of *degree*. An oversight agency’s adherence to a particular principle cannot be characterized by its mere presence or absence, but instead by the extent to which the agency’s organization and practices strengthen each principle along a continuum. Adherence must take into consideration things such as community needs, local legislation, and the size of the law enforcement agency to be overseen, as well as how those things will ultimately affect the structure and authority of the oversight agency. The recommended practices, approaches, and organizational features that follow seek to strengthen an agency in relation to these thirteen principles, to allow for more successful and effective civilian oversight.

### 1. Independence

One of the most important and defining concepts of civilian oversight of law enforcement is independence. In its broadest sense, independence 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. Independence is widely understood to be imperative to an oversight agency’s success and legiti-

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231. De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement: Assessing the Evidence*, 36–44.

232. Perez, *Common Sense About Police Review*; Walker, *Police Accountability: The Role of Citizen Oversight*; Walker, “Core Principles for an Effective Police Auditor’s Office;” Bobb, “Civilian Oversight of Police in the United States;” Attard and Olson, *Overview of Civilian Oversight of Law Enforcement in the United States*; King, “Effectively Implementing Civilian Oversight Boards;” De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement: Assessing the Evidence*.

macy.<sup>233</sup> An oversight agency must be able to act impartially, fairly, and in a manner that maintains community and stakeholder trust. In order to maintain legitimacy, an agency must be able to demonstrate the extent and impact of its independence from the overseen law enforcement agency—especially in the face of high-profile issues or incidents.

In practice, there are many ways in which independence can be conceptualized, achieved, and strengthened.<sup>234</sup> Several organizational and procedural aspects of civilian oversight can be assessed in terms of degree of influence by external bodies. Here, independence will be discussed in terms of *structural independence*, *political independence*, and *operational (or process) independence*.

The most common understanding of independence is *structural independence*. Structural independence means that the civilian oversight agency is clearly and distinctly separate, administratively or organizationally, from the overseen law enforcement agency, and that the civilian oversight agency is not obligated to report to political bodies inextricably related to the law enforcement organization.<sup>235</sup> However, the independence of a civilian oversight agency may be weakened in ways that are not apparent when considered solely in structural terms.

*Political independence* refers to the extent to which political actors can influence or affect the operations of an oversight entity. Several organizational and procedural aspects of civilian oversight can be assessed in these terms, including whether civilian oversight is established by municipal ordinance, charter, or executive order; whether it is represented by the municipality's law department or its own independent legal counsel; or the ways in which political actors can influence the staffing and composition of civilian oversight by retaining authority over hiring, appointment, and removal processes. Political independence can also take on more nuanced forms. For example, an oversight agency whose budget is determined by an apolitical process can have greater independence than an agency whose funds are appropriated through typical discretionary municipal budgeting procedures. Political actors' control of budgeting can be used to intentionally weaken civilian oversight by starving it of resources necessary for it to work effectively and efficiently.

Another form of independence refers to *operational or procedural independence*. Even where oversight is structurally independent and largely insulated from political influence, an oversight agency that lacks control over its operations may be weakened or co-opted.<sup>236</sup> For example, certain oversight procedures—such as initiating an investigation or issuing a subpoena—may require approval from law enforcement or political actors, thereby subverting oversight's autonomous and independent functioning.

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233. Walker, *Police Accountability: The Role of Citizen Oversight*; Walker, "Core Principles for an Effective Police Auditor's Office;" Attard and Olson, *Overview of Civilian Oversight of Law Enforcement in the United States*; Anderson et al., *Law Enforcement Oversight*.

234. Terrill, "Alternative Perceptions of Independence in Civilian Oversight;" Walker, *Police Accountability: The Role of Citizen Oversight*, 61–70.

235. Prenzler and Ronken, "Models of Police Oversight."

236. Prenzler, "Civilian Oversight of Police;" Walker, *Police Accountability: The Role of Citizen Oversight*, 64.

## 2. Clearly defined and adequate jurisdiction and authority

An oversight agency's jurisdiction and scope of authority are crucial to its success and effectiveness. While expectations regarding civilian oversight can vary significantly, having adequate jurisdiction and authority are fundamental in achieving organizational goals and ensuring the oversight agency can be responsive to communities.<sup>237</sup> To be effective, an agency's jurisdiction and authority must be both adequate and clearly defined in order to prevent confusion and differing interpretations of the oversight agency's authority. An agency that is not given sufficient authority and jurisdiction to perform its mission simply cannot be effective.

Each oversight model requires different combinations of base-level authority in order to effectively perform its mandated work. Investigation-focused models, for example, must have the ability to interview all witnesses, including officers, and obtain relevant evidence and documents for each investigation. Review-focused models must have the ability to address deficiencies and promote corrective action through mechanisms that make law enforcement executives accountable to concerns and issues raised.<sup>238</sup> Auditor/monitor-focused models must be able to identify matters of concern in sufficient detail by having comprehensive access to law enforcement records, data, and executives and the ability to effect change through robust reporting and meaningful cooperation.

In addition to varying in form, oversight's scope of authority can vary widely. A survey of 97 civilian oversight agencies conducted by NACOLE in 2016 found that each model of oversight had varying levels and combinations of authority to respond to civilian complaints.<sup>239</sup> Investigation-focused models more commonly reported having the authority to conduct independent investigations; classify and decide how complaints will be handled; conduct intake investigations; review completed police complaint investigations; and recommend and issue findings. In contrast, auditor/monitor-focused models tended to have broader levels of authority. This included the authority to review, audit, and monitor complaint investigations; refer investigations back to internal affairs for additional investigation; recommend investigative findings; conduct independent investigations; and recommend discipline.<sup>240</sup>

While there is no "best" oversight model for all contexts, stakeholders must ensure that an oversight agency's level of authority in relation to its core oversight functions permits the agency to successfully perform its duties to the greatest degree possible and without limitation.

Oversight stakeholders must determine the type of authority the agency will have over the many facets of its core duties. In addition, stakeholders will have to make decisions regarding their agency's authority in relation to elements and issues not typically associated with one particular oversight model. This may

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237. De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement: Assessing the Evidence*, 37; Attard and Olson, *Overview of Civilian Oversight of Law Enforcement in the United States*, 7.

238. Attard and Olson, *Overview of Civilian Oversight of Law Enforcement in the United States*, 7.

239. De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement: Assessing the Evidence*, Tables B9 and B10.

240. De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement: Assessing the Evidence*, 38.

include, for example, jurisdiction to handle complaints filed by members within the overseen law enforcement agency; authorization to address issues related to department policies and procedures; the agency's role in officer-involved shootings, serious uses of force, discipline, and training; and other matters.

When these decisions are made, the enabling legislation creating civilian oversight must clearly define the scope of an agency's jurisdiction and authority<sup>241</sup> in terms that do not leave room for conflicting interpretations. Barring any conflicts with established federal, state, or local law, the language defining an agency's authority should be sufficiently broad so as to allow for a reasonable degree of operational flexibility that permits an oversight agency to perform its work as intended and expected. Stakeholders should be prepared to resolve any issues regarding an agency's authority and amend oversight legislation as necessary.

### 3. Unfettered access to records and facilities

Unfettered access to the subject law enforcement agency's records is vitally important for effective civilian oversight.<sup>242</sup> The ability to review all records relevant to an investigation or other matters within the scope of a civilian oversight agency's authority in a timely manner is essential to providing effective, informed, and fact-driven oversight. Similarly, agencies performing correctional oversight must have unfettered access to facilities and staff. Without timely and reliable access to department records, information, and facilities, oversight practitioners and volunteers cannot make decisions that meaningfully address areas of concern.

Access to law enforcement records has historically been an issue for civilian oversight agencies. In addition to law enforcement's fears of increased scrutiny, state-level and municipal laws and law enforcement union labor agreements frequently prevent non-law enforcement actors from accessing personnel records and other relevant documentation.<sup>243</sup> At the time of this writing, 23 states maintained statutes or had language written into their contracts with police unions, commonly known as Law Enforcement Officers Bill of Rights (LEOBORs), exempting officer misconduct and disciplinary histories from public records law<sup>244</sup> or providing law enforcement officers with special due process rights regarding misconduct investigations.<sup>245</sup> Such laws and collective bargaining agreement provisions have often been invoked by law enforcement agencies seeking to prevent the creation of oversight or to withhold records and information from an agency, often resulting in protracted litigation.<sup>246</sup>

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241. Walker, "Core Principles for an Effective Police Auditor's Office," 4.

242. Walker, "Core Principles for an Effective Police Auditor's Office;" Police Assessment Resource Center, *Review of National Police Oversight Models for the Eugene Police Commission*; Attard and Olson, *Overview of Civilian Oversight of Law Enforcement in the United States*; King, "Effectively Implementing Civilian Oversight Boards."

243. King, "Effectively Implementing Civilian Oversight Boards," 114.

244. WNYC, "Is Police Misconduct a Secret in Your State?"

245. Keenan and Walker, "An Impediment to Police Accountability?"

246. Smiley, "Court Strikes Down Miami Watchdog Agency's Power;" Anderson, "ACLU Challenges FOP Lawsuit."

Despite this, civilian oversight agencies must work with stakeholders to develop ways within the law to secure timely and comprehensive access to law enforcement records necessary for performing their duties. Like an agency's jurisdiction and authority, specific language must clearly define access to all relevant records.<sup>247</sup>

## 4. Access to law enforcement executives and internal affairs staff

The effectiveness of civilian oversight can hinge on an agency's ability to effectively communicate with law enforcement officials regarding matters of concern identified in the course of the oversight agency's work. Whether to discuss policy, discipline, an individual misconduct investigation, or any other matter within the agency's purview, oversight must be structured so that the appropriate law enforcement officials are directly accessible and responsive to issues raised by the civilian oversight agency.<sup>248</sup> This sustained dialogue and communication between law enforcement and oversight stakeholders promotes cooperation and ensures that those involved can develop mutual understanding and support for each other's role in promoting greater accountability.

The accessibility and responsiveness of local law enforcement executives is particularly important when a civilian oversight agency is authorized to issue recommendations regarding policy, discipline, or investigations. Legislation establishing civilian oversight should require that law enforcement agencies provide timely, written, and public responses detailing why a particular recommendation was either accepted or rejected.<sup>249</sup> These responses are crucial to informing the public of how, if, and why or why not issues identified by the civilian oversight agency will be addressed.

## 5. Full cooperation

In addition to having access to relevant records and department executives, effective civilian oversight requires the full cooperation of all officers and department staff throughout the course of its work.<sup>250</sup> Full cooperation is necessary for conducting thorough investigations and obtaining sufficient information for any work performed by the civilian oversight agency. The conditions of such cooperation must respect due process rights and an individual's constitutional right against self-incrimination.

Cooperation with civilian oversight should be a condition of employment for all officers and staff within the agency's jurisdiction.<sup>251</sup> This can be achieved by working with law enforcement executives to establish departmental policy requiring all officers and staff to cooperate with oversight or risk disciplinary

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247. Walker, "Core Principles for an Effective Police Auditor's Office," 4.

248. Attard and Olson, *Overview of Civilian Oversight of Law Enforcement in the United States*, 7.

249. Attard and Olson, *Overview of Civilian Oversight of Law Enforcement in the United States*.

250. Walker, "Core Principles for an Effective Police Auditor's Office."

251. Walker, "Core Principles for an Effective Police Auditor's Office."

sanctions through the department's disciplinary process. If sustained cooperation still cannot be attained, local government officials should consider further measures, such as including cooperation requirements in the enabling legislation that establishes civilian oversight.

## 6. Sustained stakeholder support

Ongoing engagement with and support from stakeholders regarding local public safety and law enforcement-related issues is an important component of effectiveness. An otherwise well-designed civilian oversight mechanism can be undermined over time by a lack of meaningful support from those who can contribute to an agency's success.<sup>252</sup> This lack of support can take many forms, such as failing to provide the agency with adequate authority or resources, selecting ineffective managers or leaving board appointments vacant for prolonged periods of time, disregarding recommendations or findings, or remaining unwilling to address outstanding issues relating to the effective functioning of the civilian oversight agency. While establishing and supporting civilian oversight may be politically expedient in times of crisis, successful oversight requires the sustained support and interest of stakeholders who value independence, accountability, and transparency.<sup>253</sup>

An agency's ability to maintain stakeholder support may be a function of its outreach to those stakeholders. Maintaining productive relationships, even in times where disagreement and conflict may be unavoidable, will be crucial to future problem solving, cooperation, and collaboration on key issues.

## 7. Adequate funding and operational resources

Allocating sufficient resources to civilian oversight is a crucial determinant to effectiveness.<sup>254</sup> To ensure that oversight work performed is thorough, timely, and skillful, adequate resources are necessary. In several jurisdictions, budgetary and staffing constraints have presented significant barriers to civilian oversight's ability to perform critical oversight functions in a manner that is adequate, efficient, and meets the needs and expectations of community stakeholders.<sup>255</sup> Indeed, many civilian oversight agencies have failed due to insufficient resources.<sup>256</sup> Political stakeholders must ensure that their support for civilian oversight includes a sustained commitment to providing adequate and necessary resources. Providing adequate funding can signal a commitment to reform that may lead to greater cooperation from law enforcement executives and unions.<sup>257</sup>

252. Attard and Olson, *Overview of Civilian Oversight of Law Enforcement in the United States*, 7.

253. Attard and Olson, *Overview of Civilian Oversight of Law Enforcement in the United States*, 6.

254. Finn, *Citizen Review of Police*; Walker, "Core Principles for an Effective Police Auditor's Office;" Attard and Olson, *Overview of Civilian Oversight of Law Enforcement in the United States*; De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement: Assessing the Evidence*.

255. King, "Effectively Implementing Civilian Oversight Boards," 118; Olson, *Citizens Advisory/Review Board Spokane County Sheriff's Office Oversight Review*, 6.

256. Walker and Archbold, *The New World of Police Accountability*, 198.

257. Jones, "Chapter 5. Funding and Staffing," 62.

Similarly, civilian oversight agencies must have the resources to retain experienced professional staff, provide staff and volunteer board or commission members with adequate training on a regular basis, perform community outreach, and disseminate public reports and other outreach materials in order to be effective.

Budget and staffing needs can vary greatly based on oversight model, region, the types and number of law enforcement agencies overseen, and workload.<sup>258</sup> NACOLE's 2016 survey found that review-focused agencies, predominantly consisting of volunteer board or commission members, generally have much smaller budgets than investigation-focused or auditor/monitor-agencies.<sup>259</sup> Correspondingly, given the labor-intensiveness of misconduct investigations, investigation-focused agencies reported employing the greatest number of full-time staff.

## 8. Public reporting and transparency

Law enforcement agencies and their internal investigations have typically been shrouded in secrecy and public suspicion.<sup>260</sup> For an independent entity to bring transparency to this historically opaque process is a fundamental goal and component of civilian oversight. Civilian oversight provides a unique opportunity for the public to learn about misconduct complaints and other areas of the law enforcement agency that serves the community. As such, issuing regular public reports is critical to an agency's credibility.<sup>261</sup> Public reports should in no way be censored or modified by law enforcement or political stakeholders.<sup>262</sup> Such a practice may undermine public confidence in the agency's independence and ability to meaningfully address matters of interest to the community.

A civilian oversight agency should, at a minimum, issue one written report to the public each year.<sup>263</sup> Reports should be written in an accessible manner that allows the public to clearly understand the agency's authority, purpose, procedures, and accomplishments. In addition, they should include as much information related to the agency's mandate and operations as can be disclosed by law, including patterns and trends in complaints or discipline, the agency's recommendations and activities for the year, and issues that may be of concern to the public. Sufficiently resourced oversight agencies should seek to produce more frequent reports and, where appropriate, issue special reports on specific matters, such as the findings of a particular policy review, audit, or investigation.<sup>264</sup>

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258. De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement: Assessing the Evidence*, 41.

259. De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement: Assessing the Evidence*, 71, table B16.

260. Attard and Olson, *Overview of Civilian Oversight of Law Enforcement in the United States*, 10.

261. Jerome, "Chapter 3. Credibility, Impartiality, and Independence in Citizen Oversight," 38.

262. Walker, "Core Principles for an Effective Police Auditor's Office," 6.

263. Walker, "Core Principles for an Effective Police Auditor's Office."

264. Stewart, "Chapter 11. Community Outreach and Public Education in Citizen Oversight," 197.

## 9. Policy and patterns in practice analysis

Performing analyses of law enforcement policies and patterns in practice may be among the most critical functions a civilian oversight agency can perform.<sup>265</sup> Such analyses have great potential to advance the goals of effective civilian oversight by addressing systemic problems of law enforcement agencies and by formulating recommendations that will improve relations with communities. By performing data-driven and evidence-based analyses of specific issues, oversight agencies can pinpoint areas of concern and formulate recommendations for improvement. To hold the overseen law enforcement agency's executives accountable, timely, written responses to the oversight agency's recommendations should be required and made public.

While ensuring that individual incidents of misconduct are properly investigated and handled is a crucial tool for building public confidence, the ability to examine broader issues relating to policy, training, discipline, and supervision may promote long-term organizational change that can improve community relations and deter future misconduct, civil rights violations, and legal liability.<sup>266</sup> Contemporary civilian oversight increasingly embraces this potential, as jurisdictions increasingly develop hybrid models of oversight combining policy-related functions with the traditional functions of performing independent investigations and reviewing completed internal investigations.<sup>267</sup>

A civilian oversight agency's ability to effectively analyze policies, patterns, and trends will be a function of its authority, resources and staffing, and ability to access law enforcement data and records. Because resources are limited and the breadth of potential issues is wide, decisions regarding where to divert attention and resources must be made strategically and with the input and support of oversight stakeholders.<sup>268</sup> When possible, oversight practitioners should follow-up on recommendations accepted by the overseen law enforcement agency and monitor the effects of their implementation.

## 10. Community outreach

In many cases, civilian oversight is established amid community calls for greater accountability following a high-profile incident involving local law enforcement.<sup>269</sup> A civilian oversight body is an institution representing the interests of the local community; conducting outreach to the community and local stakeholders is essential to its effectiveness.<sup>270</sup>

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265. Walker and Archbold, *The New World of Police Accountability*.

266. Attard and Olson, *Overview of Civilian Oversight of Law Enforcement in the United States*, 7; Walker and Archbold, *The New World of Police Accountability*, 178–85; Ofer, "Getting It Right," 1048–1049.

267. Alpert et al., "Citizen Oversight in the United States and Canada: Applying Outcome Measures and Evidence-Based Concepts;" De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement: Assessing the Evidence*, 22.

268. Attard and Olson, *Overview of Civilian Oversight of Law Enforcement in the United States*, 7.

269. De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement: Assessing the Evidence*, 34.

270. Walker, *Police Accountability: The Role of Citizen Oversight*; De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement: Assessing the Evidence*, 42–43.

Outreach enables an oversight agency to build awareness of its existence, share reports and findings with the public, build relationships with stakeholders, recruit volunteers, solicit community input and involvement, facilitate learning and greater understanding, broker improved relationships, build coalitions, and develop a greater capacity for problem-solving.<sup>271</sup> These functions are crucial to an agency's transparency, credibility, responsiveness, accountability, accessibility, and overall ability to successfully maintain public support and legitimacy.<sup>272</sup>

Effective community outreach requires identifying and targeting groups and populations for outreach activities. These groups may include community and criminal justice organizations, neighborhood associations, residents of areas that file high numbers of complaints, youth groups, religious organizations, immigrant communities, healthcare providers, and the homeless community.<sup>273</sup> Outreach efforts should also target groups within the overseen law enforcement agencies, their unions, city attorneys and prosecutors, policy-makers, relevant municipal agencies, and local government officials.<sup>274</sup>

## 11. Community involvement

Effective civilian oversight requires community involvement.<sup>275</sup> Community and stakeholder input regarding how civilian oversight should function and which accountability issues it should address will result in the creation of a "best fit" oversight system that can meet community needs and expectations. Without sufficient involvement of those most interested in and impacted by local issues regarding law enforcement, it is unlikely that civilian oversight will be able to successfully accomplish its goals.<sup>276</sup>

When establishing civilian oversight, stakeholders must work to determine the appropriate degree of initial and ongoing community involvement in the oversight agency's work. Including community members in the process can take a variety of forms, depending on how the oversight system is ultimately structured. Review-focused models typically rely on local volunteers to perform the essential work of reviewing internal investigations. Some investigation-focused models are governed by boards composed of community members that direct the work of the agency's professional staff. Some auditor/monitor-focused models have community advisory boards that can provide input and feedback on the work being performed. In all cases, community involvement should represent the local population's composition and diversity.

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271. Stewart, "Chapter 11. Community Outreach and Public Education in Citizen Oversight," 149–151.

272. Stewart, "Chapter 11. Community Outreach and Public Education in Citizen Oversight;" Attard and Olson, *Overview of Civilian Oversight of Law Enforcement in the United States*.

273. De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement: Assessing the Evidence*, 73.

274. Stewart, "Chapter 12. What to Expect of Outreach: Different Strategies for Different Stakeholders."

275. Walker, "Core Principles for an Effective Police Auditor's Office;" Attard and Olson, *Overview of Civilian Oversight of Law Enforcement in the United States*; King, "Effectively Implementing Civilian Oversight Boards;" De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement: Assessing the Evidence*.

276. McDevitt, Farrell, and Andresen, *Enhancing Citizen Participation*, 7–8; De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement: Assessing the Evidence*, 43–44.

## 12. Confidentiality, anonymity, and protection from retaliation

Effective civilian oversight must function with the same integrity, professionalism, and ethical standards it expects from and promotes for law enforcement. Stakeholders and the community must remain confident that civilian oversight will protect sensitive information as well as those who disclose it. An oversight agency cannot maintain credibility, legitimacy, and public trust if it does not or cannot respect confidentiality agreements, maintain the anonymity of those who wish to share information anonymously, and work towards creating an environment where those involved with or contacting the oversight agency can do so without fear of retaliation or retribution.

As previously mentioned, several states have laws preventing the public disclosure of certain types of information relating to public employees in general or law enforcement specifically. Personal identifiers and specific information that may be covered by such statutes must be removed or redacted before disclosing any information that is published in the name of public interest.<sup>277</sup> In order to be effective, civilian oversight must be able to act upon and publish information that is in the public interest without fear of retribution.

Similarly, jurisdictions must ensure that enabling legislation provides adequate protections for those who would like to file complaints or come forward with information that may be of interest to the oversight agency. If legal in the jurisdiction, individuals should be able to file complaints anonymously. In addition, law enforcement agencies should maintain policies explicitly prohibiting retaliation against civilian oversight agency employees or any person in contact with the civilian oversight agency. If retaliation is discovered, appropriate discipline should be applied. A fear of retaliation can have a chilling effect on those interested in disclosing misconduct or participating in an investigation.<sup>278</sup>

## 13. Procedural justice and legitimacy

Procedural justice and legitimacy should serve as core principles guiding the work and processes of effective civilian oversight. Rooted in behavioral psychology, procedural justice typically centers on *how* authority is exercised. For entities whose authority is established by law, the recognition of their right to that authority and perceptions of how fairly that authority is exercised are crucial components of legitimacy.<sup>279</sup>

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277. Walker, "Core Principles for an Effective Police Auditor's Office."

