

A Current Sampling of Civilian Oversight of Law Enforcement Practices in the United States



Office of the Police Ombudsman
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Executive Summary

Mayor Condon directed the Office of Police Ombudsman to research and evaluate the potential for utilizing a Commission to provide direction and performance evaluation for the Office of Police Ombudsman.

Research conducted would suggest that a Commission or Board of Directors to oversee the Office of Police Ombudsman could be a positive and appropriate change to the Office.

Preliminary research was conducted through phone conversations and the internet. Preliminary indicators suggest that the Community and the Office would directly benefit from the creation of a Commission or Board of Directors to oversee the Office of Police Ombudsman. However, before any formal changes are recommended regarding the civilian oversight process, it is strongly suggested that staff conduct field research to confirm that the internet research conducted and phone conversations were accurate.

Introduction

On Wednesday, December 07, 2011, Ombudsman Burns met with Mayor Elect Condon to discuss the future role of the Office of Police Ombudsman. During the meeting, Mayor Elect Condon requested that the Ombudsman provide recommendations for improving the Office of Police Ombudsman and the Spokane Police Department. One of the recommendations made by the Ombudsman was for the Mayor to consider establishing a Citizen Advisory Committee to provide guidance in oversight to the Police Department.

Spokane Municipal Code Section 4.32. 120 permits the Mayor and/or the Chief of Police to establish an Advisory Board to assist the City Administration and Police Department in developing police policies and procedures. A Citizen Advisory Board may also be permitted under Spokane Municipal Code Section 4.32.050, which requires the Office of Police Ombudsman to develop and maintain a regular program

of community outreach and communication for the purpose of creating a dialogue with the citizens of Spokane on matters subject to the Office of Police Ombudsman's jurisdiction.

In January 2012, Mayor Condon requested that the Office of Police Ombudsman conduct research on other forms of civilian oversight, specifically regarding Commissions that provide guidance and direction for oversight agencies. Mayor Condon directed the Office of Police Ombudsman to complete a report on the alternatives by June 01, 2012. At Mayor Condon's direction, the Office of Police Ombudsman researched other forms of civilian oversight at national, regional and local levels.

Graduate Student Intern, Rebekah Hollwedel, was assigned to conduct the research for the report. While the primary focus of the research was Commissions and/or Board of Directors for oversight agencies, Mrs. Hollwedel also reviewed additional services and components that various oversight agencies provide.

This report will focus on the history and need for civilian oversight, the benefit and limitations of civilian oversight, the different types of oversight and current models of oversight in use throughout the country.

To compare the different oversight agency features, an excel spreadsheet has been attached for review. *(See Attachment 1)*

In reviewing Commissions and Boards of Directors across the country, it was discovered that no two are exactly the same in composition. Provided in an attachment, for consideration, are a variety of options the different Commissions and Boards offer. *(See Attachment 2)*

Catalysis for Civilian Oversight

During the 1960s, the public began to adamantly direct their attention to the conduct of law enforcement officers. Throughout the civil rights movement and anti-Vietnam sentiments, police abuses of discretion and patterns of discrimination emerged to the forefront of the public's attention.¹ In 1966, the President's Commission on Law Enforcement and Administration of Justice can be perceived as having marked the beginning of the public's desire to understand and evaluate the American criminal justice system, examining its strengths and weaknesses. The desire for effective policing continued, along with increased civil disorder and crime. The Kerner Commission was enlisted to analyze the civil disorder, specifically seeking out the causes. The Commission reported that the actual or rumored police abuses of authority fueled the civil disorder. Additionally, the President's Commission on Law Enforcement and Administration of Justice discovered that many citizens were dissatisfied with the internal compliant procedures of law enforcement.

Also of significance, the United States (U.S.) Supreme Court made rulings that were designed to limit misuse and abuse of police authority. *Miranda v. Arizona* (1966) explicitly addressed the issue of an individual's Fifth Amendment rights and police tactics during interrogations.² The Court was concerned with the issue of free choice. "Unless adequate protective devices are employed to dispel the compulsion inherent in custodial surroundings, no statement obtained from the defendant can truly be the product of his free choice" (*Miranda v. Arizona*, 384 US 436, 458 1966). Along with these events and many others, the idea was to extend the power of the public more directly into agencies, thus increasing accountability and transparency. The underlying premise of external civilian oversight is the notion that despite the fact that citizens cede authority to police in terms of enforcing the law, they should still retain the right to scrutinize them externally via unbiased and impartial review. By 1992, 33 of the 50 largest cities in the U.S. had adopted civilian review of police in some form.³ Today, many cities incorporate some form of recourse into the management of their law enforcement agencies. This many take the form of a Police

