CIVILIAN OVERSIGHT OF LAW ENFORCEMENT

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INTRODUCTIONS

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Civilian Oversight of Law Enforcement

ITS PRINCIPLES AND ROLE
Civilian oversight alone is not sufficient to gain legitimacy. Without it, however, it is difficult, if not impossible, for the police to maintain the public’s trust and push sustainable reform efforts forward.
Civilian oversight may be defined as the following:

- Investigates, audits, or reviews internal law enforcement investigations or processes, including community complaints and use of force incidents.
- Conducts ongoing monitoring of law enforcement agencies’ policies, procedures, training, management, and supervision practices.
- Includes any agency or process that involves active participation in the above by persons who are not sworn law enforcement.
Civilian oversight has often been seen as **REACTIVE**:
- Agencies created after a high-profile incident or scandal
- Responding primarily to individual complaints
- Reviews policies as a result of one or more complaints
- Emphasizes legalistic rules
- Administrative process can be seen as adversarial
- Recommends sanctions for individual officers
- Relies on deterrence
Civilian oversight now often includes **PROACTIVE** elements:

- Explores problems proactively (e.g., investigation, collection, and analysis of data)
- Identifies underlying issues and causes
- Focuses on organizational change
- Concentrates on reduction and prevention of misconduct
- Builds partnerships with law enforcement
- Creates bridges between law enforcement and the greater community
FACTS ABOUT THE FIELD

- There are currently thought to be approximately 166 active civilian oversight entities across the United States.

- **No two entities are exactly alike.**

- Most large cities and large law enforcement agencies have oversight agencies, as do a growing number of small and mid-size cities.

- Civilian oversight has been prominently featured in USDOJ settlement agreements.
WHY IS OVERSIGHT NECESSARY?

- Protects human rights
- Promotes constitutional policing
- Increases public confidence and trust in the police
- Builds bridges between law enforcement and the public
- Supports effective policing
- Ensures greater accountability
- Enhances risk management
COMMON GOALS OF OVERSIGHT

- To ensure that the police complaint process is accessible to all and that there are few, if any, barriers to the filing of complaints.
- To ensure that investigations are fair and thorough, that findings are reasonable, and discipline is appropriate.
- To improve public confidence in the police.
- To enhance the transparency of police organizations by publicly reporting on the department’s efforts in holding officers accountable.
COMMON GOALS OF OVERSIGHT (Continued)

- **Improve** the policies, practices, training, and management of law enforcement agencies by analyzing patterns in complaints and other police-related data.

- Deter officers from engaging in misconduct through the creation of more **effective and consistent** investigation and disciplinary processes.

- **Reduce** legal liability associated with officer misconduct.

- Improve the public’s **understanding** of police policy, training, and practices
THIRTEEN PRINCIPLES FOR EFFECTIVE CIVILIAN OVERSIGHT

- Independence
- Clearly defined and adequate jurisdiction and authority
- Unfettered access to records and facilities
- Access to LE executives and IA staff
- Full cooperation
- Sustained stakeholder support
- Adequate funding and resources
- Public reporting and transparency
- Policy and pattern analysis
- Community outreach
- Community involvement
- Confidentiality, anonymity, and protection from retaliation
- Procedural justice and legitimacy
Framework for Effective Practices in Oversight

DEFINING AND RECOMMENDING EFFECTIVE PRACTICES FOR CIVILIAN OVERSIGHT
“BEST PRACTICES” LIMITATIONS

The complexities of social and political contexts make identifying successful practices employed in one jurisdiction and transferring them to another a challenging and unreliable task fraught with potential errors of interpretation and extrapolation.

- The goals of civilian oversight do not lend themselves to systematic, comparative measurement.
- There is a lack of standardized definitions related to the data being collected and analyzed that make cross-jurisdictional comparison difficult, if not impossible.
- No two civilian oversight agencies are the same.
“EFFECTIVE PRACTICES” FRAMEWORK

It is important to remember that in the field of civilian oversight, there are several possible paths to success.