278. Walker, "Core Principles for an Effective Police Auditor's Office," 7; McDevitt, Farrell, and Andresen, *Enhancing Citizen Participation*, 72–73.

279. Sunshine and Tyler, "The Role of Procedural Justice;" Jackson et al., "Why Do People Comply with the Law?;" Mazerolle et al., *Procedural Justice and Legitimacy in Policing*.

While there are slight variations in how procedural justice is defined, the literature typically focuses on four key elements:<sup>280</sup>

1. Participation. Individuals find themselves more satisfied with procedures that give them a voice and the ability to participate by allowing them to communicate their views about situations.<sup>281</sup>
2. Neutrality. Objectivity and neutrality in decision making, as opposed to decision making stemming from personal bias or interest, increase perceptions of fairness and objectivity.<sup>282</sup>
3. Dignity and respect. Treatment that is dignified, respectful, and recognizes an individual's rights is strongly tied to perceptions of fairness and legitimacy.<sup>283</sup>
4. Trust. Procedures are more likely to be perceived as fair if people feel that decision makers care about people's well-being and concerns and explain their decisions in ways that account for people's needs.<sup>284</sup>

Taken together, these four elements of procedural justice constitute the basis of providing effective civilian oversight that is deemed legitimate by both the community served and the overseen law enforcement agency.

Research has shown that procedurally just interactions between law enforcement and the community positively impact the public's compliance with laws<sup>285</sup> and willingness to assist in crime control efforts.<sup>286</sup> The literature has also shown that officer perceptions of a procedurally just work environment is associated with reduced misconduct and corruption,<sup>287</sup> as well as greater endorsement of policing reforms, reduced mistrust and cynicism with the community, willingness to obey supervisors, and increased officer well-being.<sup>288</sup> Though the literature on procedural justice and civilian oversight is relatively sparse, there is research supporting the notion that procedurally just complaint processes—where complainants report being satisfied with the quality of communication and the process<sup>289</sup>—increase complainant satisfaction.<sup>290</sup>

Successful civilian oversight leverages the principles of procedural justice to bolster the civilian oversight agency's legitimacy with the community. An agency's interactions with the public should prioritize listening to community concerns, communicating throughout the complaint process, and thoroughly explaining outcomes. Although an external process, civilian oversight and the complaint process may still, at times, be perceived by members of the community as adversarial. Such feelings may be addressed through respectful communication that depicts processes that are timely, fair, neutral, and thorough.<sup>291</sup>

280. National Research Council, *Fairness and Effectiveness in Policing*, 304; Mazerolle et al., *Procedural Justice and Legitimacy in Policing*, 2–3.

281. Tyler, Goff, and MacCoun, "The Impact of Psychological Science on Policing in the United States."

282. National Research Council, *Fairness and Effectiveness in Policing*, 304.

283. Tyler, Goff, and MacCoun, "The Impact of Psychological Science on Policing in the United States," 85–86.

284. National Research Council, *Fairness and Effectiveness in Policing*, 304.

285. Sunshine and Tyler, "The Role of Procedural Justice."

286. Murphy, Hinds, and Fleming, "Encouraging Public Cooperation and Support for Police."

287. Wolfe and Piquero, "Organizational Justice and Police Misconduct."

288. Trinkner, Tyler, and Goff, "Justice from Within."

289. De Angelis, "Assessing the Impact of Oversight."

290. Worden, Bonner, and McLean, "Procedural Justice and Citizen Review of Complaints Against the Police."

291. De Angelis and Kupchik, "Citizen Oversight, Procedural Justice, and Officer Perceptions."

It is equally crucial that civilian oversight establish legitimacy with law enforcement and law enforcement unions by operating in accordance with the principles of procedural justice. As previously mentioned, officers who perceive their work environment to be unfair and procedurally unjust are more inclined to engage in misconduct, adhere to a code of silence,<sup>292</sup> and use force,<sup>293</sup> in addition to being less likely to support policing reforms and community policing.<sup>294</sup> Those involved in oversight must therefore recognize that the creation of civilian oversight in a jurisdiction entails a considerable change in the work and organizational climate of law enforcement officers—one that is often received with uncertainty, skepticism, and hostility. Effective civilian oversight must work to overcome an “us versus them” mindset by proceeding with respect, trustworthy and unbiased motives, genuine interest in the concerns of law enforcement, and clear communication of the processes and decisions pursuant to the oversight agency’s official duties. By exercising its authority fairly, civilian oversight can increase its legitimacy and the likelihood of successful, collaborative efforts with law enforcement.

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292. Wolfe and Piquero, “Organizational Justice and Police Misconduct.”

293. Trinkner, Tyler, and Goff, “Justice from Within.”

294. Trinkner, Tyler, and Goff, “Justice from Within.”

# 3. Recommendations for Effective Practices

The remainder of this report focuses on certain key areas in civilian oversight and issues recommendations for practitioners to consider in their own work. Each recommendation focuses on strengthening an agency's practices in relation to the thirteen principles for effective civilian oversight and includes a brief commentary with additional information, resources, and examples from the field. While the authors of this report have attempted to develop an extensive list of effective practices for civilian oversight, this list should not be considered exhaustive. This report focuses largely on addressing topics that have come up as recurring themes or concerns identified by practitioners and stakeholders throughout the course of this research.

The recommendations for effective practices, described in this section, are meant to offer guidance, not concrete solutions. As discussed earlier, the challenges associated with civilian oversight can rarely be boiled down to technical problems with technical solutions. Oversight practitioners must consider each recommendation with a mindset oriented towards a "best fit" approach, and consider the following questions with all relevant stakeholders before implementing a particular practice:

1. *Is this practice an appropriate fit for our local context?*

Not all recommended practices will be appropriate for every jurisdiction or oversight system. Oversight practitioners must carefully discuss recommendations under consideration with local stakeholders and gather feedback concerning each recommendation. In particular, stakeholders and community members should fully understand what a particular recommendation seeks to accomplish and how it can be implemented within their local context.

2. *How will this practice strengthen civilian oversight in relation to the thirteen principles for effective oversight?*

Before establishing or making revisions to an existing civilian oversight system, stakeholders must evaluate the strengths and weaknesses in relation to the thirteen principles of effectiveness. While each recommendation is framed in a way that focuses on satisfying or maximizing a particular principle, stakeholders should consider whether adopting a particular recommendation will achieve its intended outcome in their jurisdiction. Implementing one recommendation that strengthens a principle may not sufficiently address a particular weakness or other related shortcomings of the agency. Additional changes may be necessary to achieve the civilian oversight agency's goals.

When revising an existing civilian oversight system, stakeholders should focus on evaluating contemplated changes with a particular emphasis on strengthening the independence and legitimacy of the agency. These two principles are the cornerstone of effective civilian oversight, which help maintain public trust and confidence in its work.

3. *What are the potential unintended consequences of implementing this practice?*

Stakeholders should consider and discuss the potential unintended consequences associated with a particular practice. While a practice may strengthen the oversight system in one area, some may have the unintended consequence of undermining the oversight system in another. For example, the implementation of certain practices could have significant impacts on the existing or proposed resources of the agency.

When considering a particular practice, oversight practitioners should ensure that the new practice can be implemented sustainably. This requires ensuring that the agency will have the sustained and enduring resources, staff, cooperation, and political support necessary to continue a practice into the future. An agency unable to deliver a level or type of service that it once did risks losing public confidence and legitimacy.

## Complaint process

### Filing and receiving complaints

#### Submission of complaints

**Recommendation:** There should be several alternative modes for filing a complaint and the process should be as easy and accessible as possible.

**Commentary:** Complaints should be accepted in person, online, by phone, fax, mail, and at designated drop-off locations throughout the jurisdiction. Complaint forms and brochures should be available in several locations, including police stations, government buildings, detention centers, courts, public libraries, schools, community centers, nonprofit organizations, and other relevant locations. Oversight agencies should leverage their connections with the community to establish locations and procedures for receiving complaints and forwarding them to oversight staff. Complaint forms should be available in a format that can be easily mailed and include prepaid postage.

If possible, a civilian oversight agency should operate on extended hours at least one day per week to accommodate complainants who may not be able to file a complaint in-person during regular business hours.

Oversight agencies should maintain a complaint hotline allowing complainants to speak with intake personnel during regular business hours or to leave a voicemail for those calling after business hours. If an agency performs oversight of correctional facilities, direct, toll-free hotlines should be made available to incarcerated individuals looking to file a complaint.

When possible, if an oversight agency conducts community outreach in a location where complaints are anticipated, staff from the oversight or law enforcement agency (internal affairs) should be available to accept complaints for processing.

## Barrier-free complaint process

**Recommendation:** Members of the public, including adjudicated, pre-adjudicated, and incarcerated individuals, should not be discouraged, dissuaded, burdened, or otherwise threatened or intimidated by the complaint process or when filing a complaint. Unless required by state law, the complaint process should not require individuals to notarize a complaint, sign an affidavit, or issue statements under penalty of perjury, nor should it threaten potential prosecution for false statements. In addition, while it may be appropriate to look at current criminal charges as they relate to the complaint, reviewing an individual's criminal history or performing warrant or immigration checks should not be tolerated.

**Commentary:** One of the core functions of civilian oversight is to bolster public confidence in the handling of complaints alleging misconduct by law enforcement officers. Filing a complaint is often an emotional endeavor because members of the public expect fairness and professionalism from those sworn to protect them and their community.<sup>295</sup>

Any element of the complaint process that burdens or threatens members of the public can prevent people from coming forth with legitimate concerns.<sup>296</sup> Undue burdens or requirements that may dissuade complainants can also bring the motives and legitimacy of the civilian oversight agency into question. A complaint process that in any way discourages individuals to come forward reduces the oversight agency's ability to identify broader patterns and trends in activity that may be in the public interest.

The U.S. Department of Justice (DOJ) Civil Rights Division's investigation into the Chicago Police Department found that a police union contract provision requiring complainants to sign sworn affidavits created a "tremendous disincentive" to individuals looking to come forward with legitimate claims.<sup>297</sup> The investigation revealed that the Independent Police Review Authority and the Chicago Police Department's Bureau of Internal Affairs closed roughly 40 percent of all complaints filed due to a lack of signed, sworn affidavits.<sup>298</sup> The DOJ investigation further noted that any provisions requiring the disclosure of a complainant's name to an officer under investigation has a significant chilling effect without any discernable benefit.<sup>299</sup>

The Seattle Police Department maintains a strong policy affirming the duty of employees to assist any individual who wishes to file a complaint.<sup>300</sup> The policy prohibits behavior that may discourage, interfere with, hinder, or obstruct any person from filing a complaint. The policy also explicitly prohibits

295. Wechter, Jayson, *Investigating Civilian Complaints Is Different*, 3.

296. Attard and Olson, *Police Misconduct Complaint Investigations Manual*, 7.

297. Civil Rights Division and U.S. Attorney's Office N.D. Ill., *Investigation of the Chicago Police Department*, 50.

298. Civil Rights Division and U.S. Attorney's Office N.D. Ill., *Investigation of the Chicago Police Department*.

299. Civil Rights Division and U.S. Attorney's Office N.D. Ill., *Investigation of the Chicago Police Department*, 51.

300. Seattle Police Department, "5.002 (Responsibilities of Employees Concerning Alleged Policy Violations)."

retaliation, discouragement, coercion, or undertaking any adverse action against any person who files a complaint; opposes any practice reasonably believed to be unlawful or in violation of department policy; files a whistle-blower claim; or engages in otherwise lawful behavior.

## Anonymous complaints

**Recommendation:** Unless prohibited by law, the complaint process should allow for the anonymous filing of complaints. Complaint forms and brochures should make clear that complaints can be submitted anonymously and that providing any identifying information is optional.

**Commentary:** Accepting anonymous complaints is crucial to giving complainants who fear retaliation or retribution or wish to remain private the opportunity to report an incident of alleged misconduct to an oversight agency. If legally permitted, anonymous complaints should be investigated and adjudicated in the same manner as those filed by a named complainant, including allowing for appropriate discipline when an investigation sustains a misconduct allegation. Oversight agencies accepting anonymous complaints should make clear that the narrative portion of the complaint should be as thorough and complete as possible. Because investigators will not have identifying information to follow-up and interview a complainant, it should be noted that anonymous complaints may make thorough misconduct investigations difficult.

Requiring identifying information for complaints to be processed may prevent the civilian oversight agency from learning about an incident of which it should be aware. The DOJ Civil Rights Division's investigation into the Chicago Police Department noted that prohibiting anonymous complaints presented a significant obstacle to addressing misconduct due to civilians' significant fear of police retaliation.<sup>301</sup> Prohibiting anonymous complaints may similarly discourage officers from reporting misconduct by fellow officers.

Accepting anonymous complaints is a fairly common practice in civilian oversight. According to the Civilian Oversight Agency Database (COAD) survey conducted by NACOLE, 72 percent of 58 responding oversight agencies reported their jurisdictions permitted anonymous complaints.

## Third-party complaints

**Recommendation:** If permitted by law, the complaint process should allow those who have witnessed or have sufficient knowledge of an incident of alleged misconduct to file a complaint.

**Commentary:** There may be times where a civilian who may have experienced misconduct is unaware of the complaint process or unable, for any reason, to file a complaint. The complaint process should therefore be open to individuals who have witnessed or have sufficient knowledge of an incident of alleged misconduct to file a complaint. Such third-party complaints may be particularly important for individuals who are disabled, not proficient in English (where the agency cannot accommodate non-English complainants), pre-trial detainees, or incarcerated individuals.

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301. Civil Rights Division and U.S. Attorney's Office N.D. Ill., *Investigation of the Chicago Police Department*, 52.

Intake staff must ensure that third-party complainants have sufficiently direct knowledge of the incident being reported. While an agency should accept complaints from as many sources as possible, guidelines must be put in place to prevent the filing of spurious complaints and to conduct a preliminary investigation in order to establish the complaint's validity. These guidelines should also cover how an agency will handle high-publicity misconduct incidents where a complaint has not been filed by the individual(s) directly involved or a third-party, but there is sufficient documentation (such as viral bystander video or media reports) to initiate an investigation in the name of the public interest.

The Police Auditor in Eugene, Oregon, for example, is explicitly authorized to accept complaints from third parties "with a reasonably direct knowledge of the incident."<sup>302</sup> In San Jose, California, both the Independent Police Auditor and the police department accept complaints from members of the community "even if they do not have a direct connection to the incidents or persons involved."<sup>303</sup>

Accepting third-party complaints is also a relatively common practice within the internal affairs units of police department themselves. The police departments of Atlanta, Boston, Chicago, Detroit, Houston, Los Angeles (police department and county sheriff), Philadelphia, Phoenix, and Washington, D.C., all accept complaints filed by third parties.<sup>304</sup>

## Internal complaints

**Recommendation:** A civilian oversight agency's complaint jurisdiction should cover internal complaints—those filed by officers or deputies within the overseen law enforcement agency—to provide law enforcement officers with a neutral and independent outlet for reporting both officer misconduct and alleged retaliation for reporting misconduct.

**Commentary:** The authority to receive, investigate, monitor, audit, or review internal complaints allow civilian oversight agencies to ensure fairness *within* the overseen law enforcement agency. Providing law enforcement officers with an independent outlet to address misconduct complaints, allege retaliation for reporting misconduct, or to cooperate with a misconduct investigation can help the oversight agency gain legitimacy externally and promote procedural justice within law enforcement organizations.

In Denver, Colorado, the Office of the Independent Monitor may receive and monitor open internal investigations, including those complaints filed by sworn Denver Police Department and Denver Sheriff Department personnel.<sup>305</sup>

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302. Police Auditor and Civilian Review Board, *Civilian Oversight Protocols*, 1.

303. OIPA, *2017 IPA Year End Report*, 15.

304. COPS Office, *Standards and Guidelines for Internal Affairs*, 61–76.

305. Denver Revised Municipal Code Art. XVIII § 2-374.

The New Orleans Office of the Independent Police Monitor is authorized to receive complaints from sworn officers and staff of the New Orleans Police Department (NOPD). It has conducted a review of internal and civilian complaints alleging retaliation or fear of retaliation after reporting misconduct or cooperating with misconduct investigations, which led to several policy and training recommendations concerning retaliation against those who filed complaints both internally or externally.<sup>306</sup>

## Accessibility for non-English speakers and persons with disabilities

**Recommendation:** Oversight agencies should, to the best of their ability, accommodate all languages spoken by significant portions of the community. Brochures and complaint forms should be made available in these languages so as to make the complaint process as accessible to the community as reasonably possible. Both the oversight body and the law enforcement agency should maintain compliance with federal Limited English Proficiency (LEP) laws to ensure language barriers are not a deterrent to filing a complaint.

**Commentary:** Oversight agencies should seek to develop ways to accommodate complaints from as many segments of the local population as possible. Because American cities are becoming increasingly multicultural, agencies should evaluate their LEP needs on a regular basis and maintain staff or interpreters who are familiar with local cultures and can communicate in the region's most commonly spoken languages.

Many civilian oversight agencies have worked to translate their complaint forms into languages typically spoken by large portions of the local community. The Police Review and Advisory Board in Cambridge, Massachusetts, for example, makes complaint forms available in English, Spanish, Creole, and Portuguese.

In New York City, the Civilian Complaint Review Board has developed a Language Access Plan to allow the agency to accommodate non-English speaking members of the community.<sup>307</sup> To accommodate complainants who are not proficient in English, the CCRB will assign an investigator fluent in that person's native language. In instances where no one at the CCRB speaks the complainant's language, it will contact a member of the city's volunteer language bank to act as an interpreter. If the city's volunteer language bank does not include a speaker of the language, the CCRB will contract with a vendor to provide translation and interpretation services.<sup>308</sup>

## Case management

### Complaint triage and alternatives to formal investigation

**Recommendation:** Civilian oversight agencies with jurisdiction over complaints should develop clear protocols for how complaints are to be handled following a preliminary investigation. When formal investigation or mediation of low-level allegations is expected to require a significant commitment of resources and is unlikely to produce beneficial outcomes, alternative methods should be considered.

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306. Hutson, "RE: OIPM # 2012-850; NOPD Retaliation Policy, Pattern and Practice."

307. CCRB, *Language Access Policy and Implementation Plan*.

308. CCRB, *Language Access Policy and Implementation Plan*, 4.

**Commentary:** If a preliminary investigation reveals a low-level allegation that may not rise to the level of formal misconduct, or if a complaint is unlikely to be successfully mediated, oversight agencies should work with the subject law enforcement agency to develop alternative means of handling the complaint. Complaints, even if they are unlikely to be sustained following a formal investigation, offer valuable information that can be used to improve policy as well as officer behavior, training, and tactics. For complainants, communicating the reasons for the investigation alternative and learning that something was done to prevent similar future incidents may be a more satisfying outcome than having what is perceived to be misconduct result in a not-sustained finding. Utilizing alternatives to investigation can result in significant resource savings but should not be used in lieu of a formal investigation when one is merited.

In Washington, D.C., the Office of Police Complaints (OPC) has two alternatives to formal investigation at its disposal: referral to policy retraining and rapid resolution. During complaint triage, OPC may refer the subject officers to complete policy training or retraining relevant to the incident that gave rise to the complaint.<sup>309</sup> The Metropolitan Police Department and D.C. Housing Authority Police Department are required to notify the executive director when subject officers have completed the appropriate training.<sup>310</sup> Rapid resolution referrals may entail directing the subject officers' supervisors to explain relevant departmental policies and procedures to the complainant or discuss the complaint with the subject officers.<sup>311</sup> When referring a complaint to rapid resolution, the OPC will provide a written rationale for its referral.<sup>312</sup>

## Handling complaints alleging potentially criminal conduct

**Recommendation:** Upon receiving a complaint, oversight staff should evaluate whether it has jurisdiction over the complaint and whether the complaint should also be referred to either a law enforcement agency or a prosecutor. Protocols should be established for referring complaints alleging potential criminal misconduct and for when an administrative investigation should be stayed during a pending criminal investigation.

**Commentary:** An oversight agency should develop protocols to evaluate how a complaint alleging misconduct by a law enforcement officer should initially be handled.

If a complaint alleges misconduct that is clearly an administrative matter, the oversight agency should confirm that the complaint is within the oversight agency's jurisdiction and, if so, proceed with a preliminary investigation to determine the most appropriate way for the complaint to be resolved. A complaint may be handled through a formal investigation, mediation (if available), an alternative method of resolution, or may be dismissed if it is determined to have no merit.

When a complaint alleges potential criminal misconduct, the case should be referred to the appropriate entity, usually the overseen law enforcement agency's internal affairs division or the district attorney, to determine whether the case will be criminally prosecuted. In some cases, the decision to refer may require a preliminary investigation of the facts.

309. Office of Police Complaints Regulations § 2112-2113.

310. District of Columbia Code § 5-1107(h-1).

311. OPC, *2017 Annual Report*, 7.

312. Office of Police Complaints Regulations § 2113.2.

If the prosecutorial entity declines to prosecute the case, the agency should proceed with its administrative investigation to determine if the facts alleged involve a violation of the law enforcement agency's policies, procedures, or training.<sup>313</sup> If the prosecuting entity proceeds with a criminal investigation, the oversight agency must decide whether to stay the administrative investigation until the criminal investigation is complete or conduct a parallel investigation.

The decision to either stay an investigation until the criminal process has been completed or proceed with a parallel investigation requires the careful balancing of the pros and cons of the decision for each particular case. Waiting until a criminal case has been resolved may significantly delay an administrative investigation, which can delay discipline or an officer's exoneration. Witnesses may also become unavailable and their statements less credible as time passes. Similarly, delaying an administrative investigation may frustrate members of the community who would like to see a high-profile case resolved. If an agency proceeds with a parallel investigation, great care must be taken to not violate an officer's constitutional rights and compel an officer's statement that may put the concurrent criminal case at risk.<sup>314</sup>

## Referring complaints to mediation

**Recommendation:** The seriousness of a complaint and likelihood of a successful mediation outcome should determine whether an individual complaint will be referred to mediation.

**Commentary:** Alternative dispute resolution or mediation programs are becoming increasingly prevalent in the field of civilian oversight.<sup>315</sup> Mediation programs can overcome some of the limitations associated with traditional misconduct investigations, such as difficult to prove (or disprove) allegations or miscommunication or misunderstanding between officers and complainants.<sup>316</sup>

A civilian oversight agency that is establishing a mediation program should seek input from community members and law enforcement regarding the mediation process and the types of complaints that should be eligible for mediation. In addition, the agency should confer with similar oversight agencies with established mediation programs in other jurisdictions. Generally, non-serious complaints such as those alleging discourtesy, lack of professionalism, or neglect of duty are most appropriate for mediation. More serious allegations such as serious uses of force, unlawful searches, or anything involving potential criminal conduct should not be referred to mediation. Furthermore, there may be instances where a preliminary investigation into a particular allegation reveals other forms of misconduct that may be suitable for mediation.