Commission, Civilian/Citizen Review Board, Internal Affairs/Office of Professional Accountability and/or Oversight Boards.⁴

Benefits of Citizen Oversight

Citizen oversight can benefit all parties involved, from the complainant to Police Departments. The benefits that materialize from such depend on how well the involved groups work together and the type of model that is implemented. Law enforcement groups can benefit in a variety of ways. Depending on the model chosen, they can improve their relationship and image within the community by helping to maintain the Department's standing of fairness in addressing concerns of misconduct. Another benefit can be derived from the reduction of public concern about high-profile incidents. Agencies can help increase public understanding about police work, thus helping to create realistic expectations. All of these things help to support the goals of community-oriented policing, which seeks to utilize problem-solving techniques to work in a cooperative effort with the community to proactively address concerns.⁵

Citizen oversight can help complainants feel satisfied through being able to express their concerns to the specific police officer involved in the incident in question during mediation. When the oversight body confirms their complaint, complainants may feel as though their concern was authentic, thus feeling validated. Public officials are provided the opportunity to demonstrate their desire for increased police accountability and the need to eliminate misconduct. The community at large can be reassured that discipline is being imposed when appropriate, while also increasing transparency. Oversight systems can also recommend adaptations to and/or the creation of policies that help reaffirm the law enforcement agency's goals and strategies, while also promoting increased resources and training to officers.⁶

Other than auditing, reviewing and investigating complaints, oversight responsibilities can include policy and procedure recommendations, mediation and helping set up and maintain early warning systems to track complaints made

against officers who may need more training or counseling from a supervisor. Policy recommendations can prevent issues by identifying areas of concern and subsequently recommending ways to improve policing.

Mediation has multiple benefits to both citizens and police officers. Not only can citizens be provided with the satisfaction of being able to speak directly with the officer in a neutral environment, it can also help provide understanding into the reasons *why officers respond in certain ways*.⁷ Mediation can offer police officers the ability to bring to the forefront the behavior of the complainant. It can also help officers better understand how their words, behaviors and attitudes can *unknowingly* affect public perceptions. This is especially important when the citizen feels as though their *only* option is unresponsive and *appears* to be apathetic. Providing a pathway to mitigate some of these feelings is crucial in creating an environment in which the community, individual citizens and police officers cooperatively work together to actively solve issues of all types.

Limitations of Civilian Oversight

There are multiple *limitations* of civilian oversight. It is important for oversight to be *one piece* of the puzzle when it comes to increasing accountability and transparency among the intended law enforcement agency. In a desire to have *effective* oversight, external measures need to work in conjunction with internal measures.⁸

Effectiveness is also influenced by the fairness and personalities of the individuals involved. Because oversight bodies have limited authority, they are not always given the power to impose discipline. In some cases, the oversight body may be unable to completely satisfy complainants and other community members, simply due to the fact that this minority group will most likely never be content with the actions of their local law enforcement agency.⁹ In some jurisdictions, oversight has increased tensions due to unrealistic expectations, biased oversight staff, inadequate funding, political motives behind its construction and the failure to involve all parties affected in the planning process.¹⁰

Types of Civilian Oversight

There are four basic types of civilian oversight that are molded into the various types of civilian oversight in practice throughout the U.S. Most have features that fall into one of the following four types:

Type 1: Citizens investigate allegations and recommend findings to the Chief or Sheriff. This type tends to be the most expensive due to the inability of civilians to conduct investigations, thus requiring the hiring of experienced investigators.

Type 2: Police officers investigate allegations and develop findings. Citizens then review and recommend that the Chief or Sheriff approve or reject the findings from the internal investigation. These systems tend to be inexpensive due to the fact that volunteers are typically undertaking the reviews.

Type 3: Appeal process. Complainants can appeal the findings of the Police Department or Sheriff to *citizens*, which subsequently review and recommend their own findings to the Chief or Sheriff. This model can be less expensive because of the use of volunteers.