- Development must allow for flexibility and context but still take into consideration criteria that is understood to be crucial to successful and effective oversight.
- Oversight must take into consideration the core values and principles that should be satisfied to produce better outcomes.
- The diverse perspectives and wisdom of experienced practitioners should be valued.
- Stakeholder input and dialogue should be prioritized.
RECOMMENDATIONS FOR EFFECTIVE PRACTICES

- Is this practice an appropriate “fit” for out local context?
- How will this practice strengthen civilian oversight in relation to the thirteen principles for effective oversight?
- What are the potential unintended consequences of implementing this practice?
Civilian Oversight Structures

THE MODELS OF OVERSIGHT AND THEIR RANGE OF AUTHORITY
Creating effective civilian oversight bodies that are responsive to their communities’ needs takes time, planning, and collaborative, transparent discussions among affected stakeholders.
COMMON MODELS OF OVERSIGHT

- Review-Focused Model
- Monitoring/Auditing-Focused Model
- Investigation-Focused Model
- Hybrid Models
REVIEW-FOCUSED MODEL

- Ensures the community has the ability to provide input into the complaint investigation process.
- Community review of investigations may increase public trust in the process.
- An individual or a board/commission authorized to review completed internal investigations can agree/disagree with findings.

Knoxville Police Advisory Review Commission (PARC) Meeting
REVIEW-FOCUSED MODEL

Range of Authority

- Receive civilian complaints and forward them to the law enforcement agency for investigation.
- Professional staff and/or review boards review completed investigations and provide feedback to law enforcement agency.
- Remand cases back to the department’s internal affairs unit for further investigation.
- Recommend case disposition, discipline, or revised departmental policies and procedures.
- Hear appeals from complainants or subject officers.
- Hold public forums.
- Community outreach conducted by staff and review board members.
- Hold their meetings in public in accordance with state laws and union contracts.
INVESTIGATION-FOCUSED MODEL

- May reduce bias in investigations into citizen complaints
- Full-time civilian investigators may have highly specialized training
- Investigations conducted by oversight agency—does not rely on investigators from within the police department
- Civilian-led investigations may increase community trust in the investigation process

The New York City Civilian Complaint Review Board investigates the complaints filed against the NYPD, a department of 35,000
INVESTIGATION-FOCUSED MODEL

Range of Authority

- Employ professionally trained investigative staff to conduct investigations of allegations of misconduct independently of the overseen department’s internal affair unit
- Can replace critical functions of a standard internal affairs unit altogether
- Often has investigative jurisdiction over certain types of allegations
- Conduct interviews of witnesses including civilian and police
- Gather evidence
- Prepare investigative reports
- Make recommendations or findings as to whether the evidence supports the allegations in the complaint
- In some cases, can recommend and/or impose discipline
AUDITOR/MONITOR-FOCUSED MODEL

- Emerged as a result of political compromises between community activists and law enforcement agencies
- Have more robust reporting practices than other models
- May promote long-term, systemic change in police departments
- Tend to be less expensive than full investigative agencies but more expensive than review-focused models
- Allow the agency to actively engage in many or all of the steps of the complaint process

Staff of the LA County Office of the Inspector General Provide Findings From the Monitoring of Use of Pepper Spray in Juvenile Detention Facilities
AUDITOR/MONITOR-FOCUSED MODEL

Range of Authority

- Authorized to audit, monitor, investigate, and review a wider range of law enforcement policies, practices, and procedures.
- Ensure individual complaint investigations comply with established policies and procedures.
- Involve themselves in ongoing investigations by observing interviews, asking questions, and overseeing the overall direction of the department’s investigation.
- Monitor the disciplinary process in order to ensure fairness, consistency, and that it is conducted according to the department’s disciplinary protocols.
- Complaint intake
- Complaint classification
- Make recommendations regarding aspects of the law enforcement agency
- Community engagement
HYBRID MODELS

- Contain elements from one or more of the three models
- Have been developed to address the needs of a specific community and conform to state or local laws
- May be modifications of a previous oversight agency
- Are increasingly common
HYBRID MODELS

Common Oversight Functions

- Reviewing completed internal affairs investigations is the most common oversight function across all model types.
- Some cities have developed multiple agencies, performing distinct oversight functions, who are independent of each other and independent of the overseen law enforcement agency.
- Professional staff who receive input and feedback from boards or commissions representing the community and who also evaluate the oversight entity or entities in place.
IDENTIFYING AND ADDRESSING CHALLENGES AND OPPORTUNITIES

- What challenges will the new or improved agency need to address right now?
- What challenges will there be in the near-term or will they be ongoing?
- What opportunities exist for the agency to advance its mission and provide effective oversight of the police?
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