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313. COPS Office, *Standards and Guidelines for Internal Affairs*, 23.

314. COPS Office, *Standards and Guidelines for Internal Affairs*, 25.

315. De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement: Assessing the Evidence*, 47–48.

316. Attard and Olson, *Overview of Civilian Oversight of Law Enforcement in the United States*, 10.

There is little consensus regarding the propriety of mediating complaints that are more sensitive in nature, such as those involving racial or ethnic profiling or bias.<sup>317</sup> Because allegations of racial bias are traditionally difficult to prove and sustain through an individual misconduct investigation, some jurisdictions, such as the Los Angeles Police Department, have developed mediation programs to address complaints of biased policing.<sup>318</sup> In other jurisdictions, such as San Francisco, complaints involving racial or sexual slurs are not eligible for mediation.<sup>319</sup> Among the several arguments against mediating such complaints are that mediations may perpetuate the uneven power relations between law enforcement and historically marginalized groups.<sup>320</sup>

In addition to the seriousness of the allegations, the potential for a successful mediation should be considered. If the subject officers have received several complaints regarding similar conduct or has failed to participate in past mediations in good faith, the complaint should not be referred to mediation. Similarly, if a complainant is known to the oversight agency as having been particularly adversarial to the process in the past, the complaint should not be referred to mediation. A mediation session is unlikely to be successful if one or both parties are not committed to a productive mediation. Furthermore, if the subject officers have repeatedly exhibited similar problematic behavior in the past—even if the conduct is relatively low level—the agency should consider discussing the matter with their supervisors.

## Communication with complainants

### Status updates

**Recommendation:** The complaint process is more likely to be perceived as fair and transparent if complainants receive regular updates regarding their complaint and can obtain status updates at any time.

**Commentary:** Research has shown that complainants perceive the complaint process to be fairer when they are satisfied with the level of communication regarding the status of their complaint.<sup>321</sup> Indeed, the timeliness and quality of communication is a strong predictor of overall satisfaction with the complaint process, regardless of the outcome of the complaint.<sup>322</sup>

Effective communication and dignified treatment are crucial elements of procedural justice. A civilian oversight agency that leverages procedural justice as a guiding principle will be better positioned to maintain public confidence and trust. Individuals generally file complaints against law enforcement personnel when they believe their rights or dignity have been violated by someone who was sworn to protect them and behave in a professional manner.<sup>323</sup> Communicating with complainants by providing status updates

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317. Walker, Archbold, and Herbst, *Mediating Citizen Complaints against Police Officers*; Hagan, "Types of Complaints Eligible for Police Mediation."

318. LAPD, *2016 Biased Policing and Mediation Update—Annual Report*.

319. Office of Citizen Complaints, *Mediation Program Report to the San Francisco Police Commission*, Attachment B.

320. Walker, Archbold, and Herbst, *Mediating Citizen Complaints against Police Officers*, 20.

321. De Angelis and Kupchik, "Citizen Oversight, Procedural Justice, and Officer Perceptions."

322. De Angelis and Kupchik, "Citizen Oversight, Procedural Justice, and Officer Perceptions," 668.

323. Wechter, Jayson, *Investigating Civilian Complaints Is Different*.

throughout the process is one way that civilian oversight agencies can assure members of the public that they are handling their complaints seriously and actively. Civilian oversight agencies, therefore, should inform complainants of the status of their case at regular intervals.<sup>324</sup>

The City Auditor's Independent Police Review in Portland, Oregon, maintains an online portal where those who have filed complaints of misconduct can request the status of their complaint by providing their name and other information, such as their case number or the investigator with whom they spoke.<sup>325</sup> The Civilian Complaint Review Board in New York City also allows complainants to check the status of their complaint online by entering their case number.<sup>326</sup> Status updates can be obtained within 25 hours of the complaint being filed and remain available online for up to three years. The case status portal does not reveal the identities of complainants, officers, or witnesses.

## Closeout meetings

**Recommendation:** Once a complaint has been adjudicated or after a disciplinary decision has been made, the civilian oversight agency should invite complainants to an in-person closeout meeting.

**Commentary:** When a case has been investigated and adjudicated, complainants should be notified of the findings and outcome of their case. If the law permits the disclosure of sufficient information regarding the case, complainants should be invited to participate in a closeout meeting where they can receive an overview of information relevant to their case disposition. Closeout meetings allow the oversight agency to describe the investigative process, explain how and why decisions were made, and demonstrate that the complaint was resolved neutrally and impartially. In turn, this promotes legitimacy and public confidence in the oversight process. Closeout meetings furthermore provide the oversight agency with an opportunity to collect information regarding how complainants feel about the complaint process as a whole.

In 2018, the Office of the Police Monitor (now the Office of Police Oversight, or OPO) and local stakeholders in Austin, Texas, convened a police oversight advisory working group to develop recommendations that would improve the effectiveness, transparency, and efficiency of civilian oversight of the Austin Police Department (APD).<sup>327</sup> A complainant-focused review of Austin's complaint process revealed dissatisfaction with the monitor's lack of transparency and failure to communicate explanations for case dispositions following the APD's internal investigation. The working group recommended that complainants be invited to a closeout meeting, regardless of the complaint outcome, and receive as much information about the investigation as legally possible.<sup>328</sup>

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324. Attard and Olson, *Police Misconduct Complaint Investigations Manual*, 20.

325. City of Portland, "IPR Complaint Status Request Form."

326. CCRB, "Complaint Status Lookup."

327. Office of the Police Monitor, *Police Oversight Advisory Working Group Recommendations*.

328. Office of the Police Monitor, *Police Oversight Advisory Working Group Recommendations*, 9.

The authority to hold closeout meetings was included in the subsequent union contract with the Austin Police Association, which established Austin's OPO.<sup>329</sup> Complainants are invited to meet with the OPO director, a complaint specialist, an internal affairs officer out of uniform, and a translator (if required) to discuss the process and outcome. When complainants are invited, the OPO sets expectations about what can and cannot be discussed during the meeting. At the conclusion of the meeting, the OPO gives complainants a feedback survey to complete, asking about their experience with the complaint process.

## Complaint process and mediation feedback surveys

**Recommendation:** When a complaint has been mediated, or when an investigation has been completed and adjudicated, the civilian oversight agency should invite complainants and officers to complete a survey about their experience and provide feedback regarding the complaint and mediation processes.

**Commentary:** Complainant and subject officer feedback can be a useful source of information for evaluating and improving an agency's handling of complaints. Distributing surveys to involved parties allows civilian oversight agencies to gauge perceptions and stakeholder satisfaction with their work.

Soliciting feedback promotes procedural justice by giving the community and law enforcement an opportunity to feel heard and to describe their overall experience with the process. At the same time, the agency demonstrates its willingness to learn from and understand both the complainant's and officer's experiences, thereby enhancing their trust and confidence in the agency's commitment to providing a quality service.

Surveys should capture complainant and officer demographics, complaint allegations, perceptions regarding the ease and fairness of the process, the overall satisfaction of involved parties, and a narrative section for involved parties to provide additional written feedback.

The information collected can be used to make modifications and improvements to the oversight agency's processes that can increase satisfaction in the future. In addition, aggregated data from complainant and officer surveys can be reported on a regular basis as one component of assessing the overall performance of the oversight agency.<sup>330</sup>

Surveys should, to the greatest possible extent, avoid asking directly for identifying information. When the findings of an investigation have been communicated to each party, they should be invited to complete a survey online or by mail with prepaid postage. When a mediation has been completed, survey forms should be distributed and involved parties should have the option to either complete it on the spot or to mail it anonymously at a later date. Efforts should be made to maximize response rates by making surveys as easy to complete and submit as possible.

329. Austin Police Association, *Agreement Between the City of Austin and the Austin Police Association*, Article 16(6)(d).

330. Oversight agencies should be cautious when interpreting feedback surveys. While they do provide useful information, they should by no means be considered a comprehensive means of evaluating the work of the agency and should be considered alongside other forms of evaluation and performance measurement. Response rates for such surveys are typically low. As a result, complainant and officer demographics, allegations investigated, and complaint dispositions generally will not mirror an agency's entire caseload.

The Community-Police Mediation Program administered by the New Orleans Office of the Independent Police Monitor issues anonymous and voluntary surveys to civilians, officers, and mediators at the conclusion of their sessions.<sup>331</sup> Program volunteers issue a longer survey capturing in-depth qualitative information from officers and civilians by phone thirty days after their sessions.<sup>332</sup>

The Civilian Police Review Authority (now the Office of Police Conduct Review), in Minneapolis, Minnesota, launched the first large-scale effort in 1998 to capture officer and complainant feedback through systematic surveys.<sup>333</sup> The paper surveys captured basic information regarding the complaint allegations and the respondent's gender, race, and age. In addition to a narrative regarding their experience, the survey solicited yes or no responses to questions such as whether complainants and officers felt they had a chance to tell their side of the story, were treated with respect, felt their mediation (if accepted) was successful, felt their complaint hearing (if conducted) was satisfactory, and if they felt the outcome of their interaction with the agency was fair.<sup>334</sup>

## Independence

### Political independence

#### Enabling legislation

**Recommendation:** An oversight agency is more politically independent and less susceptible to political interference when its mission and authority are established by municipal charter.

**Commentary:** In most municipalities, civilian oversight is typically established by municipal charter, ordinance, or executive order. Each form of enabling legislation carries different implications for an agency's independence due to the differing ways it can be created, amended, or rescinded.

Civilian oversight established by executive order is typically less independent because it can be unilaterally enacted or rescinded by a municipal executive. An executive order can typically only be amended by a subsequent executive order. Future executives can rescind an executive order and eliminate these civilian oversight agencies for any reason, making them particularly susceptible to local politics.

While ordinance processes vary, establishing civilian oversight by municipal or county ordinance typically involves a deliberative political process requiring consensus building, a drafting process, and, in many jurisdictions, public hearings before the city council. Ordinances are adopted by city council vote,<sup>335</sup> and subsequent ordinance amendments must undergo the same deliberative process.

331. OIPM, *2017 Annual Report: Community-Police Mediation Program*, 24.

332. OIPM, *2017 Annual Report: Community-Police Mediation Program*.

333. Walker and Herbst, *Citizen and Police Officer Evaluations*, 1.

334. Minneapolis Civilian Police Review Authority, *1998 Annual Report*, Exhibit C. Note: the survey did not ask the outcome of the case, which was a recommended change to the survey at a later date.

335. In some localities, an ordinance must also be approved by the mayor.

Civilian oversight established by municipal charter is the most politically independent. In most jurisdictions, amendments to a city's charter result from a voter-approved referendum. As a result, neither the political subdivision's executive nor the city council can eliminate or change the charter provisions establishing civilian oversight.

The Denver Office of the Independent Monitor, the Miami Civilian Investigative Panel, and the New Orleans Independent Police Monitor are all examples of civilian oversight agencies whose basic roles and authorities are enshrined in city charters. Additional details concerning each agency's jurisdiction and duties are established by companion ordinances approved by city councilmembers or commissioners. Companion ordinances allow some degree of flexibility for each agency's authority to be expanded or revised at a later date, if necessary.

## City council confirmation

**Recommendation:** A volunteer board or commission's real and perceived independence can be strengthened by requiring the city council to confirm appointments.

**Commentary:** The appointing bodies to civilian oversight boards or commissions vary widely across jurisdictions. In some jurisdictions, some or all of a board's members are appointed by the mayor. In others, the city council and other local entities are responsible for appointing a share of a board's membership or providing a list of nominees to the mayor for appointment.

The appointment process may be perceived as more independent, legitimate, and diverse if "advice and consent"-style confirmation and approval from the city council is required to confirm nominees chosen by an appointing body. If the appointing entity is not perceived as committed to law enforcement reform or effective oversight, it is unlikely that the members it appoints will be perceived as committed to these goals. Requiring city council confirmation for members selected by a mayor, country executive, or other single appointing body can increase the real or perceived independence of the civilian board or commission.<sup>336</sup>

## Recruitment and selection of oversight executive

**Recommendation:** The independence and effectiveness of a civilian oversight agency can be strengthened by selecting the agency executive through an inclusive, deliberative, and consensus-based process.

**Commentary:** Recruiting a knowledgeable and experienced oversight agency executive is a crucial precondition for effective civilian oversight.<sup>337</sup> It is equally crucial that the process for selecting the agency executive be a consensus-based decision that is independent from real or perceived political interests. An oversight agency executive selected on the basis of political motive may undermine the agency's work or be unwilling to address issues of community concern, thereby reducing public confidence in an oversight agency's legitimacy.

336. Jerome, "Chapter 3. Credibility, Impartiality, and Independence in Citizen Oversight," 24–27.

337. Attard and Olson, *Overview of Civilian Oversight of Law Enforcement in the United States*.

Various jurisdictions have developed deliberative, consensus-based recruitment processes that include community input. In Denver, Colorado, a five-person screening committee is responsible for interviewing and evaluating candidates for the independent monitor. This committee consists of the chair of the Citizen Oversight Board, a city council member selected by the city council president, a judge selected by the mayor, the executive director of Denver’s Office of Human Resources, and an individual knowledgeable in conducting or monitoring internal investigations who has never been employed by the Denver Police or Sheriff Departments. The screening committee thereafter forwards the top three candidates to the mayor, who then appoints an individual from the list. The mayor’s appointment is not final until confirmed by the city council.<sup>338</sup>

In Chicago, the deputy inspector general for public safety—responsible for conducting oversight of the Chicago Police Department, the Civilian Office of Police Accountability, and the Chicago Police Board—is selected by the city’s inspector general from a list of ten nominees identified through a nationwide search by a nationally recognized organization with expertise in government oversight. The inspector general’s selection must be confirmed by the city council prior to appointment.<sup>339</sup>

## Removal of oversight executive

**Recommendation:** The decision to terminate an oversight agency executive should be for cause only, and the result of a consensus-based decision.

**Commentary:** The types of protections put in place for oversight agency directors can impact the oversight agency’s overall work. Inadequate job protections, or serving at the pleasure of a particular individual, may reduce an agency executive’s willingness to address important, controversial, or politically charged issues due to fear of termination or retribution.<sup>340</sup>

In most jurisdictions, oversight agency executives serve “at will.”<sup>341</sup> Thus, it is important that an oversight agency’s independence be protected by allowing the agency executive to be terminated only for sufficient cause and on the basis of consensus.

The process of removing the independent police monitor (IPM) in New Orleans, Louisiana, demonstrates one way of protecting the independence of an oversight executive. The seven-member New Orleans Ethics Review Board (ERB),<sup>342</sup> which also appoints the IPM, may initiate proceedings to remove the IPM for cause, including abuse of power or authority; conviction of a state or federal felony; entry of a guilty or nolo contendere plea to a state or federal felony charge; discrimination; ethical misconduct in office; unprofessional

338. Denver Revised Municipal Code, Art. XVIII § 2-372.

339. Municipal Code of Chicago, Chapter 2-56-220.

340. Rosenthal, “Perspectives of Directors of Civilian Oversight of Law Enforcement Agencies.”

341. De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement: Assessing the Evidence*, 37.

342. The New Orleans Ethics Review Board is composed of seven members, six of which are appointed by the mayor from lists of three nominees each submitted by the presidents or chancellors of several local universities: Dillard University, Loyola University, Southern University in New Orleans, Tulane University, University of New Orleans, and Xavier University. One member is nominated by the mayor. All appointments are subject to approval by a city council majority. See City of New Orleans Code of Ordinances, Sec. 2-719.

conduct; or other acts tarnishing the integrity of the IPM.<sup>343</sup> The ERB must conduct a public hearing on the IPM's termination and conduct a vote requiring a two-thirds majority in order to remove the IPM. The ERB must thereafter publicly report to the city council the reasons for removing the IPM.

In Washington, D.C., the civilian Police Complaints Board appoints the executive director of its companion agency, the Office of Police Complaints. The Police Complaints Board may remove the executive director only for cause.<sup>344</sup>

## Reporting structure

**Recommendation:** The civilian oversight agency should be structured within government so as to minimize real or perceived political influence on the decision-making, reporting, recruitment, and termination of key political staff.

**Commentary:** The concept of structural independence extends beyond the oversight agency's being external to the law enforcement agency it oversees. The oversight system should be organizationally autonomous or quasi-independent from other local departments or offices that may influence its work. The work of civilian oversight can at times be politically charged, and embedding the civilian oversight agency within political offices, or requiring it to report to political offices or political appointees, may reduce an agency's real or perceived independence and ability to conduct work that is in the public interest. A perception that civilian oversight is beholden to politics reduces an agency's legitimacy and the public's confidence that it is truly independent, fair, and neutral.

In 2008, voters in New Orleans approved a charter amendment establishing the New Orleans Office of the Independent Police Monitor (IPM) as a subdivision within the contemporaneously created New Orleans Office of the Inspector General, which appointed the IPM and allocated funds to its office.<sup>345</sup> Tensions between the two offices arose in 2013, when the inspector general began seeking final approval over the IPM's reports,<sup>346</sup> and again in 2015 after the inspector general sought the IPM's removal following the publication of information critical of the New Orleans Police Department.<sup>347</sup> In a contentious public debate, the IPM sought to separate itself from the Inspector General, through an amendment of the city charter, to preserve its independence and ensure that it would be allocated adequate funding for its work.<sup>348</sup> A charter amendment separating the IPM from the inspector general's office and allocating a fixed percentage of the inspector general's budget passed with overwhelming public support in November 2016.<sup>349</sup>

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343. City of New Orleans Code of Ordinances, Sec. 2-1121(20).

344. District of Columbia Code § 5-1105(b).

345. Bureau of Governmental Research, "New Orleans Police Monitor Charter Amendment."

346. Gill, "Watchdogs' Fight Each Other."

347. Mustian and Sledge, "New Orleans Inspector General Moves to Fire Independent Police Monitor as They Wage Political Warfare."

348. Bureau of Governmental Research, "New Orleans Police Monitor Charter Amendment."

349. LaRose, "New Orleans Voters Split Funding."

## Operational and procedural independence

### Report editorial authority

**Recommendation:** Stakeholders outside of the civilian oversight agency should not be able to edit, modify, or influence the contents of the agency's public reports.

**Commentary:** Public reporting is a crucial element of civilian oversight's ability to promote transparency and provide the public with crucial information concerning the work and accomplishments of the agency.<sup>350</sup> The public expects that the information contained in an independent oversight agency's report has not been modified by outside stakeholders who may have an interest in influencing what is publicly reported. Prohibiting outside influence on reporting is essential to an oversight agency's real and perceived independence, legitimacy, and credibility.

Oversight stakeholders should consider whether the overseen law enforcement agency should be given an opportunity to review and comment on a report draft prior to its publication. This is a common practice in auditing which helps the auditor ensure that its report and findings are fair, complete, and objective.<sup>351</sup> If an oversight agency decides to provide the overseen law enforcement agency with a draft report for comment, the oversight agency may choose to make appropriate changes in response to the overseen law enforcement agency's comments.

### Essential functions and daily operations

**Recommendation:** Agency staff should be able to make key decisions regarding the oversight agency's daily operations without consulting or requiring prior approval from outside entities.

**Commentary:** The ability to perform essential functions expeditiously and without outside interference is crucial to providing effective oversight. Procedures for regular operations—such as initiating an investigation, referring a complaint alleging potential criminal conduct, issuing a subpoena, or making hiring and training decisions within the agency's budget—should be purely internal processes and not require the permission of entities outside of the oversight agency. Requiring such approval could be, or could be perceived to be, an interference in the decision-making and independent functioning of the oversight agency. The decision to approve essential but potentially sensitive functions or specific functions, such as initiating a policy analysis, should be delegated to senior staff within the agency. Any requirement of board or outside approval for essential functions and daily operations may cause delays regarding time-sensitive matters and, therefore, reduce overall public confidence in the oversight agency.

Public confidence in the Civilian Investigative Panel (CIP) in Miami was seriously damaged by procedural requirements delegating key decisions to the agency's independent legal counsel, who was appointed by Miami's city attorney. The CIP's initial ordinance required its independent counsel to approve the initiation

350. Stewart, "Chapter 13. Nuts and Bolts: Using Tools of the Outreach Trade," 195.

351. Comptroller General of the United States, *Government Auditing Standards*, 124.

of an administrative investigation and the issuance of subpoenas. A former senior investigator at the CIP came forth with concerns that the CIP's independent counsel intentionally hampered CIP investigations by declining cases for investigation and failing to issue subpoenas when appropriate.<sup>352</sup> In this particular case, the inability of CIP staff to proceed with investigations and obtain information thwarted its ability to maintain trust and legitimacy within the community.<sup>353</sup>

## Budget and staffing floors

**Recommendation:** Budget or staffing minimums established in an oversight agency's enabling legislation ensure that the agency will have adequate resources to perform its work and protect it from budget cuts that could undermine its effectiveness.

**Commentary:** In several jurisdictions, oversight legislation includes provisions that set the oversight agency's annual budget to, at a minimum, a fixed percentage of the overseen law enforcement agency's budget, or require that the agency employ, at a minimum, one investigator per a fixed number of sworn officers within the overseen department. Such provisions strengthen an agency's independence by protecting it from potential politically motivated budget cuts and ensuring that the agency has adequate resources to carry out its mandate.

By establishing the oversight budget as a minimum percentage of the overseen law enforcement agency's budget, the amount of resources allocated to the oversight agency can increase or decrease as the law enforcement agency's budget grows or shrinks. Similarly, requirements that an oversight agency maintain a minimum ratio of investigators to sworn officers in the overseen department provide adequate resources that may grow or shrink in proportion to the department's size.

The experience of the CIP in Miami demonstrates the importance of budget minimums. In 2008, the CIP's annual budget for the 2007–2008 fiscal year totaled \$1,213,214. The post-2008 fiscal crisis in the City of Miami, combined with political neglect of and hostility towards civilian oversight in the following years,<sup>354</sup> saw the CIP's budget dip to \$464,000 in fiscal year 2011–2012. This necessitated reducing the CIP's number of investigators from four to one, and as a result, caused a major loss of public confidence in civilian oversight in Miami.

In 2017, the Miami City Commission approved a revised ordinance requiring the CIP's annual budget to be "no less than one percent of the approved regular salaries and wages line item of the city's police department," except for instances of fiscal or financial emergency declared by the city manager.<sup>355</sup> This ordinance revision boosted subsequent CIP budgets to over \$1 million and allowed for the hiring of additional staff to manage the CIP's caseload.

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352. Wolf, "Ref: Claim of Whistleblower Violation."