Type 4: An auditor investigates the complaint process of the law enforcement agency, thus reporting on the thoroughness and fairness of said process to both the Police Department and the public. This type of model falls in the mid-price range because of the need for expertise and time to conduct an appropriate audit.¹¹

As will be discussed in the subsequent paragraphs, much of civilian oversight currently in place across the U.S. are combinations of two or more of the above listed types of models. For example, the civilian oversight currently in place in Syracuse, New York, the Syracuse Citizen Review Board (CRB), combines attributes from types 1, 2, and 3. The CRB is made up of civilians that have the ability to investigate allegations (type 1). It also has an appeal process (type 3). The Police

Department generally conducts the investigations and the CRB reviews the findings (type 2).¹²

The following sections will elaborate in detail the different attributes of various civilian oversight systems established in cities of differing sizes. Civilian oversight in similar population sized cities, as compared to Spokane, Washington, will be highlighted, along with the oversight available in Spokane. This will help provide an understanding of what the City of Spokane currently employs, relative not only to cities comparable in size, but also to cities of much greater size and alternative regions of the United States. For further detail regarding those highlighted, their accompanying ordinance or similar information is available in the appendix. A chart is also provided that details pertinent information about an assortment of cities, including those highlighted here. The chart is intended as not *only a supplement, but also a supporting document*. The review will begin with Eugene, Oregon.

Eugene, OR: Office of Police Auditor & Civilian Review Board

The City of Eugene, Oregon contains about 156,000 citizens and employed 188 sworn officers in 2007.¹³ The independent civilian oversight is bifurcated; it includes the Office of the Police Auditor and the Civilian Review Board. The Civilian Review Board (CRB) has no more than seven members. The CRB may only review the completed investigation and adjudication of complaints filed against sworn police officers *upon request* of a complainant, the recommendation of the Police Auditor or via its own majority vote. It cannot accept cases that have been previously reviewed as a community impact case. These cases have been deemed as having a greater impact upon the community at large. The CRB also reviews trends of complaints against sworn police officers and civilian police employees, subsequently providing recommendations to improve the complaint process.

The CRB functions as an evaluative body for the Office of the Police Auditor (OPA). In this capacity, the CRB established evaluative criteria for the OPA, while also reviewing, commenting and maintaining policies and procedures for both branches

of civilian oversight. The Board is required to hold public meetings with a citizen forum quarterly. In an effort to maintain the Board's transparency, the Police Auditor (PA) develops and presents case summaries and status reports at the public meetings to facilitate discussion. The PA also provides an annual report detailing these areas of concern.

The CRB (or its members) *cannot*: investigate complaints or incidents involving police employees; issue subpoenas or call witnesses; or review employee discipline decisions.¹⁴ The board functions to *review internal investigations* conducted by the Police Department regarding allegations of misconduct, community impact incidents and use of force. These features categorize the CRB as a type two in terms of civilian oversight. In a type two, police officers investigate the allegations made, usually through the Internal Affairs Department, and citizens review the findings.¹⁵

The second part of the civilian oversight in Eugene, OR is the Office of the Police Auditor (OPA). The Auditor takes complaints involving police employees and monitors the process in which the investigation occurs to ensure they are "objective, thorough, and high quality," while also providing recommendations. These are to be directed towards improving police services. The Auditor acts as a liaison to the CRB and provides support staff for the Board. This has the possibility to create competition for resources and to overtax the staff of the OPA. The OPA conducts community outreach and also serves a quality assurance function via analyzing trends and reviewing and recommending improvements to reduce risk and liability. In incidents of applied force by a Eugene police officer, the Auditor is allowed first-hand observation of the scene and is also involved with the use of force review boards.

The OPA is the main location for all community complaints involving police employees. The Office also takes complaints regarding city employees with the ability to forward the complaint to the appropriate department. The Office conducts an initial investigation in order to classify and forward it as necessary. Mediation is

also available to involved parties as an alternative to investigation, adjudication and the disciplinary process. Complaints must be filed within a certain timeframe. Complaints involving allegations of minor misconduct that involve violations of minor rules, communication and courtesy are limited to 60 days, while those alleging serious misconduct are limited to six months. The PA is authorized to conduct interviews of the complainant(s), employee(s) and/or witness(es). The PA is allowed to contract for external investigation, if deemed appropriate. (*Governing Ordinance- See Attachment A*)

County of Hawai'i, HI: *County of Hawai'i Police Commission*

As of 2010, the County of Hawai'i, Hawaii encompasses about 185,000 citizens. The citizen oversight established in this area is unique in that the Police Commission (PC) has many duties outside of the complaint process. Specifically, the Commission has the ability to remove the Chief of Police at its sole discretion with certain stipulations. The Commission is also responsible for reviewing and making recommendations regarding the annual budget compiled by the Chief of Police. Another duty is to evaluate the Chief of Police annually with a report submitted to the Mayor, Managing Director and City Council. The PC holds monthly meetings in order to gain public comment on issues of concern within its jurisdiction.

