

Civilian Oversight

POLICY ASSESSMENT APRIL 2021

Civilian oversight panels are intended to give voice to community members and enhance transparency and accountability through an independent review and investigation of excessive-force cases and public complaints of police misconduct. These entities vary significantly in terms of their role, responsibilities, investigative authority, structure, and composition.

SUMMARY ASSESSMENT

- + Rigorous empirical research on the impact of civilian oversight and the relative merits of different models does not exist. Other research has yielded mixed findings about the ability of civilian oversight to reduce excessive use of force and other forms of police misconduct.
- + Studies documenting civilian oversight functions illustrate a wide array of models and structures and tremendous variation in degree of authority. Yet regardless of the oversight model, significant structural barriers often preclude such entities from fulfilling their mandates, and high public expectations of them are rarely realized.
- + Jurisdictions with existing civilian oversight entities should review the membership, authority, and funding of such panels and make revisions to enhance their capacity to fulfill their mandates. Jurisdictions that are contemplating the establishment of a civilian oversight board may wish to reconsider that strategy and find other ways to integrate community representation, perhaps through external governmental oversight entities.
- + Complementary or alternative models of police oversight, such as independent civil rights review units housed in prosecutor's offices and other independent oversight commissions with subpoena power, may be more effective than civilian review boards in holding officers accountable.
- + Civilian oversight is distinct from community engagement. Community engagement and representation can be achieved through several avenues separate from the establishment of a civilian review board.



Current Practice and Research

The President's Task Force on 21st Century Policing concluded that some form of civilian oversight entity is an important avenue for strengthening community trust (President's Task Force on 21st Century Policing, 2015). The pursuit of this goal may explain the popularity of such panels: more than 160 jurisdictions in the United States now have civilian oversight entities, a notable increase from the handful that existed in the 1990s and approximately 100 entities in 2001 (De Angelis et al., 2016a; Walker, 2001). Civilian oversight bodies are particularly common in large jurisdictions; a survey of 52 member agencies of the Major Cities Chiefs Association found that 79% had some type of civilian oversight or review function (Stephens, Scrivner, and Cambareri, 2018).

Civilian oversight entities are often established as part of a response to a high-profile incident that causes community members to expect action from local elected officials and police leadership (Clarke, 2009). According to a survey of 97 civilian oversight entities, nearly eight in ten were created in response to a local crisis related to complaints of excessive use of force or racially biased policing (De Angelis et al., 2016b). Indeed, the number of civilian oversight bodies has increased just in the past year in the wake of the killing of George Floyd, with several localities passing measures establishing such entities or increasing the capacities of existing civilian oversight of the police. Examples include the establishment of a new review board in Columbus, OH; expansion of the powers of the Oakland (CA) Police Commission; the creation of a new oversight board with subpoena powers in Portland, OR; and the establishment of a Citizens Police Oversight Commission with subpoena powers in Philadelphia (Alexander, 2020).

TYPES OF CIVILIAN REVIEW MODELS AND FUNCTIONS

Civilian review entities can serve as a point of intake for public complaints against police officers, conduct investigations into public complaints, review data on police investigations of misconduct, hold hearings, issue subpoenas, make recommendations to a police executive, gather and review public input, conduct evaluations of policies and trainings, and serve as a locus of public information gathering and sharing. Some entities also have mediation programs for resolving certain types of public complaints. Research on 97 entities highlights this variety of roles, categorizing civilian oversight into one of three buckets: investigation-focused, review-focused, and auditor/monitor-focused (De Angelis et al., 2016a).

With investigation-focused entities, which accounted for 35% of the studied panels, civilians conduct independent investigations of complaints against police officers. The work of review-focused entities typically centers on assessing the quality of completed police internal affairs investigations, and may facilitate public meetings for community input or make recommendations to police executives; about 40% of all civilian oversight bodies follow this model. Auditor/monitor-focused entities accounted for 25% of civilian boards; they examine broad patterns in complaint investigations and seek to promote organizational change through policy, practice, and training reviews. While the largest share of civilian oversight entities is in jurisdictions with fewer than 500 sworn employees, those with investigative or auditor/monitor responsibilities are more likely to be in larger jurisdictions (De Angelis et al., 2016a).

Regardless of the range of roles a civilian oversight entity might play, such panels tend to serve in an advisory capacity. It is rare for an oversight board to have disciplinary authority; one study found that among the civilian oversight entities associated with the 50 largest police agencies, just six had some manner of disciplinary authority (Ofer, 2016). Instead, they typically make recommendations to the police chief or commissioner about disciplinary responses in cases of officer misconduct. A survey of civilian oversight agencies found that



while a large majority (78%) reported that police executives listen carefully to their recommendations, less than half (46%) believe that police leaders frequently implement the recommendations (De Angelis et al., 2016b).