353. Miami Herald, "Civilian Investigative Panel's Epic Fail."

354. NACOLE, *Civilian Investigative Panel*.

355. City of Miami, Ordinance No. 13688 (June 8, 2017).

A similar approach has been taken in Chicago, where the budget of the investigation-focused Civilian Office of Police Accountability is appropriated as “not less than one percent . . . of the annual appropriation of all non-grant funds for the Police Department.”<sup>356</sup> Similarly, the municipal charter of New Orleans appropriates the Office of the Independent Police Monitor 0.16 percent of New Orleans’ general fund operating budget.<sup>357</sup>

In San Francisco, the investigation-focused Office of Citizen Complaints (OCC, now the Department of Police Accountability, or DPA), established in 1996, is required to employ one investigator for every 150 sworn officers employed by the San Francisco Police Department.<sup>358</sup> A similar requirement was established in Oakland, California, following the passage of sweeping charter reforms strengthening Oakland’s civilian oversight system in 2016, whereby the investigation-focused Community Police Review Agency (CPRA) must hire one investigator for every 100 sworn officers in the Oakland Police Department.<sup>359</sup>

While budget and staffing floors can ensure that an oversight agency is provided adequate resources to perform its work, such minimums may be insufficient during periods where changes in the overseen law enforcement agency’s practices and operations have substantially increased the oversight agency’s workload. Such was the case in New York City, where the NYPD’s aggressive stop-and-frisk tactics resulted in a 446 percent increase in the number of stops between the years of 2002 and 2008, leading to a 69 percent increase in complaints filed with the Civilian Complaint Review Board from 2002–2006 without any increased funding from the city.<sup>360</sup> Thus, it is important for local stakeholders to determine whether additional resources above established minimums are necessary to maintain the agency’s effectiveness and legitimacy.

## Boards and commissions

### Diversity and inclusion of community groups

**Recommendation:** The diversity of civilian boards or commissions should closely mirror the diversity of the community served. Stakeholders should consider involving sufficiently knowledgeable and relevant local civic organizations and community groups in the appointment process, so as to leverage their expertise, outreach, and representation of cross-sections of the community.

**Commentary:** The diversity and representativeness of an oversight board or commission is critical to the oversight system’s legitimacy and the public’s confidence that it will address issues of community concern. Diversity introduces a variety of perspectives regarding local issues by providing segments of the community with a voice and role in civilian oversight.

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356. Municipal Code of Chicago, Chapter 2-78-105.

357. Home Rule Charter of the City of New Orleans, Sec. 9-404.

358. San Francisco City Charter § 4.136(c).

359. Charter of the City of Oakland § 604(e)(4).

360. Clarke, “Arrested Oversight,” 25–30.

Appointments to an oversight board or commission should prioritize the ability to be fair and impartial as well as the diverse representation of various segments within community, including race, ethnicity, income, age, ability, gender or sexual identity, arrest or conviction record (as permitted by law), and work and life experience. The enabling legislation should similarly emphasize fairness, impartiality, diversity, and inclusiveness of members of the entire community.

While the enabling legislation should emphasize diversity, stakeholders should be cautious of the potential unintended consequences of overly restrictive or prescriptive membership criteria. Such criteria may run the risk of persistent vacancies when an eligible individual cannot be identified and appointed to the board. Such was the case with the strict geographical requirements of the Police Review and Advisory Board in Cambridge.<sup>361</sup> City residency requirements for the citizen review board in Atlanta, Georgia have similarly resulted in persistent vacancies for the board seat delegated to an individual with previous (but not current) law enforcement experience.<sup>362</sup>

Stakeholders should consider delegating a role in the nomination or appointment process to local civic organizations and community groups. These organizations should have strong ties to the local communities and sufficient relevant expertise in civil rights issues, law, and law enforcement, as well as a reputation for fairness and impartiality.<sup>363</sup> Representatives from such organizations may have direct experience with and knowledge of local law enforcement issues and may introduce a particularly informed perspective to matters addressed by the board.

The municipal ordinance establishing the Citizen's Review Board in Atlanta includes requirements that the Gate City Bar Association, Atlanta Bar Association, League of Women Voters, Atlanta Business League, Georgia Coalition for the People's Agenda, and Urban League of Greater Atlanta each appoint one individual to the 13-member board, subject to confirmation by the Atlanta city council.<sup>364</sup>

## Staggered terms and term limits

**Recommendation:** Volunteer boards or commissions should have staggered terms and term limits for its members so as to introduce fresh perspectives while maintaining institutional knowledge.

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361. In Cambridge, the original ordinance establishing the five-member Police Review & Advisory Board required that one member be appointed from each of the city's five geographical regions. This contributed to persistent board vacancies and was consequently removed from the board's ordinance in 2003. For further information, see NACOLE, *Police Review and Advisory Board*.

362. In Atlanta, the requirement that members be residents of the City of Atlanta had an unintended consequence. Because many former law enforcement members moved outside of the city, presumably upon retirement, the appointing body has had difficulty appointing a current city resident with previous law enforcement experience.

363. Ofer, "Getting It Right," 1044–1045.

364. City of Atlanta Code of Ordinances § 2-2203(a).

**Commentary:** Staggered terms prevent the complete turnover of a board or commission when an appointee’s term expires, preserving institutional memory and, in turn, allowing for more informed decision-making.<sup>365</sup> Term limits ensure that boards or commissions do not become complacent or entrenched in a certain perspective regarding issues and allow for new participants with fresh perspectives.<sup>366</sup>

## Stipends

**Recommendation:** Board diversity and participation can be enhanced by providing stipends to offset expenses relating to a volunteer member’s duties and work for the board or commission.

**Commentary:** Participation as a volunteer board member often requires diverting significant time and resources to performing board-related functions after regular work hours. Potential members—particularly those from low-income segments of the community—may be discouraged from applying to become a board member because of the uncompensated burdens associated with regular volunteer work. Issuing modest stipends to offset transportation and other associated expenses can be an effective way of retaining members<sup>367</sup> and ensuring a board can remain diverse and representative of the entire local community.

The Seattle Community Police Commission (CPC), composed of a diverse group of Seattle residents tasked with providing community-based perspectives on the Seattle Police Department’s policies, procedures, and training, can provide stipends to members in need or whose unpaid time off from work may hinder their ability to participate in the CPC’s activities.<sup>368</sup>

## Access to information

### Oversight models and information access

**Recommendation:** Stakeholders and oversight agencies should consider the records and corresponding level of access needed in relation to the oversight model deployed and the oversight functions to be performed by the agency.

**Commentary:** Unfettered and timely access to the overseen law enforcement agency’s data, information, and records is crucial to an agency’s ability to provide effective civilian oversight. Generally speaking, each model of oversight requires different levels of access to records and information in order for oversight functions to be carried out accurately and thoroughly. Priority should be given to developing protocols establishing how the records most crucial to an oversight agency’s mission will be provided so that the work of oversight can be performed without undue burden or delay. Agencies that perform correctional oversight must have comprehensive access to facilities and be able to speak with incarcerated persons freely in a secure environment.

365. Democracy Lab, “Staggered Terms for Government Boards and Commissions.”

366. Attard and Olson, *Overview of Civilian Oversight of Law Enforcement in the United States*, 11.

367. Martin del Campo et al., “The Development of the Bronx Community Research Review Board,” 347.

368. Seattle Community Police Commission, *Community Police Commission Application*.

In order to thoroughly review cases, *review-focused* models generally should have access to, at a minimum, completed internal investigations, body-worn and in-car camera footage, radio transmissions and dispatch records, policy documents and manuals, use of force reports, and the subject officer's training records. Other types of records may be necessary for the agency to fulfill its mandate.

*Investigation-focused* agencies require sufficient access to any type of department record required for conducting a thorough misconduct investigation. This may include in-car and body-worn camera video; roll call and officer assignment records; use of force reports; cell phone records and footage; radio transmissions and dispatch records; stop, search, and arrest records; and training records. An agency must be able to compel an officer to appear for an interview, and similarly must be able to obtain other forms of evidence, like medical records and private video, by issuing subpoenas.

Because *auditor/monitor-focused* agencies focus on systemic issues and policy-related matters, they typically require the most comprehensive access to a department's records. Monitoring investigations requires access to open internal investigations; evidence and investigative plans; ongoing interviews in real-time; and the ability to obtain any other materials necessary for an investigation. Auditors must be able to access either all or large samples, preferably directly, of completed internal investigations or any other documents which are to be audited or reviewed. Inspectors general—which typically have the broadest oversight mandates—should be given direct and unfettered access to any information relevant to a review, audit, investigation, or analysis. This may include any of the more traditional aforementioned records and documentation, as well as, but not limited to, training records and documentation; recruitment and promotion documentation; early-intervention system records; budgets; crime prevention plans and strategies; gang database protocols; and surveillance technology documentation.

Agencies that perform analyses of policies and procedures or identify trends and patterns of the overseen law enforcement agency's activity must have sufficiently large datasets to conduct robust and methodologically sound statistical analyses. Any other documentation relevant to an analysis should be readily provided to the oversight agency.

If an oversight agency is authorized to issue disciplinary recommendations, it should be provided with a copy of the full investigation and evidence, disciplinary protocols and documentation, and subject officer personnel records (if permitted and applicable in the jurisdiction). This list of records to be provided should not be considered exhaustive.

The emergence of hybrid models of oversight has increasingly blurred the lines between the traditional review-focused, investigation-focused, and auditor/monitor-focused delineations. As such, if an agency is mandated to perform several oversight functions (such as auditing investigations and analyzing trends and policies), oversight legislation should provide for unfettered and timely access to the types of records the agency needs to conduct its work.

## Enabling legislation language relating to accessing department records

**Recommendation:** Legislation establishing civilian oversight must explicitly address an oversight agency's unfettered access to relevant records and documentation, as well as the law enforcement agency's obligation to cooperate with the oversight agency's request in a reasonable and timely manner.

**Commentary:** To effectively carry out its mandate, a civilian oversight agency should have direct access to vital databases to the greatest extent possible. Timely and unfettered access to the overseen law enforcement agency's records and documentation is a bedrock principle of successful civilian oversight.<sup>369</sup> Without comprehensive access to records providing the necessary facts and data, a civilian oversight agency cannot effectively perform its work and make informed decisions.

Enabling legislation should definitively state that the overseen law enforcement agency must fully cooperate, in a timely manner, with the civilian oversight agency's requests for records, documents, data, information, reports, evidence, databases, and any other necessary documentation, as long as the requests do not violate pre-existing laws or collective bargaining provisions limiting access to such information.

Law enforcement agencies must also codify protocols for cooperating with information requests in a timely manner. These protocols should allow for access at no cost to the oversight agency and require that the law enforcement agency provide a written explanation for denied or delayed records requests.

Local political stakeholders must ensure that cooperation requirements are being regularly met. If a civilian oversight agency experiences persistent issues relating to records requests, the issue must be addressed in a meaningful way, such as considering amendments to the civilian oversight agency's enabling legislation or legislation relating to the law enforcement agency that will strengthen records access and the law enforcement agency's obligation to cooperate.

In addition to including explicit language in the enabling legislation, stakeholders should strongly consider implementing subsequent recommendations to further strengthen records access and law enforcement cooperation with civilian oversight.

## Law enforcement liaisons

**Recommendation:** Law enforcement cooperation with civilian oversight can be strengthened by designating at least one high-ranking individual within the chain of command to serve as a liaison and the point of contact responsible for coordinating the civilian oversight agency's requests.

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369. Walker, "Core Principles for an Effective Police Auditor's Office;" Police Assessment Resource Center, *Review of National Police Oversight Models for the Eugene Police Commission*; Attard and Olson, *Overview of Civilian Oversight of Law Enforcement in the United States*; King, "Effectively Implementing Civilian Oversight Boards;" De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement: Assessing the Evidence*.

**Commentary:** Having a liaison unit or point of contact within the overseen law enforcement agency can facilitate the civilian oversight agency's requests for information and promote cooperation and supportive relationships between the two agencies. In addition, a department liaison can be useful for responding to requests for relevant records, notifying the civilian oversight agency of important events and information, facilitating access to law enforcement executives, discussing responses to recommendations, scheduling interviews, obtaining compelled statements from officers, coordinating outreach efforts, and disseminating information from the oversight agency throughout the department.

The Internal Affairs Bureau of the Metropolitan Police Department (MPD), in Washington, D.C., maintains a liaison unit that coordinates information requests and assists in obtaining compelled statements for the investigation-focused Office of Police Complaints (OPC). The MPD-OPC liaison unit is established by MPD policy outlining the procedures for processing civilian complaints<sup>370</sup> and is staffed by a sergeant, civilian clerk, and one MPD officer. MPD policy defines the role and responsibilities of the MPD-OPC liaison and includes explicit guidance for the unit, such as how to deal with requests marked as "high priority" or "urgent" and clearly defined timelines for responding to OPC requests.

## Direct access to law enforcement databases

**Recommendation:** Direct access to law enforcement databases reduces delays in information requests, permits the civilian oversight agency to run advanced queries of the database content, and ensures the accuracy and integrity of the overseen law enforcement agency's data.

**Commentary:** Certain types of civilian oversight agencies—such as auditor/monitor-focused agencies or investigation-focused agencies—can provide more effective and efficient oversight by having direct access and back-end permissions to the law enforcement agency's databases. A law enforcement agency that provides such access signals a strong commitment to transparency, accountability, and support for civilian oversight.

Direct access to databases housing information critical to an agency's mission allows a civilian oversight agency to easily access records without burdening or relying on law enforcement staff. Similarly, direct access allows oversight staff to obtain information as needed on an ongoing basis, review the quality of the law enforcement agency's data, and ensure the overall integrity of the data maintained by the overseen department. Back-end access to internal affairs databases permits oversight staff to perform advanced queries of the database contents, allowing for advanced searches that may be relevant to particular investigations or policy analyses.

Sufficient care and precaution must be taken with this type of access. Direct access permissions should be limited in a manner appropriate for the needs and mandate of the civilian oversight agency (for example, read-only internal affairs access for review-focused or auditor/monitor-focused agencies evaluating the

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370. Metropolitan Police Department, *General Order 120.25 (Processing Citizen Complaints)*.

quality of internal investigations). Back-end access should have similarly appropriate limitations and should be made accessible only to senior or supervisory oversight staff. Any staff granted direct, back-end access to such databases should be sufficiently trained in using the database software and the appropriate use of the data obtained.

Auditor/monitor-focused models are increasingly gaining direct access to law enforcement databases. In 2011, the city council in Portland, Oregon, passed an ordinance amending the powers of the city's Independent Police Review (IPR) to grant comprehensive access to the Portland Police Department's data and data sources.<sup>371</sup> The ordinance states that "IPR shall also have direct access to original database sources as permitted by state and federal law."<sup>372</sup>

Similarly, the Office of the Independent Police Monitor (IPM) in New Orleans has entered into a memorandum of understanding with the New Orleans Police Department (NOPD) granting the IPM "complete electronic access to the IPM/Public Integrity Bureau (PIB)."<sup>373</sup> In practice, the IPM has read-only access to the PIB's main database as well as back-end access to a replica of the PIB's database, which allows it to perform detailed queries and manipulations of the database.

In Denver, CO, staff at the Office of the Independent Monitor (OIM) have front-end access to the internal affairs databases of both the Denver Police Department (DPD) and the Denver Sheriff Department (DSD). Staff within the OIM's policy unit also have back-end access to DPD and DSD internal affairs databases.

## Disciplinary sanctions for failure to cooperate

**Recommendation:** Law enforcement agencies that are subject to civilian oversight should establish policies outlining the role of their civilian oversight agency, processes and procedures for cooperation, and the duty of officers and staff subject to oversight to cooperate with an oversight agency's requests. Failing to cooperate should be subject to discipline similar to the type of discipline imposed for failing to cooperate with an internal investigation.

**Commentary:** Several municipalities and law enforcement agencies subject to civilian oversight have adopted policies addressing failure to cooperate. In Chicago, every city agency, department, officer, and employee is required by municipal ordinance to cooperate with any investigation undertaken by the Civilian Office of Police Accountability (COPA), and individuals that fail to do so may be subject to discipline.<sup>374</sup> The Atlanta

371. City of Portland, Ordinance No. 185076 (April 30, 2010).

372. City of Portland Charter, Chapter 3.21.070.

373. Hutson, Serpas, and Westbrook, *Memorandum of Understanding between the NOPD and the IPM*, § 60. Note: The Public Integrity Bureau (PIB) is the NOPD's equivalent of a Professional Standards Division. The PIB is responsible for, among other things, investigating complaints alleging misconduct by members of NOPD.

374. Municipal Code of Chicago, Chapter 2-78 § 2-78-140; City Council of the City of Chicago, *Journal of the Proceedings of the City Council*, 34471 § 3.

Police Department (APD) has codified the authority of the Atlanta Citizen’s Review Board (ACRB), requires department employees to fully cooperate with ACRB investigations, and subjects uncooperative employees to possible discipline.<sup>375</sup> The Metropolitan Police Department (MPD) in Washington, D.C., maintains a similar policy, which requires sworn MPD officers to appear at scheduled Office of Police Complaints (OPC) hearings, fully cooperate with OPC investigations, and participate in complaint mediations in good faith.<sup>376</sup> The policy also requires that the assistant chief of MPD’s Internal Affairs Bureau issue quarterly reports to OPC containing, among other things, a summary of notices made by OPC for failing to cooperate and any associated discipline that was imposed.

## Subpoena authority

**Recommendation:** Oversight agencies should be able to compel the production of evidence, documents, and officer or witness statements by issuing subpoenas.

**Commentary:** Generally, a civilian oversight agency should attempt to collect evidence, documents, and statements using the least forceful and adversarial means possible. However, if that is not possible, senior agency staff must be able to issue subpoenas to compel the production of key evidence and statements.

The ability to issue subpoenas is crucial when actors are non-cooperative and evidence needs to be obtained quickly. When necessary, senior staff within the agency should have the ability to issue subpoenas without requiring approval from outside entities so that the subpoena can be issued as expeditiously as possible. A clearly defined mechanism for enforcement of the subpoena and consequences for noncompliance should also be in place. Procedural delays in the issuance of subpoenas can result in lost evidence or receiving evidence that may be tainted.

NACOLE’s Civilian Oversight Agency Database (COAD) survey<sup>377</sup> revealed that 52 percent of agencies reported they were authorized to issue subpoenas. Seven percent reported that they were authorized to issue subpoenas for key documentary and testimonial evidence, with the exception of compelling sworn officers of the overseen law enforcement agency. The Independent Police Review in Portland, for example, may not subpoena Portland Police Bureau (PPB) officers, but PPB officers must fully cooperate in administrative investigations as per department policy.<sup>378</sup>

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375. Atlanta Police Department, “APD.SOP.2300.”

376. Metropolitan Police Department, *General Order 120.25 (Processing Citizen Complaints)*.

377. For additional information on this survey, see page 6 of this report.

378. City of Portland Charter, Chapter 3.21.210.; Portland Police Bureau, “Directive 0332.00 Administrative Investigations.”

## Staffing

### Oversight executive

**Recommendation:** The qualifications for an oversight executive should meet minimum educational, experience, and skill requirements dictated by agency mandates and municipal or county employment standards.<sup>379</sup>

**Commentary:** Because an oversight executive is ultimately responsible for the fulfillment of the agency's mandate, they must have specific, related skills. At a minimum, oversight executives should have a Bachelor of Arts or Science degree, with a master's degree, J.D., or Ph.D. considered desirable. In lieu of specific degrees, an equivalent combination of education, training, and experience should also be considered. Executives should also have a minimum of four years' experience in the field of public or private administration or practice of law, as well as the proven ability to manage and supervise employees and a clear understanding of the communities served.

Required skills, knowledge, and abilities for this position will vary among civilian oversight agencies due to the differences in enabling legislation, mandates, and municipal and county employment hiring standards. However, minimum standards must be met, including knowledge of law enforcement administration and organization and its rules, laws, and regulations; principles, practice, and procedures related to conducting investigations; general legal principles; and organization and management practices and methods. In addition, oversight executives should have prior knowledge of civilian oversight and its principles, a strong commitment to community relations, the ability to work effectively with the various stakeholders which make up the community, and a knowledge of the current and historical context surrounding the social justice issues of the municipality or county in which the civilian oversight agency resides.

### Supervisory investigators and investigators

**Recommendation:** The qualifications for supervisory investigators and investigators should meet minimum educational, experience, and skill requirements dictated by agency mandates and municipal or county employment standards.

**Commentary:** Competent civilian oversight supervisory investigators and investigators must possess sophisticated analytical and written communications skills and be proficient in a wide variety of subject areas. These may include case law on search and seizure, cultural awareness, or the latest research on perception and recollection. It is therefore recommended that agency investigators possess a Bachelor of Arts or Science or an equivalent degree. In lieu of specific degrees, an equivalent combination of education, training, and experience should also be considered.

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379. NACOLE, "Qualification Standards for Oversight Agencies." In addition to the cited publication, which informs all of the recommendations in this section, NACOLE has compiled detailed information regarding staffing education, experience, and skill requirements which can be found at [www.nacole.org](http://www.nacole.org).

It is preferred that supervisory investigators have five years' experience in conducting civil, criminal, or factual investigations that involve gathering, analyzing, and evaluating evidence, conducting interviews with friendly and adverse witnesses, and documenting information. Applicable experience includes criminal investigations conducted for a law enforcement or a prosecuting agency; criminal defense investigations in the public or private sector; investigating allegations of misconduct or ethical violations (especially involving public officials or police officers); investigations conducted in connection with litigation or hearings conducted by a government agency; personnel investigations; civil rights investigations and investigations of human rights abuses; and investigations and audits of fraud or abuse. A supervisory investigator must, in addition, have the ability to plan, conduct, and supervise complex and difficult investigations; train, advise, motivate and mentor new and veteran investigators; and implement investigative procedures and standards consistent with effective practices for civilian oversight agencies.

The specific, required skills, knowledge, and abilities for investigators will vary among civilian oversight agencies due to the differences in enabling legislation, mandates, and municipal and county employment hiring standards. However, minimum standards must be met, including the ability to plan investigations and prioritize applicable tasks; knowledge of proper handling and preservation of evidence; and the ability to write clear and concise investigative reports. Knowledge of criminal justice procedures, investigative techniques, and issues involving police and civilian oversight practices and police-community relations is also necessary.

## Policy analysts

**Recommendation:** The qualifications for policy analysts should meet minimum educational, experience, and skill requirements dictated by agency mandates and municipal or county employment standards.

**Commentary:** For civilian oversight agencies conducting policy analysis on any level, the competency of their analysts is of utmost importance. A Bachelor of Arts or Science or an equivalent degree is desired, with a major in the social sciences, statistics, or criminal justice, as well as two years' experience in performing policy review, conducting quantitative analysis, and writing reports. In lieu of specific degrees, an equivalent combination of education, training, and experience should also be considered.

Policy analysts should show proficiency in performing qualitative research; they should have strong analytical skills and, in addition, have knowledge of statistics and quantitative methods. It is also imperative that they have strong communication and presentation skills, allowing them to discuss their findings as well as law enforcement policies and procedures with a variety of stakeholders. A working knowledge of statistical packages such as R, SPSS, STATA, or similar should be required, with a knowledge of database programming and geographic information systems (GIS) being of additional benefit.