The Commission is composed of nine representative members with four subcommittees: *Budget & Finance; Office Management; Rules & Policies; and Public Relations*. The Commission is authorized to initiate an inquiry into matters within its jurisdiction. In terms of complaints filed by citizens, the *notarized* complaint is accepted within 90 days of the incident in question. The PC allows for complaints past 90 days to be accepted if certain conditions are met (*see Rule 9*). Any incidents of misconduct that may arise during an investigation can be reviewed further. Unlike the civilian oversight in place in Eugene, OR, this PC has subpoena power. Subpoena power can be a very difficult power to gain for police oversight bodies.¹⁶ This is often paired with bodies that have independent investigatory power and use the power to obtain information necessary to conduct an appropriate investigation.

It is not necessary, but it can be helpful in gaining access when cooperation is not explicit.¹⁷

The action taken by the Commission can only be reconsidered if: a Commissioner who voted on the prevailing side makes a motion, or a motion is made at the same or next meeting following action. Uniquely enough, the role of this PC functions more in line with a board of directors that incorporates civilian oversight into its agenda as a regulatory agent. This system falls into a type one of civilian oversight, but it is possible to also classify it as a board of directors. (Rules and Regulations- See Attachment B)

Boise, ID: *Office of the Community Ombudsman*

Boise, Idaho is a neighboring city to Spokane, WA with a little over 205,000 citizens, as of the 2010 U.S. Census. The Office of the Community Ombudsman's (OCO) jurisdiction encompasses the Boise Police Department (BPD), the Boise Airport Police Department (BAPD), Boise Parking Enforcement and Boise Code Enforcement. The BPD has 300 sworn officers and the BAPD has 25 full-time sworn officers.¹⁸ The OCO employs characteristics of types two, three and four.

The OCO ensures that an investigation regarding a complaint is conducted in a "timely, thorough, complete, objective, and fair manner." The investigation can be conducted by either the OCO, BPD or contracted agency. The choice is at the discretion of Community Ombudsman (CO). An appeal process is available which consists of the OCO reviewing the completed investigation. Mediation is also available as an alternative in complaints involving conduct issues that can be appropriately handled through less formal means. The Office also develops recommendations regarding the policies, procedures and training of Boise City Police and law enforcement employees. It is also a central component of the OCO to maintain a regular program of community outreach to facilitate meaningful communication with the citizens of Boise.

In cases of critical incidents involving an employee of the BPD as a principal victim, witness or custodial officer, where death or bodily injury results, the CO is to be contacted immediately. The CO is provided observer status to any criminal, administrative or civil investigation conducted by or on behalf of the Departments. The Office is also provided with the ability to conduct an independent administrative investigation into the critical incident.

The CO reports directly to the City Council and the Mayor. Semi-annual reports and inquiry synopses are available online along with policy reports and recommendations. Listed along with the recommendations, the BPD's response is also included with a brief explanation. The BPD policy manual is also available online. *(See Attachment C)*

Spokane, WA: Office of the Police Ombudsman

The City of Spokane, Washington, as of the 2010 Census, has about 208,000 residents. The Spokane Police Department currently employs 286 commissioned police officers.¹⁹ The civilian oversight consists of the Office of the Police Ombudsman (OPO). It falls into a type four of the above listed civilian oversight types. Broadly speaking, it employs a civilian auditor that investigates the Police Department's investigations. The OPO seeks to promote public confidence in the professionalism and accountability of the members of the Spokane Police Department (SPD) via independent review of police actions, policy recommendations and community outreach. The Office was created in 2008 and exists outside of the SPD. Complaints can be filed in-person, online at the Office's website or with the SPD Internal Affairs Unit. All complaints must be submitted within one year of the incident in question.

The Internal Affairs Unit (IAU) is required to notify the OPO of all administrative interviews on complaints that could lead to suspension, demotion or discharge and those that originate in the OPO. The Police Ombudsman (PO) has the ability to attend interviews and the opportunity to ask questions after questioning by the

Department is complete. The PO is required to make copies and forward all complaints received to the SPD IAU within three business days. The IAU is also required to forward any complaints received to the OPO within three business days.

Once IAU receives a complaint, it is submitted to the chain of command for review (per preexisting police departmental policy). Either the Chief or the Chief's designee determines whether allegations warrant investigation and once approved the IAU initiates the process. Once the administrative investigation is concluded, a copy of the entire case file is sent to the OPO for review to determine whether the investigation was "objective and thorough." As part of the review process, the PO may conclude that an additional investigation is warranted on issues that impact the outcome. If a dispute about its necessity arises, the Chief or designee will determine whether it will be undertaken. If the OPO is not satisfied, the decision is thus sent to the Mayor for a final decision. Any appeal of the Department's investigation can be voiced to the OPO.