RESEARCH FINDINGS

There is limited empirical research that assesses the impacts of civilian oversight entities. Research to date has been largely descriptive of existing civilian oversight entities, either taking a deep look at the operations of a single entity or comparing and contrasting across the functions and structures of several entities (Finn, 2001; Jerome and PARC, 2006a,b; Olson, 2016; Rice University, 2020; Hope, 2020; De Angelis et al., 2016a).

CIVILIAN OVERSIGHT IMPACT

The diversity in roles, structures, and goals of civilian oversight from one entity to another makes it difficult to evaluate the varying impacts of different models (Stephens et al., 2018). An early study using data from the Law Enforcement Management and Administrative Statistics (LEMAS) series found that agencies with external civilian oversight mechanisms were actually less likely to have public complaints against police sustained (Hickman, 2006). However, in another study of civilian oversight functions, albeit restricted to just eight U.S. cities, researchers found that allegations of police misconduct were more likely to be sustained in departments that have some form of independent civilian review as part of their complaint process, increasing the odds of a validated disposition by 78% (Terrill and Ingram, 2016).

More recently, a 2019 quasi-experimental study examined the impact of civilian oversight on racial disparities in policing practices. Drawing from a survey of 80 jurisdictions with civilian oversight boards, researchers concluded that jurisdictions with such entities were associated with a reduction in racial disparity in disorderly conduct arrests and police homicides of community members (Ali and Pirog, 2019). However, the degree to which racial disparities were reduced was a function of the scope of the oversight panel's investigative authority. In addition, the study design did not control for changes in trends in both policing and oversight over time.

Another recent study explored the relationship between civilian oversight and violent crime, including homicides of police officers. The study, using data on 217 American cities with populations exceeding 100,000 residents between 1981 and 2015, found that civilian oversight boards with broad authority are correlated with reductions in the violent crime rate and the number of officers feloniously killed, whereas those with narrow authority are associated with increases in violent crime (Ali and Nicholson-Crotty, 2020). However, as with the previous study, the research design did not control for historical changes, such as other police reform measures, that may have occurred during the study period.

Taken together, the evaluative research on civilian oversight effectiveness suggests that bodies with more authority are more likely to yield desired impacts. However, these studies suffer from design flaws and there remains an absence of research on the impact of civilian oversight on critical outcomes, such as the degree to which the existence or operation of civilian oversight enhances community trust in law enforcement (Walker and MacDonald, 2009).

STRUCTURAL AND OPERATIONAL BARRIERS TO EFFECTIVENESS

In contrast to evaluative research on the impact of civilian oversight, descriptive research on the structural and operational barriers to successful implementation is plentiful. Many scholars argue that civilian review boards are inherently flawed because they reflect an adversarial model and are backward looking, making it difficult to



prove wrongdoing after the fact owing to the lack of independent witnesses or other corroborating evidence (Livingston, 1999; Walker, 2001; Walker and MacDonald, 2009; Chavis Simmons, 2008; Wilkinson, 2014).

The documented challenges in civilian oversight board membership are considerable, starting with the elemental question of “who represents the community?” Researchers have observed difficulties with appointing members who are representative of community perspectives and independent of law enforcement, yet knowledgeable about policing and committed to pursuing the common good, rather than their own personal agendas (Wilkinson, 2014). Boards whose members are appointed by local elected officials may be biased and susceptible to local politics – or perceived that way, eroding public trust in their independence (Miller, 2015). Such boards are also considered “police friendly” given that their members are appointed by politicians who may depend on law enforcement support for reelection (Miller, 2015).

A separate challenge to civilian oversight boards relates to their limited authority. This creates barriers to their ability to obtain necessary information and conduct independent investigations because they lack the power to compel officer testimony (Chambers, 2012; Witkin, 2016); very few entities have subpoena power (Stephens, Scrivner, and Cambareri, 2018). Civilian oversight boards have restricted access to departmental records, data, and personnel for a host of reasons, including the sealing of internal affairs records and officer misconduct history, as well as obstacles to fact finding that are codified in union contracts. Indeed, the independence and influence of civilian oversight can be severely diluted by unions, which resist the authority of oversight boards and advocate for more representation and involvement of law enforcement (Clarke, 2009).

Even boards that have investigative roles are not well equipped to serve in that capacity because their members do not always have appropriate training or expertise (Witkin, 2016). In addition, some boards are viewed as ineffective because over time, their members begin to adopt the perspective of police officers after working with them; others may take on an adversarial view of police, compromising their objectivity (Weinbeck, 2010).