## Outreach staff

**Recommendation:** The qualifications for staff dedicated to community outreach should meet minimum educational, experience, and skill requirements dictated by agency mandates and municipal or county employment standards.

**Commentary:** Outreach staff for a civilian oversight agency should possess a Bachelor's degree in applicable fields such as communications or public relations or an equivalent combination of education, training, and experience. In addition to education, it is imperative that experience working in the area of community outreach or development be considered, with a minimum of two years' experience preferred.

Community outreach staff should have knowledge of the unique historical aspects of the community and how and why oversight was enacted, experience working with communities on issues of concern and of a sensitive nature, and the ability to work in a culturally diverse community setting. They must also possess strong written and verbal communication skills; have the ability to develop communication plans for members of the civilian oversight agency staff; have experience in website development, management, and social media applications; and have effective interactive strategies for communicating with the media. It is also of great benefit to the oversight agency if community outreach staff are fluent in Spanish or prevalent languages of the community.

## Training

### Board or commission member training

**Recommendation:** All board or commission members must receive training, shortly after appointment, on the policies and procedures of their local law enforcement agency, the basics of civilian oversight, and the authority and responsibilities associated with their role as a board or commission member.

**Commentary:** Given the diverse backgrounds of board and commission members, they may have limited understanding of civilian oversight and its processes, law enforcement policies and procedures, criminal case processing, and legal standards for assessing evidence and reaching dispositions, within the context of administrative disciplinary systems. In order to execute their responsibilities in an effective and legitimate manner, it is important they be provided with the information and training needed to fulfill the mandates of their position.

Training should be provided by a combination of civilian oversight experts, community and government organizations, and law enforcement and should be developed to meet the needs of all skill levels. In addition to their initial training, refresher courses and advanced training opportunities should be provided yearly to all board of commission members. As a national expert on civilian oversight, the National Association for Civilian Oversight of Law Enforcement (NACOLE) has provided training to practitioners of oversight since 1995. There is also much to be gained from sourcing additional training from organizations such as the

National Alliance on Mental Illness, mediation centers, homeless advocacy organizations, and the Urban League. Seeking information from members of city government, U.S. Attorneys, prosecutors, public defenders, and risk management specialists can also be of benefit.<sup>380</sup>

Each agency must assess the authority of the board or commission, along with the mandates of the enabling legislation, when developing a training program. Trainers with knowledge and experience in civilian oversight of law enforcement should provide board or commissioner members with an overview of civilian oversight, including an overview of practice and principles and a discussion of stakeholder expectations. In addition, information on the local oversight agency, which includes the history of the establishment of the agency and a detailed review of the enabling legislation, procedures, and scope of authority should be readily available to members.<sup>381</sup> Board and commission members should be trained on public record and public meeting laws, confidentiality requirements, steps in the criminal justice process (arrest, booking, arraignment, bail, hearings, trial) and state and local laws relating to law enforcement personnel actions, rights, and privacy.<sup>382</sup> Board and commission members must also have a broad understanding of the history, policies, procedures, and training practices of the overseen law enforcement agency.

Per ordinance, all members of the Citizen Police Complaint Board (CPCB) for the Indianapolis Metropolitan Police Department (IMPD) must participate in 20 hours of training within the first six months of appointment and 20 hours each year thereafter. The training is provided by the IMPD and the curriculum is collaboratively developed by the CPCB and IMPD. Board members must also ride with an on-duty officer of the IMPD for no fewer than 16 hours each year. In addition, the staff and board members attend various trainings each year and also provide educational sessions at the IMPD's training academy.<sup>383</sup>

## Staff training

**Recommendation:** Staff should be given training on the policies and procedures of their local law enforcement agency, the basics of civilian oversight, the authority and responsibilities associated with their agency, as well as continuing education and professional development on an ongoing basis.

**Commentary:** Training should occur on a yearly basis for staff members. Continuing education and professional development opportunities should be offered to ensure that an oversight agency's staff has the information necessary to conduct oversight effectively and efficiently. In addition, it is important to assemble a team of experts and oversight contacts that can be called upon to assist staff acquire new skills and knowledge and serve as a network to help identify solutions to internal or external issues that arise in the course of their work.

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380. NACOLE, "Qualification Standards for Oversight Agencies."

381. NACOLE, "Recommended Training for Board and Commission Members."

382. NACOLE, "Recommended Training for Board and Commission Members."

383. Indianapolis Municipal Code, 202-803(d).

Training should be a consideration in the initial funding structure, and as funding increases, oversight agencies should further prioritize education to ensure their staff are well trained on the skills important in their daily work and are aware of new developments in this specialized field of study and practice.

## Law enforcement agency's role in training

**Recommendation:** Members of the overseen law enforcement agency should be involved in the development and implementation of training for civilian oversight staff and board or commission members.

**Commentary:** In order for the oversight body to fully understand the policies, procedures, and training requirements of a law enforcement agency, the overseen agency itself must participate in the development of training and in a portion of its delivery. In addition, it is often helpful for oversight to have a more comprehensive understanding of the day-to-day job of officers, as well as of their perspective.

Curriculum provided by law enforcement should include an overview of the training that is given to new recruits and the relevant in-service training officers are required to attend. It is also important for board members and staff to visit department facilities, including but not limited to headquarters and division stations, communication facilities, and detention facilities. Many departments also allow individuals to ride with on-duty officers, which allows for a better understanding of what officers do on a daily basis. Such interaction should also be extended to the work done by special units such as K-9, homeless outreach, gang suppression, school resource officers, bike patrol units, and law enforcement operations during special events.

## Investigations

### Investigation manuals

**Recommendation:** An oversight agency should develop a manual guiding the processes and procedures for handling complaints and conducting a thorough misconduct investigation.

**Commentary:** Effectively handling complaints and conducting thorough misconduct investigations requires utilization of uniform procedures. While the specific details of each complaint will differ, ensuring that each complaint is processed through standardized intake, classification, and investigatory procedures helps ensure that each complaint will be handled and disposed of effectively, efficiently, and appropriately. An investigative manual will further ensure that oversight staff follow proper procedures in a way that is fair, trustworthy, and consistent.

Although there are general guidelines for performing a thorough misconduct investigation,<sup>384</sup> a manual memorializing the processes and procedures specific to the inner workings of an individual oversight agency is a vital resource for staff. The manual should include templates and checklists to document specific investigative activities and allow for uniform write-ups and analyses of the investigation. The investigative manual should also ensure that the investigation procedurally complies with relevant local and state laws.

A manual should be regularly updated to reflect changes in the agency's authority or complaint handling processes. Manuals can also be made public so as to bring transparency and understanding to the public.

The investigation-focused Office of Professional Accountability (OPA) in Seattle, Washington, has developed a detailed internal operations and training manual that is made publicly available on the OPA website.<sup>385</sup> The manual clearly describes its purpose, the mission of the OPA, and the entire process through which a complaint is handled from intake to final adjudication and discipline (if warranted). The manual furthermore outlines procedures for complaint intake, classification, investigation planning, conducting interviews, obtaining and evaluating evidence, summarizing an investigation, and final review. The OPA manual also includes the duties and expectations of staff and training requirements for all personnel.

## Conducting interviews

**Recommendation:** Oversight agencies with the authority to conduct investigations should have clearly stated protocols for interviewing complainants, officers, and civilian witnesses.

**Commentary:** In addition to documentary and real evidence, an investigation's outcome is highly dependent upon the statements obtained from witnesses and officers who are the focus of the investigation. Staff conducting interviews should have a prepared set of preliminary questions that set the foundation for the relevance of the person being interviewed.

Officers may be entitled to union representation and other rights during interviews. These rights may vary depending on whether they are the focus of the investigation or a witness officer. The oversight agency should have clear internal procedures that investigators must follow when conducting interviews of officers. Interviews should be conducted in person at the civilian oversight agency or another neutral location and should not take place in the presence of other witnesses. When resources allow, jurisdictions with investigative authority should consider using two staff members when conducting interviews with officers and other relevant witnesses. This allows one interviewer to ask questions while the other may take notes and identify follow-up questions that will need to be asked of the witness.

There may be occasions in which an officer or witness may be interviewed a second time based on information obtained following the initial interview or if a subsequent witness offers information that needs to be clarified with additional questions.

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384. Attard and Olson, *Police Misconduct Complaint Investigations Manual*.

385. Office of Professional Accountability, *Office of Professional Accountability Internal Operations and Training Manual*.

In instances where a file is reviewed once an investigation has been completed, such as in an auditor/monitor- or review-focused model, the staff should have access to both the audio and transcripts of the statements made by officers and witnesses in order to determine whether the relevant questions were asked and answered.

All agencies with the authority to conduct interviews should have staff who are trained in interview techniques and possess the ability to ask difficult and direct questions and complete a thorough interview.

## Evidentiary standards

**Recommendation:** The findings of an administrative investigation should be based upon the standard of proof established by the jurisdiction. Oversight agency staff conducting investigations or reviewing findings must be thoroughly trained on the applicable standard.

**Commentary:** The most common standard of proof is the “preponderance of the evidence.” This standard means that the evidence gathered demonstrates that the alleged behavior is more likely than not (probabilistically, 51 percent or higher) to have occurred. The “preponderance of the evidence” is based on the evidence and its likelihood to be accurate or truthful. In some jurisdictions, state law or law enforcement collective bargaining agreements require that a higher evidentiary standard known as the “clear and convincing” standard be used for administrative investigations.<sup>386</sup>

At the conclusion of an investigation or review of the case file, evidence and statements must be thoroughly reviewed and analyzed relevant to each allegation of misconduct. In many cases, investigators will have to make credibility determinations to reconcile conflicting statements or evidence. Issues to be considered when determining the credibility of witnesses may include plausibility, motives to falsify, corroborating testimony, potential bias, consistency, and factors that may influence the witness’ ability to recall the incident accurately.<sup>387</sup> The investigator or reviewer must also reconcile whether the findings constitute a violation of departmental policy.

Oversight practitioners and volunteer board or commission members should have access to administrative hearing, arbitration, and civil service commission decisions. Further, they should have an understanding of what the standards are for reaching a disposition and imposing discipline within the jurisdiction and should adhere to those standards. These standards should be a part of required training for agency staff and volunteers.

## Auditing

### Required audits

**Recommendation:** Auditor/monitor-focused agencies should be required to audit matters of ongoing community interest in order to improve the law enforcement agency’s compliance with its own policies and enhance the trust between law enforcement and the community.

386. Attard and Olson, *Police Misconduct Complaint Investigations Manual*, 45.

387. Attard and Olson, *Police Misconduct Complaint Investigations Manual*, 45.

**Commentary:** In many jurisdictions, recurring contacts with the community—such as vehicle stops, use of force, or interactions with mentally ill or homeless persons—have reduced the public’s confidence in local law enforcement. These incidents may also point to a deficiency in the law enforcement department’s relevant policies, procedures, or training. Requiring the oversight agency to perform audits of specific law enforcement actions or matters that are of community interest helps identify weaknesses in the department’s operations and reduce future tensions.

The Office of Independent Review in Fresno, California, for example, performs audits evaluating the adequacy, thoroughness, quality, and accuracy of the Fresno Police Department’s internal investigations. Audits of officer-involved shootings, uses of force, in-custody deaths, collisions during pursuits resulting in serious injury or death, or complaints involving alleged bias are required to be automatically initiated when the internal investigation is completed.<sup>388</sup>

In San Jose, California, the Office of the Independent Police Auditor is required to audit internal investigations into all complaints alleging excessive force and a minimum of 20 percent of all other complaint investigations.<sup>389</sup>

## Follow-up audits

**Recommendation:** The civilian oversight agency should perform follow-up audits regarding issues it previously examined to determine whether any reforms previously implemented have remained in place, are still effective, or whether additional remedies need to be implemented to address outstanding issues.

**Commentary:** Effective civilian oversight and law enforcement reform requires ongoing review and monitoring of particular issues that have been identified and addressed by the civilian oversight or law enforcement agency. If the overseen law enforcement agency made changes in response to issues the civilian oversight agency and other stakeholders previously identified, follow-up audits allow the civilian oversight agency to determine whether the law enforcement agency is currently complying with any revised policies, procedures, or training; identify related areas in need of further reform; and measure the effectiveness of previously implemented reforms. Civilian oversight agencies should conduct follow-up audits within a timeframe that allows for adequate data and sampling, accounting for any changes made in response to the initial audit.

Follow-up audit reports should describe the related policies, procedures, and training, include findings from the previous audit or review, identify the law enforcement department’s response to the previous audit, and detail audit indicator criteria that have changed since the initial audit and the reasons for the changes.

In New York City, the Office of the Inspector General for the New York City Police Department (OIG-NYPD) has followed-up on issues it previously identified concerning the NYPD’s tracking and reporting of use of force incidents. In 2015, the OIG-NYPD published a report examining trends, reporting, de-escalation,

388. Office of Independent Review, “Office of Independent Review.”

389. San Jose Municipal Code, Section 8.04.010(A)(1).

training, and discipline concerning NYPD officers' use of force.<sup>390</sup> Among its findings, the OIG-NYPD determined that the NYPD's use of force policy did not clearly define or establish levels of force; did not have a uniform system for documenting and reporting force incidents; and that force reporting was generally inconsistent and inaccurate.<sup>391</sup> The OIG-NYPD issued four recommendations relating to force reporting and tracking. Most importantly, it recommended that the NYPD create, for the first time, a uniform use of force reporting form documenting specific information for all force incidents.<sup>392</sup> NYPD accepted the report's four reporting-related recommendations "in principle."<sup>393</sup> In 2018, the OIG-NYPD published its review of the NYPD's newly implemented force reporting system, which included an audit of compliance with the new force reporting form.<sup>394</sup> The review found a notable improvement in the rate at which force reporting forms were completed, but also identified insufficient controls for identifying uses of force described in arrest reports or medical records; incidences of supervisory failures; and additional concerns regarding the force reporting system used by precinct commanders in the field.<sup>395</sup> The OIG-NYPD's follow-up audit on use of force reporting resulted in several additional recommendations for strengthening and improving NYPD's forms and procedures for documenting, reviewing, and publishing use of force information under the new force reporting system.<sup>396</sup>

## Audit Standards and Standardization

**Recommendation:** Civilian oversight agency audits should be planned and performed with a set of uniform or standardized criteria.

**Commentary:** The United States Government Accountability Office (GAO) publishes a set of standards<sup>397</sup> that can serve as guidance for the types of audits performed by civilian oversight agencies. Consistent with these standards, oversight practitioners should plan audits so that they can identify key issues and promote organizational change.<sup>398</sup> Audits should be effective and credible and should be performed and supervised in a manner consistent with generally accepted government auditing standards to the greatest extent possible.

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390. DOI, *Police Use of Force in New York City: Findings and Recommendations on NYPD's Policies and Practices*.

391. DOI, *Police Use of Force in New York City: Findings and Recommendations on NYPD's Policies and Practices*, 20–27.

392. DOI, *Police Use of Force in New York City: Findings and Recommendations on NYPD's Policies and Practices*, 59.

393. DOI, *Second Annual Report*, 29–30.

394. DOI, *An Investigation of NYPD's New Force Reporting System*.

395. DOI, *An Investigation of NYPD's New Force Reporting System*, 1–4.

396. DOI, *An Investigation of NYPD's New Force Reporting System*, 24–28.

397. Comptroller General of the United States, *Government Auditing Standards*.

398. Jiao, *Police Auditing: Standards and Applications*, 15–27.

If an oversight agency regularly audits particular aspects of the overseen law enforcement agency's operations—such as the quality and timeliness of completed internal investigations—it should establish a set of uniform assessment criteria to be used for all such audits. Using standardized assessment criteria is crucial to ensuring that audits are performed in an objective, uniform, and efficient manner.

The Office of the Independent Police Auditor (IPA), in San Jose, California, has published the assessment criteria used when auditing the San Jose Police Department's internal investigations.<sup>399</sup> The IPA makes clear the type of issues it examines during these audits: timeliness, classification, enumeration of allegations, supporting documentation, interviews, policy consideration, and appropriate weighing of relevant evidence. The public's access to these audit indicators enhances stakeholders' understanding of the oversight process and the standards by which the IPA holds internal investigations.

## Monitoring

### Monitoring cases of interest

**Recommendation:** Civilian oversight agencies authorized to monitor open law enforcement internal investigations should be permitted to monitor any case the agency deems in the public interest.

**Commentary:** An agency's jurisdiction over monitoring open law enforcement internal investigations should not be narrowed to cases involving a specific set of allegations or subject officers. The ability to actively monitor any open investigation is crucial to a civilian oversight agency's ability to instill public confidence in an investigation's impartiality, thoroughness, and fairness, particularly in high-profile cases. Stakeholders should require the oversight agency to monitor certain types of cases when recurring issues have been raised relating to specific law enforcement actions.

The Office of the Independent Monitor (OIM) in Denver, Colorado, is authorized to monitor any internal investigation regarding sworn personnel of the Denver Police Department and Denver Sheriff Department that the independent monitor believes to be in the best interests of the city.<sup>400</sup> The OIM is also required to monitor certain criminal investigations into sworn Denver Police and Sheriff Department personnel. These include investigations into in-custody deaths, on- or off-duty shootings, or incidents in which sworn personnel are under investigation for or charged with a felony.<sup>401</sup>

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399. OIPA, "Audit Process."

400. Denver Revised Municipal Code Art. XVIII § 2-374(b).

401. Denver Revised Municipal Code Art. XVIII § 2-373(a).

In 2018, disagreements within the city and county of Denver government emerged regarding the OIM's authority to monitor an outside investigator's investigation into the Denver Police Department's police chief.<sup>402</sup> The Denver City Council Safety, Housing, Education, and Homeless Committee proposed to amend the OIM's ordinance, confirming its jurisdiction to monitor investigations regarding the Denver Chief of Police and Sheriff.<sup>403</sup> The bill was signed into law in February 2019.<sup>404</sup>

## Interview monitoring and participation

**Recommendation:** Civilian oversight agencies authorized to monitor open law enforcement department internal investigations should be able to actively watch or listen to relevant interviews in real time. The oversight agency should be able to provide specific questions before or during the interview and to consult investigators regarding the direction of the investigation.

**Commentary:** The ability to actively monitor and observe subject officer, complainant, and witness interviews in real time allows a civilian oversight agency to ensure that interviews are conducted properly and thoroughly. It also allows the oversight agency an opportunity to address any potential investigative deficiencies before the investigation is completed.

The Independent Police Auditor (IPA) in Tucson, Arizona, is authorized to monitor ongoing investigations as it deems necessary or at the request of the Citizen Police Advisory Board.<sup>405</sup> When the IPA chooses to monitor and observe an interview, it will notify the Tucson Police Department's Office of Internal Affairs' sergeant. The IPA may present specific questions to the Office of Internal Affairs to ask officers and witnesses during the course of the interview.

Similarly, the Office of the Independent Monitor (OIM) in Denver is integrated into nearly every aspect of internal investigations of the Denver Police Department's and Denver Sheriff Department's sworn personnel. When actively monitoring an investigation, the OIM's deputy monitors consult with investigators regarding the investigation's direction, review evidence as it is collected, and observe interviews. Monitors may submit questions to investigators either before or during an interview.<sup>406</sup>

## Critical incident rollouts

**Recommendation:** Oversight agencies authorized to roll out to critical incidents should develop protocols detailing the agency's role in observing and monitoring the law enforcement department's response to these incidents.

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402. Phillips, "Denver's Police Watchdog No Longer Allowed."

403. Denver City Council, "19-0029 A Bill for an Ordinance Clarifying and Amending the Authority of the Office of the Independent Monitor."

404. OIM, *2018 Annual Report*, 3.

405. Terwilliger, *IPA 2015 Annual Report*, 15.

406. Denver Revised Municipal Code, Art. XVIII § 2-388(a).

**Commentary:** The authority to be present at the scene of critical incidents can be crucial in ensuring that investigations into such incidents are fair and thorough. Oversight staff should immediately assess the layout of a scene and observe witness interviews as well as the crucial initial phases of a criminal or administrative investigation as it occurs in real time. Rolling out to critical incidents provides a unique opportunity for oversight staff to communicate and work together with the department on matters of immediate community concern.

Oversight agencies authorized to roll out to critical incidents should develop clear protocols for their staff's role at such events.<sup>407</sup> These protocols should include the types of incidents for which the staff will roll out (such as high-level uses of force, officer-involved shootings, in-custody deaths, or high-speed car chases); how the agency will be notified of critical incidents; the rotation of staff who will be on call and dispatched; any legal or procedural limitations regarding accessing and observing the incident scene and preliminary investigation; and how the oversight agency will be involved in the investigation throughout its pendency. The oversight agency and law enforcement agency should similarly agree upon protocols for maintaining the confidentiality of the investigation and involved personnel.<sup>408</sup> Confidentiality protocols serve to maintain the integrity of any potential criminal investigations that may arise and can be essential in fostering trust and productive collaboration with the subject law enforcement agency.<sup>409</sup>

In the city of Los Angeles, designated staff in the Use of Force Section of the Office of the Inspector General (OIG) are on call 24 hours a day, seven days a week to perform rollouts to any incident involving a "categorical" use of force<sup>410</sup> by a member of the Los Angeles Police Department (LAPD). OIG staff have full access to the scene of the incident and are responsible for ensuring that the LAPD's Force Investigation Division (FID) investigative procedures are properly followed. Members of FID and the OIG work together closely to ensure that the investigation is sufficiently fair and thorough. The process is similar in Denver, where deputy monitors from the Office of the Independent Monitor (OIM) are dispatched to arrive on scene to monitor critical incident investigations. When OIM monitors arrive, command staff provide them with a briefing and walk-through of the incident scene.<sup>411</sup>

## Public demonstrations and first amendment assemblies

**Recommendation:** Civilian oversight agencies with adequate staff and sufficient resources should be authorized to monitor, evaluate, and report on the overseen law enforcement agency's policies, procedures, and tactics for policing public demonstrations and similar First Amendment-related gatherings, if deemed by stakeholders to be a matter in the public interest.

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407. Attard and Olson, *Police Misconduct Complaint Investigations Manual*, 63.

408. Pitcher, Birotte Jr., and Sibley, "Developing Effective Interactions."

409. Pitcher, Birotte Jr., and Sibley, "Developing Effective Interactions."

410. Categorical uses of force are defined by the Los Angeles Police Department as officer-involved shootings, in-custody deaths, any use of force resulting in hospitalization, strikes to the head with an impact weapon, and neck restraints.

411. OIM, *2017 Annual Report*, 73.

**Commentary:** Controversy regarding a police department’s handling of public demonstrations, protests, rallies, parades, marches, and similar events involving the expression of First Amendment protected free speech have often strained police-community relations and resulted in lawsuits, class-action settlements, and allegations of excessive force.<sup>412</sup>

When feasible, civilian oversight staff should attend public assemblies in an official capacity to conduct community outreach and monitor the propriety and legality of law enforcement activity at such events. Those representing the oversight agency should request operation orders, or similar, from the overseen law enforcement agency and communicate with the overseen law enforcement agency to learn the operational tactics that will be employed prior to, during, and following the event. Any information the civilian oversight agency obtains from the overseen law enforcement agency regarding how the department intends to police a demonstration must remain strictly confidential.