The OPO also has the ability to recommend procedures and/or policies for review. The PO reports directly to the Mayor and is not a member of the Police Department. The PO makes monthly reports to Mayor, Police Chief and the Public Safety Committee. The annual report is disseminated to the City Council and contains statistical analysis documenting the number of complaints by category, disposition and the action taken. It also includes analysis of trends and patterns, along with recommendations.

The OPO maintains an active outreach program that includes weekly satellite hours held at three community centers. The Office also holds monthly satellite hours at four other locations throughout the city. The Office has an active internship program that utilizes the skills and abilities of local undergraduate and graduate level students. *(See Attachment D)*

Saint Paul, MN: *Civilian Internal Affairs Review Commission*

The City of Saint Paul, Minneapolis has titled its civilian oversight body the Police-Civilian Internal Affairs Review Commission (PCARC). It consists of five members from the community and two police officers. The Mayor, with the approval of the City Council, appoints these officers. The Saint Paul Police Department employs 584 commissioned police officers, with a population of about 285,000.

The PCARC reviews all citizen complaints involving excessive use of force, discrimination, discharge of a firearm, deficient public relations, procedure concerns and any other complaint referred by the Mayor or Chief of Police. The Commission utilizes a Civilian Coordinator (CC) to assist in receiving complaints; the Police Department employs this person. Internal Affairs (IA) conducts the investigation and the PCARC reviews and makes a recommendation. If the Chief disagrees with the Commission's recommendations, s/he meets with the chairperson of the Commission within five days to find agreement.

One of the requirements to be a member of the Commission is that the individual be a graduate from the Saint Paul Citizen's Police Academy. Hearings are closed and disciplinary recommendations are not publicized. The PCARC functions in a recommendation capacity only, therefore, fitting into a type two oversight system. The police officers investigate allegations and develop findings and citizens review those findings. *(See Attachment E)*

Denver, CO: *Office of the Independent Monitor & the Citizen Oversight Board*

Denver, Colorado has over twice as many citizens as Spokane, at approximately 600,000 as of 2010.²⁰ In 2007, the Denver Police Department employed 1,400 commissioned police officers.²¹ This oversight system fits into a type two and four. The civilian oversight in Denver includes various bodies that work to ensure the effectiveness of one another. It is comprised of the Office of the Independent Monitor (OIM), the Citizen Oversight Board (COB) and most recently added, the Denver Police Department's Conduct Review Office (CRO).

The *OIM* takes complaints of misconduct involving members of the Denver Police Department (DPD), Sheriffs Department and Fire Department. The Internal Affairs Bureau (IAB) conducts investigations into the complaints and the OIM makes disciplinary recommendations to the Manager of Safety (MS). The Independent Monitor (IM) has the discretion to monitor internal investigations of any citizen complaint involving use of force, discrimination, retaliation and/or discourtesy. The IM also has the ability to monitor any internal investigation by the PD or Sheriff, where (s)he believes it is in the City's best interest to be involved. The IM is required to submit a report regarding the work of the prior calendar year to both the Mayor and City Council. The annual report is published by March 15th each year.²² The Office also offers a mediation program for community members and officers. Complaints of minor misconduct are limited to 60 days and those alleging serious misconduct, such as improper use of force, must be filed within six months.

The *Citizen Oversight Board* (COB) consists of seven residents that are appointed by the Mayor and confirmed by the City Council. Specific stipulations exist that seek to eliminate bias among potential COB candidates. Uniquely, the COB members are compensated \$1,200 per year plus expenses incurred. The main role of the COB is to *assess the effectiveness* of the IM. The Board has various other functions that consist of policy recommendations regarding: discipline, use of force, other rules, hiring, training, community relations, and the complaint process. The meetings of the COB are open to the public. The *purpose* of the Board is to improve the relationships between the community and law enforcement. Public meetings with the MS and PD, Sheriff and fire officials are quarterly and include public comment. The COB must also submit an annual public report to the Mayor and City Council.

On April 11, 2012, the Denver Police Chief Robert White announced the appointment of a Commander to lead the Department's *Conduct Review Office* (CRO). The Office was created to enhance and improve the disciplinary process. The internal affairs cases are no longer sent out to District and Bureau Commanders for

review; they are processed through the CRO. The goal was to create a fair disciplinary process that will benefit both the officers and the community. This centralized review process is designed to create consistency and to enhance the timeliness of investigations.