The challenge of civilian boards’ ability to perform their intended functions given limited resources is a common theme, particularly for boards that depend on the police department or the city council for funding (Cassisi, 2016). Perhaps not surprisingly, when these structurally flawed and insufficiently funded entities fail to deliver on their promise of enhanced police officer accountability, activists who originally supported the establishment of civilian oversight withdraw support, criticizing them for ineffectiveness (Clarke, 2009).

These considerable limitations to civilian oversight beg the question: what would constitute an effective oversight entity? Drawing from case studies and qualitative analyses, the National Association for Civilian Oversight of Law Enforcement (NACOLE) identified the following features: independence, adequate funding, unfettered access to personnel and records, ability to influence decisionmakers, authority to carry out its mandate, community and stakeholder support, and transparency (National Association for Civilian Oversight of Law Enforcement, 2016). Yet even among civilian boards that were initially established in alignment with these characteristics, most ultimately fall short of achieving their goals owing to the lack of continued focus on the problem of police violence and misconduct, inadequate resources, waning political support, and amendments to their enabling legislation (Clarke, 2009; Schwartz, 2012). In fact, many civilian boards fail and are disbanded, while others remain intact but face widespread criticism (Walker, 2001; Clarke, 2009).



Critical Policy Elements

- + Substantial structural barriers exist to effective civilian oversight. Addressing and removing these barriers could help oversight panels fulfill their mission.
- + Civilian oversight boards are often established in response to a high-profile or particularly egregious event, when the community is demanding more transparency and accountability. Creating such an entity in a highly charged environment without appropriate community and departmental input, adequate resources, and sufficient consideration of roles, authority, and function is a recipe for failure.
- + The functions and structure of oversight boards should be tailored to reflect community expectations and available local resources. What is acceptable and expected from a civilian oversight entity in one community can be very different from what is suitable for another community. It is essential for jurisdictions to solicit community input during both the development and review of an oversight entity to ensure clarity of expectations on what it is intended to accomplish, and how members conduct their work.
- + Civilian oversight can be one of several mechanisms that a department uses to enhance accountability and transparency. Government oversight and decertification are others.¹
- + While external oversight boards can enhance accountability, a careful balance of power must be maintained between external oversight and internal chain of command. Police executives should have the primary responsibility for addressing misconduct and retain the ability to fire officers.

Expected Impacts

PREVENTING MISUSE OF FORCE

Theoretically, civilian oversight entities should increase the likelihood that police officers are held accountable for misconduct and thereby should deter the use of excessive force. While one study linked jurisdictions with strong oversight entities with reductions in police homicides of community members, more research is needed.

ENHANCING TRANSPARENCY AND ACCOUNTABILITY

Civilian oversight boards may enhance accountability in instances where they support a departmental investigation's recommendations for discipline or put forth their own recommendations for discipline that are subsequently imposed by the department. They may also increase transparency by aiding in the public's understanding of police policies and procedures through open hearings and public dissemination of findings.

STRENGTHENING COMMUNITY TRUST

Civilian oversight entities that are viewed as independent and effective by the community could strengthen community trust in the criminal justice system. However, no research has confirmed this relationship.

REDUCING RACIAL DISPARITIES

Civilian oversight may have a role in examining complaints for evidence of racially biased policing. One study found that jurisdictions that have oversight entities with broad authority experienced reductions in racial disparity in disorderly conduct arrests and police homicides of community members.

ENSURING OFFICER SAFETY

Some research evidence suggests that civilian oversight boards with broad authority are associated with reductions in homicides of officers, but more research and stronger study designs are needed to confirm that relationship.



PROMOTING PUBLIC SAFETY

Oversight panels that enhance public perceptions of transparency and accountability could indirectly improve safety. One study found that civilian oversight with broad authority is associated with reductions in violent crime.

Endnotes

1 See the Task Force on Policing policy assessments on governmental oversight and decertification.

References

Alexander, Ayanna. 2020, Nov. 5. "Voters Back More Police Oversight After George Floyd's Death." *Bloomberg Government*.

Ali, Mir Usman, and Nicholson-Crotty, Sean. 2020. "Examining the Accountability-Performance Link: The Case of Civilian Oversight of Police." *Public Performance & Management Review*.

Ali, Mir Usman, and Pirog, Maureen. 2019. "Social Accountability and Institutional Change: The Case of Citizen Oversight of Police." *Public Administration Review*. 79(3), 411-426.

Cassisi, Anastasia. 2016. "Justice for All? An analysis of police brutality in the United States, England & Canada." Unpublished master's thesis. Hofstra University.

Chavis Simmons, Kami. 2008. "The Politics of Policing: Ensuring Stakeholder Collaboration in the Federal Reform of Local Law Enforcement Agencies." *Journal of Criminal Law and Criminology*.

Clarke, Stephen. 2009. "Arrested Oversight: A Comparative Analysis and Case Study of How Civilian Oversight of the Police Should Function and How it Fails." *Columbia Journal of Law and Social Problems*.