Public assemblies provide an oversight agency with an opportunity to make the public aware of its existence and distribute complaint forms and brochures to attendees. Additionally, monitoring such assemblies provides an opportunity for a civilian oversight agency to report on its observations and to recommend alternative practices to be considered for future demonstrations. A civilian oversight agency considering monitoring a public demonstration should develop a monitoring plan and develop written protocols regarding the behavior and procedures of monitors in attendance.

The statute establishing the Police Complaints Board (PCB) and Office of Police Complaints (OPC) in Washington, D.C., authorizes monitoring and evaluating the Metropolitan Police Department’s (MPD) handling of and response to First Amendment assemblies within the District.<sup>413</sup> Because public demonstrations are regular occurrences in the nation’s capital, the OPC focuses on monitoring public assemblies that may have large turnouts or have the potential for law enforcement engagement. In 2017, the OPC monitored the MPD’s handling of the presidential inauguration and subsequent Women’s March.<sup>414</sup> For both events, OPC staff were deployed to observe and document the conduct of MPD officers for the purposes of issuing policy recommendations for improved handling of public demonstrations in the future.

## Reviewing investigations

### Investigation review checklists and matrices

**Recommendation:** The civilian oversight agency should develop and use a case review checklist or evaluation matrix to consistently evaluate the thoroughness, accuracy, and fairness of internal investigations.

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412. Greenhouse, “Demonstration Turns Violent at Trade Talks in Miami,” Cauvin, “D.C. Settles Suit Over Protest Arrests.”

413. District of Columbia Code, § 5-1104(d-1).

414. Police Complaints Board, *OPC Monitoring of the Inauguration January 20, 2017*; OPC, *OPC Monitoring of the “Women’s March January 21, 2017*.

**Commentary:** Developing a standardized checklist or matrix of relevant assessment criteria is fundamental to producing fair, thorough, and consistent reviews of internal investigations. Checklists and matrices serve as crucial guidance for oversight board or commission members and staff, ensuring that the same standards are applied to every investigation. Developing the investigative criteria, in consultation with the subject law enforcement department, can increase the transparency and legitimacy of the oversight agency.

The Office of the Independent Police Monitor (IPM) in New Orleans has developed matrices for reviewing complaint classifications, misconduct investigations, as well as assessing critical incident investigations, tactics, and training.<sup>415</sup> The matrices have been incorporated into a memorandum of understanding between the IPM and the New Orleans Police Department, as part of a larger agreement regarding the IPM's city charter enumerated authority and access to information.

## Voting seat on use of force review boards

**Recommendation:** A representative from the civilian oversight agency should have a minimum of one voting seat on the law enforcement agency's Use of Force Review Board (UOFRB).

**Commentary:** One of the many recommendations that emerged from the *Final Report of the President's Task Force on 21st Century Policing* was as follows:

*Law enforcement agencies should establish a Serious Incident Review Board comprising sworn staff and community members to review cases involving officer-involved shootings and other serious incidents that have the potential to damage community trust or confidence in the agency. The purpose of this board should be to identify any administrative, supervisory, training, tactical, or policy issues that need to be addressed.*<sup>416</sup>

Several law enforcement agencies have adopted this recommendation and established Use of Force Review Boards (UOFRB) that are responsible for reviewing, evaluating, and administratively adjudicating incidents involving serious uses of force. Law enforcement agencies that have both a UOFRB and civilian oversight should be required to designate, at a minimum, one voting seat on the board to an oversight representative in order to introduce an independent perspective on policy, training, and tactics.

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415. Hutson, Serpas, and Westbrook, *Memorandum of Understanding between the NOPD and the IPM*, Appendices C, F, and H.

416. President's Task Force on 21st Century Policing, *Final Report*, 22–23.

Several law enforcement agencies have incorporated oversight representatives into their UOFRBs. Following a recommendation from the DOJ Office of Community Oriented Policing Services (COPS Office), the Philadelphia Police Department added the executive director of the Police Advisory Commission (PAC) to its UOFRB as a voting member.<sup>417</sup>

## Data and policy analysis

### Internal data collection

**Recommendation:** The civilian oversight agency should collect sufficient internal data and records relating to its own work to analyze strengths and weaknesses in its operations, identify patterns and trends in law enforcement relevant to its mandate, present information to the public, and provide additional insight if the agency is being evaluated.

**Commentary:** Collecting internal data and records regarding the work and operations of an oversight agency and maintaining such data over time serves three critical functions.

First, such records and data allow the agency to reflect on its own operations over time, identify strengths and weaknesses in its processes and procedures, and develop strategies for improvement. Second, they can be used to analyze patterns and trends in law enforcement activity related to the agency's mandate. Third, these data can be reported to the public in the name of transparency, increasing the agency's legitimacy and public trust in its work.

Oversight agencies receive and collect data from various sources. The majority of these data, such as complaint-related information, are collected throughout the course of the agency's oversight routine operations. Some data relates to the agency's interactions with members of the public and the law enforcement agency. Other data relates to the agency's performance and internal functions. Some examples of these data may include the following:

#### Oversight Functions

- Complaints received and how they were handled
- Complaint allegations
- Complainant demographics
- Subject officer or deputy demographics
- Complaint and allegation geographies
- Complaints and allegations by unit or command

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417. Fachner and Carter, *An Assessment of Deadly Force in the Philadelphia Police Department*, 114; Philadelphia Police Department, *Directive 10.4 (Use of Force Review Board)*.

- Mediation referrals, mediations accepted, and mediation resolutions
- Commendations
- Recommendations regarding investigative findings, discipline, or department policies
- Discipline for sustained cases
- Complainant and officer or deputy feedback surveys
- Use of force–related statistics

### Interactions

- Civilian contacts or calls with the agency, including demographics and the reason for contact
- Outreach events held or attended
- Outreach event geographies and attendance
- Meetings held or attended by members of the law enforcement agency
- Information requests submitted to the law enforcement agency

### Operations and Performance<sup>418</sup>

- Budgets
- Time to initiate and complete an investigation
- Recommendations accepted or implemented by the law enforcement agency

There are other types of data that an agency may not generate or maintain but may be relevant to the agency's authority and mission. This may include information on officer promotions and assignments, lawsuits against the law enforcement agency, settlement amounts, early-intervention system triggers, aggregate disciplinary statistics, and training records. Oversight agencies should review the "Access to Information" section of this report to determine the types of department-related records and information that it should obtain.

## Analyzing civil claims and litigation

**Recommendation:** Collecting and analyzing legal claims and lawsuits filed against the overseen law enforcement agency provides an opportunity to improve law enforcement functions, identify at-risk officers or units, and mitigate municipal and taxpayer exposure to future legal claims.

**Commentary:** Data from litigation and legal claims against the law enforcement agency is a valuable source of information that, in many jurisdictions, is underutilized by local executives and law enforcement officials.<sup>419</sup> While litigation may be an incomplete indicator of law enforcement performance or misconduct, it provides

418. For additional information on performance measures for civilian oversight, see the "Evaluation" section of this report.

419. Schwartz, "Myths and Mechanics of Deterrence."

several opportunities for improving law enforcement services in a manner that benefits the community, the law enforcement agency, and the municipality. As such, oversight agencies with the capacity to analyze law enforcement patterns and trends should consider analyzing civil claims and litigation.

Litigation data can help uncover patterns of misconduct and inform potential corrective action; promote positive organizational and cultural change within the overseen department; identify at-risk officers; help municipalities manage risks and minimize costly settlements; and promote greater transparency.<sup>420</sup> Analyzing employment-related litigation may also reveal elements within the organization in need of reform, such as promotions and discipline.

Settlement amounts, including attorney's fees, should be disaggregated by department unit within the law enforcement agency and analyzed over time in order to identify particular units or commands with a disproportionate number of legal claims. In addition, this approach can be used to identify individual officers who may need intervention, training, or monitoring. Similarly, litigation data can be used to improve or recalibrate the law enforcement agency's early intervention system.

Analyzing trends for the types of allegations most commonly involved in legal claims, such as excessive force or vehicle stops, in conjunction with other forms of data, can be used to identify particular areas of department activity that may require changes to department policy, procedure, or training. Focusing on above-average settlements may be useful in this regard.

In 2017, the New York City Council passed a law requiring the Office of the Inspector General for the New York City Police Department (OIG-NYPD) to regularly review patterns in civil claims and lawsuits involving the NYPD and develop recommendations relating to policy, practices, discipline, and training.<sup>421</sup> In fulfilling this obligation, the OIG-NYPD obtained records of claims and lawsuits from the city's comptroller and law department and identified precincts for which claims had notably increased and decreased.<sup>422</sup> The OIG-NYPD reviewed changes in the volume of cases over time, trends in the most common types of allegations made, and settlement amounts from lawsuits filed against the department or its officers.<sup>423</sup> The report resulted in several recommendations to enhance the department's use of litigation data, including analyzing department-wide and unit-level litigation patterns and trends; generating reports on patterns and trends in litigation for command staff; entering data about claims naming individual officers into the department's early intervention system; issuing public reports on litigation; and increasing the number of employees who focus on tracking litigation trends.<sup>424</sup>

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420. Schwartz, "What Police Learn from Lawsuits;" DOI, *Using Data from Lawsuits and Legal Claims Involving NYPD to Improve Policing*; Bobb, "Civilian Oversight of Police in the United States."

421. New York City Local Law, No. 166 (2017); New York City Charter, Chapter 34 § 808.

422. DOI, *Ongoing Examination of Litigation Data Involving NYPD*, 5.

423. DOI, *Ongoing Examination of Litigation Data Involving NYPD*, 13–21.

424. DOI, *Ongoing Examination of Litigation Data Involving NYPD*, 27–28.

Elsewhere, analyzing patterns and trends in litigation data for the purpose of proactive intervention and reform is a more institutionalized practice. The Los Angeles County Sheriff's Department (LASD) has been reviewing litigation for "lessons learned" since the appointment of the special counsel to the Board of Supervisors of Los Angeles County in 1993.<sup>425</sup> That same year, the LASD established a Risk Management Bureau, which houses a Civil Litigation Unit to manage cases alongside the county counsel.<sup>426</sup> The LASD's special counsel, which ceased its oversight functions in 2014 following the creation of the Los Angeles County Office of the Inspector General, regularly reviewed closed lawsuits, which could reveal additional facts not uncovered in internal investigations, as a means of evaluating the sheriff department's training and policies.<sup>427</sup> The Los Angeles County Office of the Inspector General may review claims when deemed relevant to its oversight functions.<sup>428</sup> Seattle's Office of Professional Accountability and Portland's Independent Police Review have both reviewed closed litigation files to identify inadequacies in internal investigations, particularly where an internal investigation exonerated an officer but the litigation resulted in a large payout.<sup>429</sup>

## Analyzing use of force

**Recommendation:** Oversight agencies with access to use of force reports should regularly analyze and publish disaggregated data to the public.

**Commentary:** Law enforcement use of force is generally a subject of great interest to the community and other local stakeholders. Members of the public want to understand when, where, how, and upon whom force is used to ensure that the overseen law enforcement agency's use of force is appropriate and is not directed disproportionately towards particular segments of the community.

In order to promote public trust in local law enforcement and identify potential issues regarding the use of force, oversight agencies should regularly review and issue reports on use of force. As independent agencies, civilian oversight bodies have a unique opportunity to present this information to the public in a manner that is perceived to be free of potential bias, slant, or omission.

Comprehensive reporting on use of force can be a resource-intensive endeavor. Oversight staff must have a clear understanding of the department's use of force policies, definitions, training, and reporting system. In many cases, preparing use of force data for analysis requires aggregating information from several sources and reviewing the data to ensure that it is complete and accurate.

Reports on use of force should include a plain-language overview of definitions and categories of force, when the law enforcement agency's policy permits each type of force, how uses of force are documented, and how the data was assembled and analyzed. Uses of force for the period under review can be disaggregated and presented in various ways that may be of interest to the public, such as number of force incidents,

425. Bobb, *First Semiannual Report*, 34.

426. Bobb, "Civilian Oversight of Police in the United States," 2.

427. Schwartz, "What Police Learn from Lawsuits," 19–20.

428. Los Angeles County OIG and Sheriff of Los Angeles County, *Memorandum of Agreement to Share and Protect Confidential LASD Information*, 2.

429. Schwartz, "What Police Learn from Lawsuits," 19–20.

types of force used, officer rank and demographics, subject demographics, subject behavior leading to the use of force, rate of injuries in use of force incidents, and geographical dispersion. Including reviews of investigations and dispositions regarding serious use of force alongside aggregate use of force data cases may also be of interest. Because use of force information can be disaggregated and presented in many ways, tables and infographics are useful tools for presenting information to the public in an easy-to-understand manner.

The Office of Police Complaints (OPC) in Washington, D.C., is required by law to issue a standalone report each year on Metropolitan Police Department (MPD) use of force.<sup>430</sup> The OPC's annual reports include an accessible but detailed overview of the MPD's force reporting system and the various ways that the department catalogues force. Moreover, the OPC's reports include the year's force statistics disaggregated in ways that may be of interest to the community, such as trends over time, geography, subject and officer demographics, subject behavior, and serious use of force incidents reviewed by the MPD's Use of Force Review Board.<sup>431</sup> The OPC includes recommendations developed from its findings regarding the MPD's use of force policies, reporting, and data collection, as well as the MPD's responses to and status updates about recommendations issued in the previous year.

## Data quality and data-driven analyses

**Recommendation:** Civilian oversight agencies should only use credible and relevant data to support assertions made regarding the law enforcement agency's policies, practices, and procedures. Data analyses must use appropriate and methodologically sound statistical approaches.

**Commentary:** Performing data-driven analyses of the overseen law enforcement agency's policies, practices, and procedures can be a powerful tool for identifying and addressing systemic issues of concern. Data analyses do not always need to be complex and sophisticated, but they must always be performed using high-quality data and appropriate statistical methodologies. Given the difficulties inherent to establishing causation in social science research, caution must be taken when interpreting the results of any particular data analysis.

Law enforcement data can be particularly prone to error.<sup>432</sup> Records are typically scattered across several locations, national standards that aid in the standardization of data collected are uncommon, digitized physical records may be imperfect, and simple human error can result in inaccurate data when officers complete reports in the field. When gathering data from a law enforcement agency for analysis, oversight practitioners must first carefully ensure that the data is valid, accurate, and consistently recorded. If the data is flawed, meaningful analysis is simply not possible. Checking for validity and performing periodic quality

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430. District of Columbia Code § 5-1104(d-2).

431. OPC, *Report on Use of Force by the Washington, D.C. Metropolitan Police Department 2018*.

432. Uchida and King, "Police Employee Data," Hickman and Poore, "National Data on Citizen Complaints about Police Use of Force."

assurance audits of data results in more reliable analyses and can allow the oversight agency to recommend improvements to forms, reports, and data entry procedures so that data quality and reporting will be more accurate in the future.

Among the monitoring functions assigned to the Office of the Independent Police Monitor (IPM) in New Orleans is to periodically “review the adequacy of data collection and analysis” of the New Orleans Police Department (NOPD).<sup>433</sup> The IPM has performed this function several times throughout the course of its broader analyses of NOPD policies and practices.

In 2013, the IPM initiated a review of the NOPD’s policies, practices, data, and training relating to stops, searches, and frisks.<sup>434</sup> The review included a qualitative analysis to determine whether NOPD practices complied with legal standards and law enforcement best practices. The review also sought to analyze field interview card data to better understand the legality of stops and any potential disparities in the groups of people NOPD officers stopped and frisked.<sup>435</sup> The IPM’s initial inspection revealed deficiencies with the collection, quality, and supervisory review of field interview card data that made its intended analysis impossible.<sup>436</sup> Although the quantitative review was not performed, the IPM’s inspection of the data resulted in several recommendations to improve the NOPD’s field interview data collection and bring it in line with national best practices.<sup>437</sup> The IPM has similarly addressed data entry errors regarding NOPD’s use of force and arrest reports.<sup>438</sup>

## Policy reform task forces

**Recommendation:** Policy recommendations pertaining to matters of significant community interest may require the convening of a task force, including civilian oversight, law enforcement and their unions, community members and advocacy groups, relevant municipal agencies, and national experts to develop policy recommendations and assist in their implementation.

**Commentary:** Embarking on reforms such as those relating to use of force, body-worn camera usage, or law enforcement interactions with mentally ill persons is a complex and sensitive endeavor that should be undertaken with the involvement of the community and individuals with relevant expertise. Convening a task force to address a particular type of reform can produce more effective outcomes and advance the tenets of procedural justice by including and giving voice to stakeholders who will be affected by the change.

Elected officials typically convene task forces in the wake of significant pressure to introduce reforms. Task forces should be transparent, inclusive, and oriented towards developing an agenda for reform. Stakeholders from several segments of the community—such as criminal justice experts and advocacy groups, oversight practitioners, law enforcement representatives, and political stakeholders—should produce reports identify-

433. Home Rule Charter of the City of New Orleans, Sec. 9-403(2).

434. OIPM, *Review of the New Orleans Police Department’s Field Interview Policies, Practices, and Data*.

435. OIPM, *Review of the New Orleans Police Department’s Field Interview Policies, Practices, and Data*, 29.

436. OIPM, *Review of the New Orleans Police Department’s Field Interview Policies, Practices, and Data*, 6.

437. OIPM, *Review of the New Orleans Police Department’s Field Interview Policies, Practices, and Data*, 44–53.

438. OIPM, *2016 Annual Report: Statistical Reviews of NOPD’s Use of Force*.

ing areas where reform is needed and suggest potential changes to address them. The process of determining which changes are to be implemented and prioritized, how they will be implemented, and the timeline for implementation should be collaborative and based on the consensus of the involved stakeholders.

In 2013, Denver's Office of the Independent Monitor (OIM) issued a report identifying significant deficiencies with the grievance system in the Denver Sheriff Department's (DSD) correctional facilities.<sup>439</sup> The OIM's findings, as well as other concerns with the DSD identified by local stakeholders, prompted the mayor of Denver to launch a thorough review of the DSD's policies, training, discipline, use of force, and staff well-being. Several task forces, consisting of community groups, law enforcement experts, consultants, and representatives from the OIM, were convened to report and develop recommendations regarding several aspects of the DSD's operations and administration.<sup>440</sup> The task forces and subsequent OIM public reports have contributed to significant reforms within the DSD.<sup>441</sup>

## Issuing recommendations

### Developing policy and training recommendations

**Recommendation:** Policy and training recommendations should include, to the greatest extent possible, specific details, relevant examples and resources, and actionable language to guide proposed actions for the law enforcement agency.

**Commentary:** The purpose of issuing a policy or training recommendation to the law enforcement agency is to correct specific deficiencies identified throughout the course of an oversight agency's work. In order to be effective, a recommendation must provide sufficient guidance and detail to be acted upon and implemented appropriately.

Properly addressing a particular issue or set of related issues typically goes beyond adjusting policy language in a way that accommodates the type of changes sought. Policy analyses should include an overview of how a specific matter is currently addressed, comparisons with the policies and procedures of other law enforcement agencies, and a literature review of effective practices in law enforcement. Not only will this information allow for a greater understanding of the issue, it will provide additional resources to guide the implementation of future changes. In the absence of such information, the type of changes sought may not be clear or the law enforcement agency's response may not properly address the deficiencies the oversight agency has identified.

An effective policy recommendation should touch on four key elements: policy, training, supervision, and review.<sup>442</sup>

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439. OIM, *2013 Semiannual Report*.

440. Mayor's Office, "Sheriff Department Reform."

441. Denver Sheriff Department, *Beyond Reform, 2*.

442. Walker and Archbold, *The New World of Police Accountability*, 16.

Policies should be subject to regular revision and fine-tuning in light of new developments or evidence suggesting that additional changes should be made. Aspects of law enforcement that are frequently the subject of ongoing reform have been addressed by researchers, government entities, and law enforcement professionals who have incorporated the latest developments and best practices into publicly available model policies. Oversight agencies that issue policy recommendations should remain abreast of these developments in law enforcement policy and work to incorporate them in their own recommendations. If a policy change is implemented in one area, changes in the department's manual elsewhere may be necessary to address contradictions and promote consistency.<sup>443</sup>

A recommendation that involves a change in policy should identify and address any new training or re-training necessitated by the policy change. Oversight agencies should confer with outside law enforcement and oversight agencies that have adopted similar policies to learn how additional or revised training was provided in light of new policies and procedures.

Similarly, changes to the roles of supervisors may be required to ensure that revised policies and procedures are being followed. Policy recommendations should address the role of supervision and internal accountability systems responsible for compliance with new or revised directives.

Finally, recommendations should be subject to regular follow-up and review in order to assess the impact of a recommendation the law enforcement department agrees to implement.

## Developing disciplinary recommendations

**Recommendation:** Disciplinary recommendations for sustained allegations of misconduct should be consistent, fair, and just.

**Commentary:** All stakeholders have an interest in a disciplinary process that is fair and just. This often means discipline that is commensurate with the severity of the misconduct that was found to have occurred and takes into consideration an officer's history of misconduct (or lack thereof). This also means the disciplinary process must remain consistent, and that decisions must not be arbitrary, biased, or influenced by the level of publicity surrounding the misconduct that occurred.<sup>444</sup>

Law enforcement agencies in general, and subject officers in particular, may be more sensitive to the subject of discipline when a civilian oversight agency is involved in the process. If the inclusion and actions of a civilian oversight agency in the disciplinary process are not perceived as procedurally just, community members and subject officers are unlikely to see the agency as a legitimate and neutral party. A lack of legitimacy may result in fierce resistance to and a sense of alienation that can lead to increased cynicism and future misconduct and decreases in officer performance and well-being.<sup>445</sup>

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443. Walker and Archbold, *The New World of Police Accountability*, 17.

444. Stephens, "Police Discipline: A Case for Change," 7–8.

445. Shane, "Police Employee Disciplinary Matrix," 63; Trinkner, Tyler, and Goff, "Justice from Within."

Civilian oversight agencies will be more effective if they issue rational and consistent disciplinary recommendations when misconduct is found to have occurred. Oversight agencies should understand how the disciplinary process in their jurisdiction functions and how penalties for misconduct are determined by the department they oversee. Law enforcement agencies have increasingly adopted disciplinary matrices or formal predetermined schedules of presumptive action for misconduct and adjustments to be made when considering an officer's disciplinary record.<sup>446</sup> These matrices are an effective tool for administering discipline that is consistent, fair, and transparent.

If the law enforcement agency has pre-established guidelines for discipline, the oversight agency's recommendations should follow them so that their recommendations are not perceived as arbitrary. If the oversight agency determines that such pre-existing guidelines are flawed, or administered inconsistently, then the oversight agency can recommend guideline changes.