On another note, the DPD's disciplinary process allows for the involvement of the IM. This process also includes a *Use of Force Review Board* (UFRB). The Board reviews the investigative file and is allowed to call witnesses or direct an additional investigation into the matter in question. This Board consists of six persons of both citizens and police officers. The DPD also utilizes a Disciplinary Review Board (DRB) that consists of: one command officer (Captain or higher), one supervisor (Sergeant or higher), one peer officer (same rank as subject) and three citizens that are randomly selected from the citizens' pool.²³ *(City's Oversight System- See Attachment F)*

Portland, OR: Independent Police Review Division, Citizen Review Committee & the Police Review Board

Portland, Oregon is closer in population size to that of Denver than Spokane; Portland's population size is approximately 583,000. In 2007, the Portland Police Bureau (PPB) employed 950 sworn officers.²⁴ The oversight functioning in the City of Portland includes three different bodies that cooperatively work together to achieve "the preservation of the rights of persons and to promoting increased competency, efficiency, and justice."

The *Independent Police Review Division* (IPRD) is empowered to act on complaints against the PPB that involve misconduct. The IPRD has four different classifications of complaints. *Type I complaints* involve alleged misconduct of a member of the PPB during an encounter with a community member. *Type II complaints* involve alleged misconduct that did not occur during an encounter involving a community member. The IPRD Director at his/her sole discretion initiates *Type III complaints*. This category includes administrative rule infractions regarding discrimination. Type IV

complaints occur when a PPB supervisor makes a formal complaint about poor performance or other work rule violations.

Either the Internal Affairs Division of the PPB or the IPRD may conduct an independent investigation. An appeal or review is available to complainants or members of the PPB that are dissatisfied with the investigation that involved misconduct while engaging a community member. These must be filed within 30 days of the disposition of the case. An appeal hearing is available with the Citizen Review Committee (CRC) once a majority vote is taken. This vote decides whether further investigation is recommended. The IPRD also has subpoena power and provides mediation as an alternative as long as every party involved agrees.

The *Citizen Review Committee* (CRC) consists of nine citizens. Criteria for selection include past community involvement and having no *real or perceived* conflict of interest. The Mayor and Commissioners are allowed to submit an applicant for consideration *and* may be given preference. The Committee is required to conduct at least four meetings per year. The Committee seeks to gain community input, thought and concerns via other community meetings. The CRC also reviews complaint-handling methods and advises on criteria for dismissal, mediation and investigation.

The third branch of oversight falls under the PPB itself. The *Police Review Board* (PRB) operates in an advisory capacity to the Chief of Police, making recommendations on findings and proposed officer discipline. The PRB reviews and investigates complaints of misconduct concerning non-probationary sworn officers in cases involving: investigations that result in a sustained finding and the proposed discipline is suspension without pay or a harsher penalty; incidents involving use of force; investigations involving a violation of human resources administrative rules with a sustained finding; and discretionary cases referred by the IPRD Director, Branch Chief or the Chief of Police. The Board is composed of five voting members and eight advisory members. Voting members consist of the following: one citizen

from a pool of citizens that are recommended by the Auditor and confirmed by the City Council; one peer member of the same rank/classification of the officer involved; the supervising Assistant Branch Chief of the officer; IPRD Director; and the supervising Commander or Captain of the officer. The advisory members include: the Office of Accountability and Professional Standards manager; representative from the Bureau of Human Resources; representative from the City Attorney's Office; the Internal Affairs Manager; Review Board Coordinator; representative of Commissioner in Charge Bureau; representative of the Training Division; the Assistant Chief(s) that are not in the chain of command of the involved officer.

In cases that are reviewed by the PRB that involve use of force, one additional citizen and peer member serve on the board, creating a total of seven voting members. If the complainant or officer involved is unsatisfied with the findings of the Board, they may have the opportunity to appeal them to the IPRD CRC. At a minimum of twice a year, the PRB publishes public reports that cover the findings, training and/or investigation concerns. All of the features of the City of Portland's oversight combine to create a system that falls into all four types of civilian oversight previously reviewed (See pp. 2-3). *(See Attachment G)*

Seattle, WA: Office of Professional Accountability & Review Board

In terms of population, Seattle has slightly over 608,000 citizens as of the 2010 Census. The Seattle Police Department (SPD) currently employs approximately 1,820 people.²⁵ The civilian oversight of the SPD has three parts: a Civilian Auditor, the Review Board (RB) and the Office of Professional Accountability (OPA). Each part is independent, but similar to Portland, they work together to achieve the common goal of increased accountability, awareness and policy review.

The OPA receives and investigates complaints about police misconduct and is a part of the SPD. The goal is to provide civilian oversight of the complaint process via the civilian Director. This individual oversees the intake, classification and the

subsequent investigation of complaints, certifying the investigative findings. The Director also makes recommendations on discipline to the Police Chief. The OPA Auditor is an independent outside reviewer that is appointed by the Mayor and confirmed by City Council. The Auditor reviews all investigations completed during the previous week and has the ability to order further investigation. The Auditor provides frequent reports on such reviews and makes policy recommendations. The reports are publicly available on the Office's website.