Chambers, Kristen. 2012. "Citizen-Directed Police Reform: How Independent Investigations and Compelled Officer Testimony Can Increase Accountability." *Lewis & Clark Law Review*, Summer 2012.

De Angelis, Joseph, Rosenthal, Richard, and Brian Buchner. 2016a. "Civilian Oversight of Law Enforcement: A Review of the Strengths and Weaknesses of Various Models." Office of Justice Programs Diagnostic Center.

De Angelis, Joseph, Rosenthal, Richard, and Brian Buchner. 2016b. "Civilian Oversight of Law Enforcement: Assessing the Evidence." Office of Justice Programs Diagnostic Center.

Finn, Peter. 2001. "Citizen Review of Police: Approaches and Implementation." National Institute of Justice.

Hickman, Matthew J. 2006. "Citizen Complaints about Police Use of Force." Bureau of Justice Statistics Special Report.

Hope, Kempe Ronald. 2020. "Civilian Oversight for Democratic Policing and its Challenges: Overcoming Obstacles for Improved Police Accountability." *Journal of Applied Security Research*.

Jerome, Richard, and Police Assessment Resource Center. 2006a. "Promoting Police Accountability in Milwaukee: Strengthening the Fire and Police Commission."

Jerome, Richard, and Police Assessment Resource Center. 2006b. "Promoting Police Accountability and Community Relations in Farmington: Strengthening the Citizen Police Advisory Committee."

Livingston, Debra. 1999. "Police Reform and the Department of Justice: An Essay on Accountability." *Buffalo Criminal Law Review*, 815, 845.



McGregor, Alecia. 2015. "Politics, Police Accountability, and Public Health: Civilian Review in Newark, New Jersey." *Journal of Urban Health*, 93(81): 141-153.

Miller, Eric J. 2015. "Challenging Police Discretion." *Howard Law Journal* 521 (2015); Loyola Law School, Los Angeles Legal Studies Research Paper No. 2015-28.

National Association for Civilian Oversight of Law Enforcement. 2016. Guidebook for the Implementation of New or Revitalized Police Oversight.

Ofer, Udi. 2016. "Getting It Right: Building Effective Civilian Review Boards to Oversee Police." *Seton Hall Law Review*, 46.

Olson, Kathryn. 2016. Citizens Advisory/Review Board, Spokane County Sheriff's Office, Oversight Review.

President's Task Force on 21st Century Policing. 2015. "Final Report of the President's Task Force on 21st Century Policing." Washington, DC. Office of Community Oriented Policing Services.

Rice University, Kinder Institute for Urban Research. 2020. "Who's Policing the Police: A Comparison of the Civilian Agencies that Perform Oversight of Police in Texas' Five Largest Cities."

Stephens, Darrel W., Scrivner, Ellen, and Josie F. Cambareri. 2018. "Civilian Oversight of the Police in Major Cities." Washington, DC. Office of Community Oriented Policing Services.

Schwartz, Joanna. 2012. "What Police Learn from Lawsuits." *Yeshiva University*, 33.

Terrill, William, and Ingram, Jason R. 2016. "Citizen Complaints Against the Police: An Eight City Examination." *Police Quarterly*, 19(2).

Walker, Samuel E. 2001. *Police Accountability: The Role of Citizen Oversight*. 1st edition. Wordsworth Publishing.

Walker, Samuel E., and Macdonald, Morgan. 2009. "An Alternative Remedy for Police Misconduct: A Model State "Pattern or Practice" Statute." *George Mason University Civil Rights Law Journal*, 19.

Walker, Samuel E. and Archbold, Carol A. 2019. "The New World of Police Accountability." *Sage Publications*.

Weinbeck, Michael P. 2010. "Watching the watchmen: Lessons for Federal Law Enforcement from America's Cities." *William Mitchell Law Review*, Vol. 36 (3).

Wilkinson, Harvie H. J. 2014. "In Defense of American Criminal Justice." *Vanderbilt Law Review*, 67.

Witkin, Nathan. 2016. "The Police-Community Partnership: Civilian Oversight as an Evaluation Tool for Community Policing." *The Scholar St. Mary's Law Review on Race and Social Justice*.

About The Task Force

The independent **Task Force on Policing** was launched in November 2020 by the **Council on Criminal Justice**. Its mission is to identify the policies and practices most likely to reduce violent encounters between officers and the public and improve the fairness and effectiveness of American policing. The **11 Task Force members** represent a diverse range of perspectives and experience and include law enforcement leaders, civil rights advocates, researchers, a former mayor, and community members who have lost loved ones to police violence. The Council staffs the Task Force, and the **Crime Lab** at the University of Chicago's Harris School of Public Policy is serving as its research partner.

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