The ordinance establishing the Providence, Rhode Island, External Review Authority (PERA) calls for PERA and the chief of police to collaboratively establish a disciplinary matrix for the purpose of issuing discipline when misconduct is found to have occurred.<sup>447</sup> This meaningfully incorporates civilian oversight into the disciplinary process, while the chief retains the authority to issue discipline.

In New York City, the Civilian Complaint Review Board (CCRB) developed a pilot disciplinary matrix program to guide recommendations issued for certain sustained complaints to the police commissioner in 2018.<sup>448</sup> The CCRB's preliminary evaluation of the pilot program has revealed that it has led to more consistent recommendations to the department.

## Requiring written, public responses to oversight recommendations

**Recommendation:** Requiring the law enforcement department to publicly respond in writing to a civilian oversight agency's recommendations can improve transparency and accountability.

**Commentary:** If a civilian oversight agency is authorized to issue recommendations to the law enforcement agency it oversees, the oversight agency's enabling legislation should require the law enforcement agency to provide a public and written explanation detailing why the particular recommendation was either accepted or rejected. The law enforcement agency should be required to provide its response within a predetermined time frame.

Responding to recommendations requires law enforcement administrators to address the concerns and issues the oversight agency has raised. By making the written rationale publicly available, members from the community can understand the law enforcement agency's stated position and perspective regarding a particular recommendation. Response requirements ensure that the work of an oversight agency is properly recognized and considered.

446. Walker, *The Discipline Matrix*.

447. Providence Code of Ordinances, Chapter 18½-2(u).

448. CCRB, *Semi-Annual Report 2018*, 6.

These requirements should cover all forms of recommendations, such as those relating to policy, training, discipline, or investigations. In NACOLE's COAD survey, 58 percent of respondents indicated that subject law enforcement agencies are required to respond to their recommendations.<sup>449</sup>

## Status of recommendations and follow-up

**Recommendation:** Oversight agencies should track and report the status of recommendations issued to the law enforcement department. If the law enforcement department has accepted a particular recommendation, the oversight agency should follow-up on its status, and assist with its implementation where possible.

**Commentary:** Tracking and reporting on recommendations issued by the civilian oversight agency informs the public of the law enforcement agency's commitment to both meaningful reform and the work of civilian oversight. If the law enforcement agency has accepted or rejected a recommendation, the civilian oversight agency should publicly report its response. If possible, it should also provide proof that the law enforcement agency has undertaken the action to which it has agreed. This information allows stakeholders—government officials in particular—to assess oversight's ability to effect change.

When feasible and appropriate, the oversight agency should make efforts to engage and integrate itself, the community, and relevant experts into the implementation of accepted policy and training recommendations. The oversight agency should also periodically issue updates to the public regarding the implementation process and outcomes.

In some jurisdictions, regular reporting on the status of recommendations is mandated in the oversight agency's enabling legislation. For example, the police commissioner of the New York City Police Department (NYPD) is required to provide a publicly available written response to recommendations emerging from the systemic investigations, reviews, studies, and audits of the Office of the Inspector General for the NYPD (OIG-NYPD).<sup>450</sup> The OIG-NYPD is required to publicly issue annual reports providing "an identification of each recommendation described in previous annual reports on which corrective action has not been implemented or completed."<sup>451</sup>

The OIG-NYPD has developed a classification system for the NYPD's responses to each recommendation contained in its policy-related reports, which includes the categories "Under Consideration," "Partially Accepted in Principle," "Accepted in Principle," "Partially Implemented," "Implemented," and "Rejected."<sup>452</sup> Each annual report contains a numerical summary of how recommendations are classified and includes a detailed narrative of the implementation status of each. The OIG-NYPD continually monitors the status of each recommendation issued to the police department.

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449. See table 6 on page 41 of this report.

450. New York, NY Charter, Chapter 34, § 803.

451. New York, NY Charter, Chapter 34, § 803(d)(3)(c).

452. DOI, *Fourth Annual Report*, 3–4.

In Washington, D.C., the city council's Committee on the Judiciary and Public Safety's Fiscal Year 2018 Budget Report recommended that the Office of Police Complaints (OPC) analyze all policy recommendations issued by the Police Complaints Board (PCB) since 2015.<sup>453</sup> The OPC tracked each individual recommendation issued throughout its public reports, reached out to the Metropolitan Police Department and D.C. Housing Authority Police Department to obtain a narrative status update, and included its own response on whether it considered each recommendation to be fully, partially, or not implemented.<sup>454</sup>

## Reporting and transparency

### Regular reports

**Recommendation:** The oversight agency should issue regular reports to the public describing the agency's mission, authority, activity, and accomplishments for the reporting period.

**Commentary:** Public reporting is an essential function contributing to civilian oversight's goal of making both its own operations and those of the overseen law enforcement agency transparent. For most interested parties, a civilian oversight agency's public reports are the primary source of information about the operations and public interactions of their local law enforcement agency. To keep the public apprised of its work, an oversight agency should issue a public report at least annually or at more regular intervals.

Each regular report should state the oversight agency's mission, authority, and purpose. The report should be logically divided into several sections corresponding to the various activities the agency performs and types of information it would like to report to the public. A report should be written in terms accessible to the general public, but not at the expense of omitting important details. Lengthy reports should be summarized, with key information in an executive summary, and similarly, technical appendices should be used when appropriate.

Reports should be used as an opportunity to explain, in clear language, the processes, procedures, and definitions relevant to the agency's work, such as how complaints are processed and adjudicated or how the agency monitors department investigations. Additional information such as commendations and a summary of outreach efforts should be included in the report as well.

Reporting on recommendations issued can be an effective means of demonstrating an oversight agency's efforts to promote change within the law enforcement agency. If an agency issues disciplinary recommendations, aggregate data concerning the sustained allegations, recommended discipline, and, if permitted by law, discipline enacted by the law enforcement agency should be reported. If an oversight agency has

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453. OPC, *Implementation Update on the Reports and Recommendations of the Police Complaints Board from Fiscal Years 2015 and 2016*.

454. OPC, *Implementation Update on the Reports and Recommendations of the Police Complaints Board from Fiscal Years 2015 and 2016*.

issued policy recommendations throughout the reporting period, regular reports should include summaries of each recommendation, references to additional information concerning the recommendation (such as special reports issued on the subject), and the recommendation's status.<sup>455</sup>

Data and infographics describing caseload, complaint allegations and dispositions, officer and complainant demographics, and complaint geographies help the public understand the nature of the agency's work. Including comparative data from prior years for certain measurements is useful in showing trends in activity over time. While the data should be accompanied by basic explanations concerning their measurement, caution must be exerted when making causal inferences regarding changes in the data.<sup>456</sup>

## Special reports

**Recommendation:** Investigations and reviews of matters of significant community interest should be published as standalone special reports.

**Commentary:** When an oversight agency performs an in-depth investigation or review of policies and procedures, critical incidents, or other matters of significant community concern, the agency's findings should be published in a special report separate from the agency's regular and routine reports. Special reports can extend the oversight's public reach by drawing attention to the agency's response to a specific matter that is of community concern.

By addressing issues and practices of the law enforcement agency that are of significant concern to the community, special reports can build the relationship between the oversight agency and the public. Highlighting recommendations for remedial initiatives in a special report may lead the public to more closely monitor subsequent implementation.

## Publishing and presenting data

**Recommendation:** An oversight agency's data should be regularly published and presented in a clear and accessible format.

**Commentary:** Data on complaints, complainant, alleged victim and officer demographics, allegations, dispositions, and complaint geographies is among the most vital forms of information an oversight agency has at its disposal. Visualizing these data can have a strong impact on the public's understanding of patterns and trends in complaint activity and investigations.

Raw data can be downloaded, inspected, and analyzed by members of the public. Publishing raw data on a regular basis promotes transparency and public confidence in both the law enforcement and civilian oversight agencies. If feasible, interactive dashboards can be developed around the data so that it can be visualized in different ways.

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455. For additional information on providing status updates on recommendations, see the "Status of Recommendations" section of this report.

456. For additional information on interpreting oversight data, see the "Evaluation Metrics: Workload and Performance" section of this report.

In Portland, Oregon, Independent Police Review (IPR) publishes several years of data on its website.<sup>457</sup> This includes complaints, intake decisions, closure reasons, complainant demographics, and complaint geographies. The IPR's website allows members of the public to download the raw data and includes an appendix describing data sources.

## Retaliation and confidentiality

### Prohibitions against retaliation

**Recommendation:** All forms of retaliation, including threats, harassment, discouragement, intimidation, coercion, or adverse action, against oversight staff or any individual who files a complaint, cooperates with an investigation, or provides information to a civilian oversight agency must be expressly prohibited by the oversight agency's enabling legislation and departmental policy. Retaliation must be subject to discipline, up to and including termination.

**Commentary:** Effective civilian oversight requires that individuals be protected from any form of retaliation or adverse action associated with their assistance to the agency. A fear of retaliation can have a significant chilling effect on those considering filing a complaint, cooperating with an investigation, or providing information of interest.<sup>458</sup>

Civilian oversight enabling legislation must expressly prohibit any and all forms of retaliation. Similarly, the law enforcement department must implement policies that prohibit retaliation against civilians, department employees, and whistleblowers who file a complaint, cooperate with an investigation, or provide information relevant to the oversight agency's work. Both the law enforcement and civilian oversight agency must ensure that anti-retaliation policies are enforced by subjecting staff and officers to appropriate discipline, up to and including termination, when retaliation is found to have occurred. All department employees should receive training on the retaliation policy and, if within the oversight agency's jurisdiction, be made aware that retaliation and misconduct can be reported to the oversight agency. A failure to properly address retaliation through discipline can undermine both civilian and officer confidence in the complaint, investigative, and disciplinary processes, compounding the reluctance of some individuals to file complaints or cooperate with the oversight agency.

Anti-retaliation policies should provide clear guidance on what are considered protected activities and what actions constitute retaliation. These activities and actions should be separately defined for members of the public (external retaliation) and employees of the law enforcement department (internal retaliation).

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457. Independent Police Review, "Data > Police Misconduct Complaints."

458. McDevitt, Farrell, and Andresen, *Enhancing Citizen Participation*, 72–73.

Supervisors should be responsible for monitoring and preventing retaliation from occurring. However, in instances where a department employee alleges retaliation against a supervisor, procedures that prevent conflicts of interest should be put in place by delegating the investigative responsibility to a higher-ranking employee outside the chain of command.

In the city of Los Angeles, significant effort has been put in place to address LAPD retaliation between department employees. In 1999, as investigations into the Rampart Scandal were taking place, the Los Angeles city council passed a series of ordinances codifying prohibitions against retaliating against city employees who contact or are contacted by the Police Commission's Office of the Inspector General.<sup>459</sup> When the city entered a consent decree in 2001, stronger department policies to address and investigate claims of retaliation were put in place.<sup>460</sup> The LAPD implemented a comprehensive anti-retaliation strategy, including enacting a policy that defines protected activities and provides examples of prohibited retaliatory behaviors,<sup>461</sup> establishing a Workplace Investigations Unit within the Internal Affairs Group to investigate workplace-related complaints,<sup>462</sup> and having the Office of the Inspector General review all retaliation cases.<sup>463</sup>

## Monitoring and reviewing retaliation complaints and policy

**Recommendation:** Oversight agencies should periodically review civilian and internal retaliation complaints to assess the prevalence of retaliation and ensure that both the investigative and disciplinary processes of the law enforcement organization are functioning properly.

**Commentary:** When complaints and concerns about retaliation are frequently brought to the attention of the oversight agency, a review of retaliation-related complaints, investigations, policies, and discipline is warranted. Ensuring that retaliation is prevented and addressed appropriately is a key component in building public trust in the complaint process. Similarly, managing retaliation within the law enforcement agency is crucial to ensuring procedural justice and fairness. Oversight agencies with jurisdiction over internal complaints or the authority to review policies, discipline, and promotions can serve as a neutral entity for those within the department who allege to have been the subject of retaliation.

Conducting a review of retaliation complaints can be difficult. In some cases, complaints are not properly categorized as retaliation-related upon intake, or complaint narratives do not make explicit reference to retaliation or a fear of retaliation. As a matter of course, civilian oversight agencies should document all walk-ins and contacts with members of the community and mark instances where an individual contacted

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459. City of Los Angeles, Los Angeles City Ordinance No. 172466, §§ 4.600, 4.601, and 4.6002.

460. Consent Decree, *United States of America v. City of Los Angeles, California, Board of Police Commissioners of the City of Los Angeles, and the Los Angeles Police Department*.

461. LAPD, *2020 3rd Quarter Manual*, Volume 1, Sections 272–273.

462. Los Angeles Police Commission OIG, *Review of the Department's Quarterly Discipline Report, Third Quarter 2009*, 6.

463. Los Angeles Police Commission OIG, *Review of the Department's Quarterly Discipline Report, Third Quarter 2009*.

the agency but ultimately did not file a complaint. While it may not be possible to get a complete understanding of real or potential retaliation, assembling information from disparate sources may be useful in identifying trends or weaknesses with anti-retaliation efforts.

In 2014, the Office of the Independent Police Monitor (IPM) in New Orleans performed an analysis of the New Orleans Police Department's (NOPD) retaliation policies and practices.<sup>464</sup> For both civilian and internal retaliation, IPM reviewed retaliatory actions, complainant and officer demographics, officer ranks and assignments, allegations lodged against accused officers, and the complaint dispositions after each investigation. In addition, the IPM compared the language in the NOPD's anti-retaliation policies with model policies and those from other police departments. The IPM's report concluded with several recommendations regarding retaliation policies, training, and supervision.<sup>465</sup>

## Community outreach and inclusion

### Assessing outreach needs

**Recommendation:** Oversight practitioners should plan and evaluate their outreach needs based on the oversight body's resources, mandate, goals, local needs, and challenges.

**Commentary:** Maintaining an effective outreach program requires clear goals and consideration of the community the civilian agency serves. An agency's outreach needs are typically different depending on how long the agency has been in operation. A relatively new agency may need to work on increasing public awareness of its existence and communicating its mission, while a more established agency may direct attention to sustaining local support and maintaining legitimacy.

An oversight agency's mandate should influence its goals and priorities when performing outreach. Oversight agencies that receive or investigate complaints may focus on expanding the accessibility of the complaints process and distributing complaint forms and brochures throughout the jurisdiction. Those tasked with addressing policy-related issues may direct efforts towards hosting roundtables and events with diverse participation in order to solicit community input. Established priorities should address matters that are within the civilian oversight agency's jurisdiction. For example, if an agency does not have a role in policy-related issues, it should not perform outreach claiming that it will address issues such as racial profiling.<sup>466</sup>

The priorities and resources of a civilian oversight agency must inform its outreach efforts. Oversight staff should consider the amount of personnel and funding it should dedicate to outreach and its associated tasks, such as distributing brochures and hosting public events.

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464. Hutson, "RE: OIPM # 2012-850; NOPD Retaliation Policy, Pattern and Practice."

465. Hutson, "RE: OIPM # 2012-850; NOPD Retaliation Policy, Pattern and Practice," 18–23.

466. Stewart, "Chapter 11. Community Outreach and Public Education in Citizen Oversight," 154.

In some cases, the resource burden of outreach can be lessened by applying for outreach-related grants, developing volunteer programs, or creating partnerships with community organizations. The Denver Office of the Independent Monitor, for example, administers the Youth Outreach Project, in part using grant funds distributed by the Colorado Division of Criminal Justice.<sup>467</sup> In Atlanta, the Citizen’s Review Board administers a Community Outreach Volunteer Ambassador Program (COVAP) to maintain a pool of volunteers with specific skills, talents, resources, and contacts capable of supporting the ACRB’s outreach efforts by spreading awareness of the agency’s mission.<sup>468</sup>

## Partnerships with community organizations

**Recommendation:** An oversight agency’s outreach efforts can be strengthened by developing partnerships with local community organizations.

**Commentary:** Increasing awareness and maintaining public trust are ongoing endeavors that an oversight agency cannot achieve alone. Effective community outreach requires facilitating open and honest dialogue with communities that have historically had troubled relationships with law enforcement. These communities may have little trust or confidence in government institutions. An oversight agency can thus expand its reach and incorporate these communities in local policy and decision-making processes by developing partnerships with community groups and organizations.

Developing relationships with these groups and organizations increases an oversight agency’s capacity to spread awareness and solicit input from these hard-to-reach communities. Outreach materials, brochures, complaint forms, surveys, and meeting agendas should be distributed and the oversight agency should assist these organizations in hosting sessions to discuss concerns and solicit feedback from their constituents.

In addition to soliciting community input at their own public meetings, the Seattle Community Police Commission (CPC) developed partnerships with 13 local community organizations and service providers to reach groups that may be distrustful or skeptical of engaging with strangers or government representatives.<sup>469</sup> The CPC supply these organizations with outreach materials such as background information on the CPC, draft policy recommendations, and surveys to capture feedback from the community members with whom the organizations work. The partners then report the feedback received from their constituents to the CPC in summary form.

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467. OIM, *2013 Semiannual Report*, 2.

468. NACOLE, *Atlanta Citizen Review Board*, 13.

469. Seattle Community Police Commission, *Community Outreach Report*, 12–13.

## Targeted outreach to key groups

**Recommendation:** Targeting and tailoring outreach efforts to key local stakeholders can maximize an agency's reach and ability to share relevant information.

**Commentary:** An oversight agency should identify and connect with key groups to understand their concerns and priorities and incorporate them into the civilian oversight agency's work. Because each group may have different interests, outreach efforts should be targeted to the specific group and tailored to address matters most relevant to them.

The types of groups to which outreach should be targeted can broadly be split into three categories: community members and groups, law enforcement and their unions, and government officials. There are typically several groups within each category, with each requiring tailored outreach goals and approaches. While approaches may differ out of necessity, all outreach should be consistent, balanced, respectful, and fair.

### Complainants

Outreach to those who have filed or are considering filing a complaint is crucial. This may include distributing complaint forms and brochures, increasing awareness and understanding of the complaints process, and providing assistance to those who wish to file a complaint. For those who have already filed a complaint, outreach efforts should include maintaining open channels of communication, developing realistic expectations, providing regular updates regarding the status of complaints, and soliciting feedback once the complaint process has been completed.

### Community at large

The most basic outreach efforts involve increasing the general public's awareness of the oversight agency's existence, mission, and functions and promoting confidence in its work. In some cases, it may also involve engaging with those who are dissatisfied with or disinterested in local law enforcement issues. This type of outreach can take many forms, including attending community events, distributing brochures and reports, and providing updates on the agency's completed or ongoing projects.

### Targeted groups and communities

Targeting specific populations, particularly those who have had historically strained relationships with law enforcement, is a crucial element of successful outreach. These populations may include racial and ethnic minorities; refugee, immigrant, and undocumented populations; youth; LGBTQ communities; religious and spiritual groups; and the homeless.

Approaching these communities requires a more proactive and tailored approach because more generalized forms of outreach typically fail to effectively reach these populations. Individuals in these populations may be apprehensive to discuss their concerns or file complaints because they feel that they will not be believed or fear retaliation. It is thus important to build personal connections, trust, and credibility to break down the skepticism these populations may have towards those involved directly or peripherally in the process. Successful outreach to target populations will be bidirectional, with the agency both disseminating information and receiving input and participation.

Local community organizations, advocacy groups, service providers, and nonprofits can be effective outreach partners because they have pre-established trust and relationships within the community. As discussed in the preceding recommendation, developing partnerships with such organizations strengthens an oversight agency's reach and ability to solicit information from the communities they work with.

### **Law enforcement**

Members of law enforcement may have interests that differ from other members of the community, and the attitudes of law enforcement towards oversight can vary greatly. As a result, outreach efforts must take their concerns into account. In general, members of law enforcement expect civilian oversight to be fair, impartial, and conducted in accordance with the civilian oversight agency's jurisdictional authority. It is therefore important that an oversight agency's messaging be consistent and perceived as neither pro- nor anti-law enforcement. While tensions and disagreements may at times be inevitable, demonstrating a commitment to fairness and procedural justice can be crucial in fostering a collaborative relationship with the law enforcement agency.

### **Law enforcement unions**

Because law enforcement unions exist to advance the interests of their constituents, they have historically been opposed to civilian oversight. While there is some preliminary evidence that this is beginning to change,<sup>470</sup> the nature of an oversight agency's relationship with law enforcement unions will vary depending on the local context.

Outreach to unions should focus on demonstrating a commitment to fairness and finding common ground on matters of interest to both parties. Soliciting and considering union input and perspectives on new initiatives or policy changes can promote the development of a more productive working relationship.

### **Local government officials**

Outreach to local government officials is crucial to ensuring the agency has the support and resources necessary to perform its work. Civilian Oversight agencies should develop relationships and seek buy-in from elected officials who are supportive of oversight and whose constituents have an interest in oversight's

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470. Wilson and Buckler, "The Debate over Police Reform."

success. They should similarly distribute outreach materials and invite them to public meetings in order to familiarize them with the agency's work. While it is important to include government officials in the oversight process, it must be performed in a way that maintains the agency's real and perceived independence.

## Community inclusion in developing a mediation program

**Recommendation:** An oversight agency should work with local stakeholders to develop protocols determining which types of complaints are eligible for mediation.

**Commentary:** Because the primary focus of mediation programs is to facilitate interactions that promote mutual understanding and improve police-community relations, community and law enforcement stakeholders should be involved in developing and evaluating the mediation program.

The creation of the Community-Police Mediation Program in New Orleans—established by the Office of the Independent Police Monitor pursuant to its ordinance—involved the convening of a planning committee to design the program. The planning committee consisted of representatives from local religious, business, education, and legal communities; grassroots organizations and youth service providers; criminal justice reform experts; the New Orleans City Council; and two local police unions. Together, the committee developed the mediation policy framework.<sup>471</sup>

In the San Francisco Bay Area, the Bay Area Rapid Transit (BART) Office of the Independent Police Auditor was required to develop a voluntary mediation process agreed upon by the BART Police Citizen Review Board and BART Police Associations prior to implementation.<sup>472</sup>

## Evaluation

### Oversight agency evaluation

**Recommendation:** Oversight agencies should be evaluated periodically to identify strengths, weaknesses, and accomplishments and promote continuous improvement.

**Commentary:** Evaluating public services is a crucial component of good governance that serves as a means of determining the legitimacy of a particular service and justifying its continued support.<sup>473</sup> A civilian oversight agency should be periodically evaluated in order to identify strengths, weaknesses, and accomplishments; determine whether it has achieved or can achieve its goals; understand potential legislative or resource needs; and gauge public satisfaction with the services provided. An evaluation may lead to recommendations that can strengthen the agency's work. When conducted, evaluations allow for continuous improvement and ensure that the agency is meeting the needs of the community.

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471. OIPM, *New Orleans Community-Police Mediation Program: 2015 Annual Report*, 9–10.