The OPA Review Board solicits public input about Police accountability and practices. It also conducts an independent review of the quality of the OPA complaint process, while also reviewing policies and procedures. The Board was established in 2002 and consists of seven citizens appointed by the City Council. Public meetings are held twice a month in which public participation is a large component. The Board also conducts research regarding national trends and best practices on police accountability. The features of this system fit into type two and four of civilian oversight. Compared to other systems reviewed, this system does not incorporate an appeals process for unsatisfied clientele. It does offer mediation to involved parties, which is a common feature. *(See Attachment H)*

The final oversight system to be reviewed in depth is Albuquerque, New Mexico. Many of the types of implemented civilian oversight include certain elements like mediation, an appeal process and multiple overlapping bodies. Many of them are also mindful of the need to include experts from the Police Department that can weigh in on the various issues addressed, especially in cases involving use of force. As previously stated, this report is meant to be somewhat detailed, but it is far from exhaustive. Many of the strategies utilized are specialized to the needs of the city in terms of oversight desired and the community's needs.

Albuquerque, NM: Police Oversight Commission & Independent Review Office

The City of Albuquerque has a large population at over two million citizens. The oversight system employed in this city is similar to others in that it incorporates an

appeal process. The Police Oversight Commission (POC) is the governing authority of the Independent Review Office (IRO); both were established in 1998. The purpose of the POC is to promote accountability and to protect the rights of the citizens of Albuquerque.

The POC seeks to provide “impartial, timely, and unbiased investigations” into all citizen complaints. The Commission audits and monitors all investigations and/or police involved shootings conducted by the Internal Affairs Unit of the APD. The POC also functions in a liaison capacity with not only the APD, but also the community at large. The Commission holds regular meetings with the public in order to solicit comments and suggestions regarding the Police Department. It also engages in long-term processes planning to identify problems and subsequently create policy advice. The Commission provides mediation as an alternative to investigation, which again, is a common feature of current oversight systems. The POC has subpoena power, but the regulations explicitly outline that a subpoena shall never be imposed upon an APD Officer. The POC is also able to appoint subcommittees as deemed necessary, with membership limited to Commissioners.

The Chief Administrative Officer (CAO) has the ability to override decisions made by the Chief of Police regarding the findings of a complaint. The CAO is also responsible to notify all involved parties. If a complainant is dissatisfied with the findings of the Independent Review Officer or the Chief, they may file an appeal with the POC within ten business days. At the subsequent hearing, the appellant, police officer, the APD and the IRO are given time to speak.

The POC is comprised of nine members that are representative of the diversity within its community. There is one member representing each City Council District. The minimum qualifications include: not having been employed by law enforcement for one year prior to appointment; problem solving and conflict resolution skills; yearly four-hour civil rights training sessions conducted by a civil rights attorney or advocacy group; participation in a minimum of two ride-alongs each year with APD

officers; and attendance in yearly Firearms Training Simulator (FATS) training at the APD Police Academy. The Commissioners of the POC are provided funding to attend the National Association of Civilian Oversight of Law Enforcement (NACOLE) annual conference. The Chair selects the priority order for funding and considers past attendance and the term end of the Commissioner.

Citizens have the ability to file complaints about the POC and the Independent Review Officer. Those regarding the POC are forwarded to the Mayor's liaison to the POC. If it concerns a conflict of interest, the Commissioner is to consider the complaint and act accordingly. As previously mentioned, the POC is the governing body of the Independent Review Officer. All complaints made against this individual are reviewed by the POC. The POC can recommend to the Mayor that actions are taken such as: dismissal of complaint; an informal investigation be performed by the POC; administrative action; requesting additional formal investigation, et cetera.

The Independent Review Officer and the POC Commissioners have the ability to file complaints against APD officers. They file as individuals based on an incident they witnessed personally or are claiming to be the aggrieved party due to actions of the APD. Any complaints filed by the IRO staff are investigated by Internal Affairs at the discretion of the IRO. Uniquely, the City Council is required to issue a Request for Proposal (based upon available funding) from an independent consultant to conduct an evaluation and analysis of the entire police oversight process. *(See Attachment I)*

Conclusion

When reviewing in depth various systems of civilian oversight, it is important to recognize that each system has been crafted to meet the dynamic needs and desires of each city. The main premise behind the utilization of civilian oversight is that although citizens cede authority for enforcing the law to police, citizens should still maintain the right to scrutinize them externally via unbiased and impartial review. In more recent years, policing strategies have shifted towards community-oriented policing, which seeks to utilize problem-solving techniques to work in a cooperative

effort with the community to proactively address conditions that create problems like crime, fear of crime and social disorder.²⁶ The civilian oversight system can be utilized to aid in this process by maintaining positive relationships with the community, while also including the community to develop solutions to problems.