472. San Francisco Bay Area Rapid Transit District, *Citizen Oversight Model*, 4.

473. Suchman, *Evaluative Research: Principles and Practice in Public Service & Social Action Programs*.

Several jurisdictions have included periodic evaluation requirements in their civilian oversight enabling legislation. The frequency of these requisite evaluations typically ranges from every year to every three years. In some jurisdictions, a panel of civilians is responsible for conducting the evaluation. In others, agencies are evaluated by an entity within the municipal government or by a private consulting firm. Regardless of who is chosen to perform the evaluation, the evaluator must have a thorough understanding of the agency's stated goals, functions, processes, and roles of local stakeholders in supporting effective oversight.

Periodic evaluation requirements must take into account the evaluation's scope, frequency, and allocated resources. Civilian oversight agency evaluations can be a difficult and resource-intensive endeavor. The planning, coordination, data and information collection, staffing, analysis, and report writing must be taken into consideration.

## Evaluation approaches and frameworks

**Recommendation:** Various approaches, methodological considerations, and frameworks should be taken into account when evaluating an oversight agency.

**Commentary:** There are two overarching approaches to civilian oversight evaluation: evaluating the oversight *process* and evaluating oversight's *outcomes* and impact.<sup>474</sup> A *process* evaluation considers whether the agency is or is not able to fulfill its mandate, achieve its stated goals, and meet community expectations. An *outcome* evaluation considers the impacts of the agency's work, such as whether it has demonstrably accomplished goals such as improving community relationships or deterring misconduct.

### Information and data

Regardless of the approach chosen, all evaluations require assembling information from disparate sources. This may include the agency's enabling legislation, mission statement, reports, outreach materials, data, budgets, bylaws, manuals, operating procedures, correspondence, testimony, and relevant law enforcement agency records. In addition, surveys and interviews can provide insights that would otherwise not be gleaned through written documentation. This may include interviewing command staff, union representatives, elected officials, and community groups. Such interviews can inform evaluators of how stakeholders perceive, cooperate, and maintain relationships with the oversight agency. Surveying complainants, witnesses, officers, and the community at large can similarly reveal perceptions and attitudes towards the agency and its work.

### Approach and methodological considerations

Process evaluations typically draw from mixed methods. They focus on agency structure, organization, functions, and processes as well as stakeholder roles, cooperation, collaboration, and perceptions. Evaluations of this type may consider, for example, an agency's procedures for handling, investigating, and

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474. Walker, *Police Accountability: The Role of Citizen Oversight*, 146.

mediating complaints; the quality of its outreach efforts; or structural and organizational impediments to effectiveness. An evaluation focused on process is more likely to result in recommendations geared towards strengthening the oversight agency in terms of its functions and sustainability.

Evaluating civilian oversight outcomes and impact is a considerably more challenging endeavor. This is because outcomes may be contingent upon the overseen law enforcement agency and impact is methodologically difficult to determine. In many cases, outcomes depend on the law enforcement agency's willingness to accept that organizational changes are necessary and its ability to overcome the challenges of implementing them effectively. These challenges have been referred to as "the compliance problem," which is inherent to any effort to change law enforcement behavior.<sup>475</sup> The compliance problem concerns the law enforcement agency's administrative implementation of new initiatives, training, and policies. Professor Samuel Walker drew from the Pittsburgh consent decree monitor's use of three compliance levels to determine the status of particular reforms: *primary compliance* concerns the law enforcement agency's development of a formal policy or procedure; *secondary compliance* involves "training, supervision, audit and inspection, and discipline to ensure that a specific policy is being implemented as designed;" and *operational compliance* indicates that "by matter of evidence," the particular policy is regularly followed as implemented.<sup>476</sup>

The extent to which an oversight agency is able to promote operational compliance with reform recommendations will vary depending on the agency's authority and involvement in a reform's implementation; the law enforcement agency's willingness and ability to influence officer behavior; and the level of cooperation and collaboration between both entities. Evaluating outcomes will thus, at least partially, involve qualitative assessments, significant follow-up, and case studies to determine the extent to which an outcome has been achieved.

Similarly, there are several challenges to performing impact evaluations to determine whether a civilian oversight agency has achieved its goals.<sup>477</sup> Civilian oversight's goals may include improving law enforcement's legitimacy and relationship with the community, reducing and deterring misconduct, increasing accountability, or promoting systemic change by influencing policies, procedures, and training. An agency may engage in activities with more concrete goals, such as reducing use of force or improving interactions with youth. Such goals are difficult to quantify or evaluate systematically. Even where relevant data are readily available, the efforts of a civilian oversight agency are merely one of the many factors that may have contributed to the overall impact of a particular reform effort or agency initiative. Absent vast amounts of data and sophisticated statistical methods, the ability to establish relationships demonstrating civilian oversight's impact will generally be limited.

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475. Walker, *Police Accountability: The Role of Citizen Oversight*, 152.

476. Walker, *Police Accountability: The Role of Citizen Oversight*, 153.

477. Walker, *Police Accountability: The Role of Citizen Oversight*; Prenzler and Lewis, "Performance Indicators for Police Oversight Agencies;" Buren, *Evaluating Citizen Oversight of Police*; Faull, *Monitoring the Performance of Police Oversight Agencies*; Walker and Archbold, *The New World of Police Accountability*.

It is important to note that these evaluative limitations are not exclusive to civilian oversight of law enforcement. Causation in the social sciences is generally difficult to establish.<sup>478</sup> Determining the impacts of any form of law enforcement review system—whether internal or external—will therefore present a significant challenge to evaluators.<sup>479</sup> In most cases, law enforcement-related initiatives have goals that are complex, multifaceted, and interrelated,<sup>480</sup> in the same way as they are for civilian oversight.

### Evaluation frameworks

In addition to having sufficient resources and information, evaluations require a clear scope, cohesive evaluative framework, thoughtful planning, and input from community members and involved stakeholders. The framework used should establish a set of evaluative criteria that allow evaluators to develop relevant research questions and formulate answers based on their findings.

Given that no two civilian oversight agencies are the same,<sup>481</sup> no two evaluation approaches will be the same either. Each evaluation must reflect the particular authority, jurisdiction, functions, goals, and local context of the agency under examination. The evaluations' scope will also vary widely. Some may focus narrowly on the quality of the agency's leadership or work product; others may focus more broadly on the extent to which the agency has achieved its stated goals. In such cases, the evaluative framework, criteria, and methodologies will necessarily differ.

There are few established frameworks for evaluating civilian oversight. Two of them are presented here as examples. Each framework establishes a set of evaluative criteria to guide evaluators throughout the course of their work.

### Thirteen principles of effective oversight as evaluative criteria

- This report's 13 principles for effective civilian oversight can serve as an evaluative framework of the oversight process, much in the same way that this report's recommendations are centered on practices that strengthen an agency's fulfillment of each principle. Previous iterations of these principles have been suggested as a potential framework for evaluating the civilian oversight system in Seattle.<sup>482</sup>
- Using some or all of the 13 principles as a framework assists evaluators in assessing the strengths and weaknesses of an agency from an organizational or structural perspective. Many of the principles can be assessed in terms of degree, rather than as a mere binary, when determining whether or not a principle has been satisfied. This allows evaluators to determine whether an agency sufficiently satisfies a principle and to identify opportunities to strengthen an agency with regard to a particular principle.

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478. Byrne, "Evaluating Complex Social Interventions in a Complex World."

479. Perez, *Common Sense About Police Review*.

480. Milligan, Fridell, and Taylor, *Implementing an Agency-Level Performance Measurement System*; Shane, "Performance Management in Police Agencies."

481. De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement: Assessing the Evidence*, 22.

482. Office of City Auditor, *Five Recommendations*, 15.

### Integrity, legitimacy, and learning as evaluative criteria

- Professor Douglas W. Perez developed three criteria to be used when evaluating a police review system: integrity, legitimacy, and learning.<sup>483</sup> These interrelated criteria consider the importance of fairly balancing stakeholder concerns in an effective accountability system.<sup>484</sup> Taken together, they address whether the system functions in a manner that is procedurally just and is capable of promoting positive change within the overseen law enforcement agency.
- *Integrity* refers to whether the agency is fair, thorough, and objective in its work. This may concern, for example, whether the agency's decisions are based on reasonably objective assessments of facts and statements. *Legitimacy* refers to whether the agency and its work are perceived to be legitimate by stakeholders involved. For civilians, this may include whether the agency is viewed as independent and committed to achieving its stated goals. *Learning* assesses the extent to which the law enforcement agency has been influenced by the oversight system. This may include efforts to deter misconduct or promote organizational change.

### Evaluation metrics: Workload and performance

**Recommendation:** When properly contextualized and interpreted, certain metrics relating to the agency's workload and performance can be helpful in understanding an oversight agency's work.

**Commentary:** Many oversight agencies publish data relating to the agency's accomplishments for a specific time period as a means of conveying an assessment of the agency's performance.<sup>485</sup> By and large, these data are often better taken as proxies for the types of insights regarding oversight that cannot be reliably measured, such as the level of misconduct or how effective the oversight system is in ensuring accountability. These commonly reported metrics may include the number of complaints filed, the number of complaints sustained, the average duration of an investigation, the number of mediations conducted, the number of recommendations issued, and the number of recommendations accepted or implemented.<sup>486</sup>

The value of such data is clear, and it should therefore be published. It is important, however, that these metrics be properly explained and contextualized so the public does not misinterpret them.

For example, it is unclear how a decrease in the number of civilian complaints should be interpreted. On the one hand, it may indicate that an agency is effectively deterring misconduct, in turn reducing the number of interactions that may lead to the filing of a complaint. On the other hand, it may signal a lack of public awareness or reduced confidence in the complaint process. When one considers the amount of variation in community outreach and the ease with which complaints can be filed, and that, like crime, many people

483. Perez, *Common Sense About Police Review*, 72.

484. Perez, *Common Sense About Police Review*, 65.

485. Mohr, *The Use of Performance Measurement in Civilian Oversight*.

486. Mohr, *The Use of Performance Measurement in Civilian Oversight*; Faull, *Monitoring the Performance of Police Oversight Agencies*.

do not report real or perceived misconduct,<sup>487</sup> the difficulties of interpretation become apparent. The number of complaints received is not an indicator of the relative prevalence of misconduct; it merely indicates, on some level, the caseload of the complaint-receiving entity.

There are similar issues with one of the most commonly reported indicators of effectiveness: the sustain rate. Researchers and members of the public frequently turn to the number of complaints or allegations sustained as a measure of investigative rigor and accountability for misconduct.<sup>488</sup> The sustain rate, however, is an inappropriate indicator of an effective complaint process, and a low sustain rate does not mean that an oversight agency is failing to accomplish its goals.<sup>489</sup> As previously discussed, the number of complaints filed does not adequately capture all instances of misconduct experienced by members of the public. The total number of complaints recorded is a function of the accessibility of the complaint process and how complaints are processed upon receipt. A complaint process that is more accessible will record a larger number of complaints, in turn, depressing the sustain rate by increasing its denominator. A less accessible complaint process will conversely record fewer complaints and yield a higher sustain rate when calculated.<sup>490</sup> The sustain rate is similarly sensitive to how complaints and allegations are handled and recorded. Some jurisdictions, for example, forward low-level complaints to the subject officer's command for informal resolution, often excluding them from calculations based on "formal" complaints and investigations. Elsewhere, the sustain rate may be based on the number of allegations sustained rather than complaints sustained.<sup>491</sup> The sustain rate is thus an unreliable measure of effectiveness, with typically little value in a comparative or evaluative context.

While civilian oversight agencies maintain data and metrics that are useful for evaluations, they are generally not, by themselves, measurements of an agency's effectiveness or impact. The achievement of civilian oversight's complex and interrelated goals cannot be represented by standalone metrics—metrics should be used to supplement qualitative analyses.

Most of the data listed below can be used to measure an agency's workload. Workload or output measurements concern the agency's activities or the amount of work received and performed within a particular period. These measurements may include the following:

- Number of complaints received
- Number of cases referred to mediation, mediations performed, and mediations accepted or rejected
- Number of cases investigated, reviewed, monitored, audited, or remanded for further investigation;
- Number of cases adjudicated
- Number of disciplinary recommendations issued

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487. Walker, *Police Accountability: The Role of Citizen Oversight*, 123.

488. Hickman, "Citizen Complaints about Use of Force;" Walker and Archbold, *The New World of Police Accountability*, 130.

489. Walker, *Police Accountability: The Role of Citizen Oversight*, 123.

490. Walker and Archbold, *The New World of Police Accountability*, 130.

491. Walker and Bumphus, "The Effectiveness of Civilian Review: Observations on Recent Trends and New Issues Regarding the Civilian Review of the Police," 12.

- Number of community outreach events held or attended
- Number of locations where community outreach materials are available
- Number of policy, procedure, or training recommendations issued

Performance measurements capture the agency's basic accomplishments, ability to maintain its workload, and stakeholder satisfaction. "Performance" in this context does not mean effectiveness, but rather preliminary indicators that may shed light on how the agency is functioning or perceived. These may include the following:

- Number of investigations pending, ongoing, or completed
- Percentage of formal investigations where a factual determination regarding the underlying incident has been reached<sup>492</sup>
- Average investigation length or percentage of investigations completed within a particular time frame
- Complainant and officer satisfaction with the complaint process
- Number of disciplinary recommendations accepted or rejected
- Number of policy recommendations accepted, implemented, or rejected

## External evaluation

**Recommendation:** Stakeholders should weigh the relative benefits of having the oversight agency evaluated by community, municipal, or private entities.

**Commentary:** Various entities outside the oversight agency can be tasked with evaluation. This may include a civilian body representing the community; an auditor or comptroller within local government; a private firm or nonprofit with expertise in law enforcement and law enforcement oversight; or some combination thereof.

Evaluations by a panel of community members allow local stakeholders outside of the agency to provide direct input and feedback into the work of the agency. Because these evaluations typically involve individuals who, like volunteer civilian review boards, do not have a thorough working knowledge or in-depth understanding of the mechanics of civilian oversight and law enforcement, they are typically more limited in scope.

The Office of the Police Ombudsman Commission (OPOC) in Spokane, Washington, is required to evaluate the performance of the Office of the Police Ombudsman.<sup>493</sup> The commission's written evaluation is included in its annual report and covers the ombudsman's integrity, dedication, and independence, as well as the

492. This captures the agency's ability to conduct investigations sufficiently thorough to establish the facts of the underlying incident and support a final disposition, such as sustained, exonerated, or unfounded.

493. Spokane Municipal Code Section 04.32.150(J)(7).

change in the number of cases reviewed and disciplinary decisions undertaken by the Spokane Police Department.<sup>494</sup> In addition, the Spokane City Council is required to review the police ombudsman's annual reports and determine if amendments to enabling legislation are required.<sup>495</sup>

In Denver, Colorado, the Office of the Independent Monitor (OIM) is subject to an annual evaluation by the Citizen Oversight Board (COB).<sup>496</sup> The COB utilizes a multifaceted approach to evaluating the OIM: a qualitative and quantitative survey of OIM staff; a separate qualitative survey of COB members; a questionnaire sent to the Department of Safety, police chief, and sheriff; and review of a series of quantitative performance measures.<sup>497</sup> The COB member survey evaluates several components of the independent monitor's performance according to a qualitative scale (outstanding, satisfactory, and unsatisfactory), including the OIM's monitoring and outreach, policy recommendations, mediation program, public reporting, and overall management. The quantitative measures used in the OIM's evaluation assess the overall workload of the OIM and several annual performance measures in relation to goals established by the COB in the previous year.

In other jurisdictions, government stakeholders conduct periodic or ongoing evaluations of the civilian oversight agency. This may include the municipality's auditor or comptroller, inspector general, legislature, or public safety committees. Evaluations may range from comprehensive reports on the processes, procedures, and management of the oversight agency to public hearings and testimony regarding the agency's work.

The deputy inspector general for public safety within the Chicago Office of the Inspector General (OIG) provides oversight of the Chicago Police Department and its two oversight agencies, the investigation-focused Civilian Office of Police Accountability (COPA) and the Chicago Police Board (CPB). The deputy inspector general for public safety performs reviews and audits on an ongoing basis, with the goals of increasing the oversight agencies' effectiveness, ensuring the accountability of the police force, and increasing public safety.<sup>498</sup> The Chicago OIG's public safety section published a report regarding COPA's information release practices, as pursuant to Illinois' Freedom of Information Act and provisions within the Chicago city charter requiring COPA to withhold the release of investigative findings from the public until a final disposition on the case has been reached.<sup>499</sup> The report recommended that COPA revisit its information release practices so as to preserve the integrity of the oversight process.<sup>500</sup>

A less common—and more expensive—form of external evaluation involves contracting with a private consultancy, research firm, or nonprofit organization with relevant experience. These evaluations are typically conducted by experts in civilian oversight and law enforcement administration who perform a comprehensive review of the authority, procedures, and work product of the civilian oversight agency.

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494. Office of the Police Ombudsman Commission, *Office of the Police Ombudsman Commission 2017 Annual Report*, 10.

495. Spokane Municipal Code Section 04.32.130.

496. Denver Revised Municipal Code Art. XVIII § 2-377(b)(1). The Denver Department of Safety, which manages the Denver Police, Sheriff, and Fire departments, is a central stakeholder in the disciplinary process that issues final disciplinary decisions and provides administrative support.

497. Citizen Oversight Board, *2017 Annual Report*, 11.

498. Municipal Code of Chicago, §2-56-210.

499. City of Chicago Office of Inspector General, *Report Concerning COPA's Release of Investigative Reports*.

500. City of Chicago Office of Inspector General, *Report Concerning COPA's Release of Investigative Reports*, 3.

The New Orleans Office of the Independent Police Monitor (IPM) is subject to an annual external evaluation by a committee established by city's Ethics Review Board, city council, and mayor.<sup>501</sup> Additionally, the IPM must subject itself to a peer review by an externally contracted entity every three years. The findings from the peer review are forwarded to the Ethics Review Board, which deliberates on the report's recommendations and requires the IPM to implement approved recommendations within 90 days.<sup>502</sup>

The oversight system for the Bay Area Rapid Transit (BART) Police Department is subject to an evaluation every three years to determine "whether the need exists to make changes and/or otherwise make adjustments to the system to improve its continued performance."<sup>503</sup> This evaluation includes input from the BART Citizen Police Review Board and Office of the Independent Police Auditor, BART police associations, complainants, members of the public, and several key staff within BART itself. A review of the BART oversight system performed by a private consulting firm led to more than 50 recommendations that expanded and clarified the oversight system's authority, improved the accessibility of the complaints process and communication with complainants, and reduced inefficient investigative practices.<sup>504</sup>

## Internal evaluation

**Recommendation:** Oversight staff should be periodically surveyed by an outside entity to gauge staff morale and internal perceptions of management, operations, processes, and procedures.

**Commentary:** Surveys of employees can be an effective tool for gauging how well an oversight agency is functioning. Oversight staff are most familiar with the day-to-day work of the agency and are thus acutely aware of how management and operations affect the ability of the agency to achieve its goals.

Staff must be able to provide feedback without fear of retribution. Surveys must be issued anonymously and submitted to an evaluator outside the oversight agency who compiles responses and presents findings to relevant decision makers.

In 2006, the San Francisco Police Commission requested that the city controller's office conduct a performance audit of the Office of Citizen Complaints (now the Department of Police Accountability) to assess whether the OCC investigated complaints in a manner that was timely and complied with the city charter, state law, and OCC's policies and procedures. It also requested that the controller evaluate the OCC's management practices and outreach.<sup>505</sup> One component of the controller's review was a 90-question survey concerning employee opinions of the agency's management, communication in the workplace, and morale.<sup>506</sup> The controller's audit resulted in several recommendations, including improvements to OCC's management, procedures, and staff support.<sup>507</sup>

501. City of New Orleans Code of Ordinances, Sec. 2-1121(22)(a).

502. City of New Orleans Code of Ordinances, Sec. 2-1121(22)(b).

503. San Francisco Bay Area Rapid Transit District, *Citizen Oversight Model*.

504. Gennaco and Zisser, *Independent Review of the BART Police Oversight Structure*.

505. Office of the Controller, *Office of Citizen Complaints (OCC): Weak Case Management*, 1.

506. Office of the Controller, *Office of Citizen Complaints (OCC): Weak Case Management*, 6. Note: 86 percent (25 out of 29) employees responded to the survey.

507. Office of the Controller, *Office of Citizen Complaints (OCC): Weak Case Management*, 29–32.

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# About the COPS Office

The **Office of Community Oriented Policing Services (COPS Office)** is the component of the U.S. Department of Justice responsible for advancing the practice of community policing by the nation's state, local, territorial, and tribal law enforcement agencies through information and grant resources.

Community policing begins with a commitment to building trust and mutual respect between police and communities. It supports public safety by encouraging all stakeholders to work together to address our nation's crime challenges. When police and communities collaborate, they more effectively address underlying issues, change negative behavioral patterns, and allocate resources.

Rather than simply responding to crime, community policing focuses on preventing it through strategic problem-solving approaches based on collaboration. The COPS Office awards grants to hire community policing officers and support the development and testing of innovative policing strategies. COPS Office funding also provides training and technical assistance to community members and local government leaders, as well as all levels of law enforcement.

Since 1994, the COPS Office has invested more than \$14 billion to add community policing officers to the nation's streets, enhance crime fighting technology, support crime prevention initiatives, and provide training and technical assistance to help advance community policing. Other achievements include the following:

- To date, the COPS Office has funded the hiring of approximately 130,000 additional officers by more than 13,000 of the nation's 18,000 law enforcement agencies in both small and large jurisdictions.
- Nearly 700,000 law enforcement personnel, community members, and government leaders have been trained through COPS Office-funded training organizations and the COPS Training Portal.
- Almost 500 agencies have received customized advice and peer-led technical assistance through the COPS Office Collaborative Reform Initiative Technical Assistance Center.
- To date, the COPS Office has distributed more than eight million topic-specific publications, training curricula, white papers, and resource CDs and flash drives.
- The COPS Office also sponsors conferences, round tables, and other forums focused on issues critical to law enforcement.

COPS Office information resources, covering a wide range of community policing topics such as school and campus safety, violent crime, and officer safety and wellness, can be downloaded via the COPS Office's home page, <https://cops.usdoj.gov>.





The wave of high-profile incidents in 2020 between police and community members has prompted widespread calls for greater community oversight of law enforcement agencies. This white paper—*Civilian Oversight of Law Enforcement: Report on the State of the Field and Effective Oversight Practices*, by the National Association for Civilian Oversight of Law Enforcement (NACOLE)—combines survey data, case studies of oversight bodies nationwide, and a literature review to outline the history of civilian oversight and its spread; define three standard oversight models and discuss their implementation; propose 13 principles for effective oversight; and provide recommendations for each within an effective practices framework.



**COPS**

Community Oriented Policing Services  
U.S. Department of Justice

U.S. Department of Justice  
Office of Community Oriented Policing Services  
145 N Street NE  
Washington, DC 20530

To obtain details about COPS Office programs,  
call the COPS Office Response Center at 800-421-6770.

Visit the COPS Office online at [cops.usdoj.gov](https://cops.usdoj.gov).



National Association for Civilian  
Oversight of Law Enforcement

P.O. Box 20851  
Indianapolis, IN 46220-0851