There are four basic types of civilian oversight. Type one involves citizens investigating allegations and recommending findings. In type two, police officers investigate allegations and develop findings. Citizens review those findings and either reject or approve them. Type three is an appeal process. Here complainants appeal the findings of the Police Department to civilians. The Spokane, WA Office of the Police Ombudsman and various other cities, such as Seattle, employ variations of a type four civilian oversight system. In this type, a civilian auditor investigates the complaint process completed by the law enforcement agency and subsequently reports on the thoroughness and fairness of the investigation process.

There are many common features of these systems such as an appeal process, mediation, subpoena power, monthly meetings, frequent reports, public forum and community outreach.

The amount of members that serve on these Civilian Review Boards typically includes a minimum of five individuals. Some cities require that these members are representative of the surrounding community. Some require specific training such as the completion of their Citizens' Police Academy, while others request the annual attendance of the National Association of Civilian Oversight of Law Enforcement (NACOLE) conference. It is important to recognize that despite the fact that an oversight system incorporates a Civilian Review Board (or a variation of this name), it may also mainly function in a recommendation capacity (i.e., Eugene, OR). It is possible to categorize these more as a Board of Directors instead. Others, such as the County of Hawai'i Police Commission, operate also as a Board of Directors, largely due to the fact that it has more direct supervisory powers over the Chief of Police

along with disciplinary powers. This Commission also has four subcommittees that focus on finance, management, policies and public relations.

The various features of oversight systems are compiled to suit the needs and desires of the stakeholders. All have their own limitations. There is not one type that is “better” than another, just ones that perform its intended duties in a manner that works best with the dynamic milieu.

Notes

¹ Sen, S. (2010). *Enforcing police accountability through civilian oversight*. New Delhi, India: SAGE publishing.

² *Miranda v. Arizona*, 384 U.S. 436 (1966); http://www.law.cornell.edu/supct/html/historics/USSSC_CR_0384_0436_ZS.html; see also *Escobedo v. Illinois*; *Mapp v. Ohio*

³ Walker, S. & Bumpus, V.W. (1991). *Civilian Review of the police: A national survey of the 50 largest cities*. Omaha, NE: Department of Criminal Justice, University of Nebraska at Omaha; Sen, 138

⁴ The different oversight systems employ a range of names and acronyms to title it; by no means is this exhaustive.

⁵ Finn, P. (2001). *Citizen review of police: Approaches and implementations (OPJ-94-C-007)*. National Institute of Justice, Department of Justice. <http://www.ncjrs.gov/pdffiles1/nij/184430.pdf>

⁶ For a more detailed discussion of the potential benefits to the various groups, see *Finn (2001)*

⁷ Often times issues with resources or funding may cause agencies to respond in certain ways that are not apparent to the general public, so it is viewed as apathy on the agency’s side.

⁸ Finn, 12

⁹ Finn, 13 Exhibit 1-3

¹⁰ Finn, 15

¹¹ Finn, 6

¹² Refer to appendix item A

¹³ 2010 Census; National Association for Civilian Oversight of Law Enforcement (NACOLE) (2007). Roster of U.S. civilian oversight agencies.

<http://www.bart.gov/docs/US%20Civilian%20Oversight%20Agencies.pdf>

¹⁴ Exception: in the context of reviewing trend reports from the auditor’s office consistent

¹⁵ The internal affairs department can be called something else, such as “Office of Professional Standards”

¹⁶ Finn 2001

¹⁷ Sen 2010, 42-44

¹⁸ Amounts as of 2012 from the BPD website; the BAPD also includes an undisclosed amount of part-time officers and K-9 units.

¹⁹ [Spokane City Police Department](#)

²⁰ 2010 Census

²¹ Roster of U.S. civilian oversight agencies.

<http://www.bart.gov/docs/US%20Civilian%20Oversight%20Agencies.pdf>

²² Roster of U.S. civilian oversight agencies, See *City of Denver, CO listing*

²³ The command officer and supervisor must not be in the subject's chain of command; *See section VI of Attachment F*

²⁴ Roster of U.S. civilian oversight agencies

²⁵ The amount of officers out of the 1,820 is unknown.

²⁶ Office of Community Oriented Policing Services, U.S. Department of Justice

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