

# PRELIMINARY POLICE OVERSIGHT ANALYSIS

Office of the Police Monitor | 2018



OFFICE OF THE  
POLICE MONITOR

# INTRODUCTION

On March 22, 2018, the City Council passed a resolution (20180322-047) directing the City Manager to develop evidence-based best practices regarding police oversight and report back within 90 days. The resolution stated that the report should contain recommendations that would improve the effectiveness, transparency, and efficiency of our current system. The resolution included direction to consult with various stakeholders including the Office of the Police Monitor, the Police Department, law enforcement accountability offices, interested community organizations and various Boards and Commissions.

In response to this resolution, City management has conducted extensive research on various models of police oversight across the country. The research has helped to inform the strengths and weaknesses of the various oversight models as well as the core elements for an effective police oversight system. This report will provide further clarity on the various models, a comparative analysis on the City of Austin's model with other jurisdictions, and also assist in the development of recommendations to enhance our current oversight system that will be facilitated by the Police Oversight Advisory Working Group.

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# EXECUTIVE SUMMARY

The goal of this report is to provide background on the various civilian police oversight models across the country, the strengths and weakness of each. This document also covers the factors of consideration as the City of Austin embarks upon reevaluating its current oversight structure. More specifically, this report discusses in detail the three civilian police oversight models as defined by the National Association for Civilian Oversight of Law Enforcement. They include:

- **Auditor/Monitor Model:** The Auditor Model calls for a review of the completeness and thoroughness of Internal Affairs investigations while the Monitor Model calls for a monitoring of the entire internal investigations from beginning to end. In both models, incidents are reviewed for broad patterns in investigations, findings, and discipline.
- **Investigative Model:** A civilian led agency investigates complaints of police misconduct.
- **Review Focused Model:** A civilian board or panel examines the quality of internal affairs investigations.

In February 2001, the City of Austin's Office of the Police Monitor (OPM) was created to provide civilian police oversight of the Austin Police Department. The OPM was modeled after the Office of the Independent Police Auditor in San Jose, CA. The OPM is the only civilian staffed police oversight agency in the State of Texas, which operates primarily in the Auditor/Monitor Model; while Houston, Dallas, and San Antonio all operate in the Review Focused Model.

The current structure of the OPM has many strengths and similarities to other comparable cities with similar civilian police oversight. For example, the OPM is able to receive complaints of police misconduct from the community, review the completeness and thoroughness of investigations conducted by Internal Affairs and recommend disciplinary action. However, there are areas that may warrant further evaluation of their feasibility in the enhanced oversight framework. For example, while many civilian oversight agencies accept anonymous complaints, require the Chief of Police to respond to recommendations, or recommend findings on police misconduct investigations, the OPM does not.

In response to the City Council resolution, the City Manger created the Police Oversight Advisory Working Group (Working Group) to advise City Management in the development of recommendations to enhance its current civilian police oversight system. There are 15 members on the Working Group, including representatives from key City departments, the City's Human Rights Commission and the Public Safety Commission, the (former) Citizen Review Panel, the Austin Police Department, the Austin Police Association, the Austin Justice Coalition, the Greater Austin Crime Commission, and various other community organizations. The Working Group will analyze the scope and practices of oversight agencies in San Jose, CA; Seattle, WA; Minneapolis, MN; New Orleans, LA; San Francisco, CA and Denver, CO. Their findings are expected to assist in developing recommendations that will improve the effectiveness, transparency, and efficiency of our current system.

The recommendations from the Working Group will take into consideration the twelve core elements of effective civilian oversight. Each element is essential to improve public trust, deter police misconduct, and increase transparency. City Staff will evaluate the legal and operational feasibility of the recommended practices in determining what is best for our community and whether or not those practices can be achieved with the use of or independent of the Meet and Confer Agreement.

# FIVE COMMON GOALS OF CIVILIAN OVERSIGHT



# BRIEF HISTORY OF CIVILIAN POLICE OVERSIGHT IN THE UNITED STATES

Civilian police oversight first appeared in 1928 when the Los Angeles Bar Association created the Committee on Constitutional Rights to receive complaints on police misconduct. The unofficial Committee was not established under any legal authority and did not have much if any power. In 1948, the Civilian Review Board of the Metropolitan Police Department, the first official civilian oversight board, was created in Washington D.C.

Civilian oversight continued to struggle in its scope, efficacy, and power in the 1920s through the 1950s. However, in the 1960s there was a significant increase in the police oversight as a result of the Civil Rights Movement. Many civil rights leaders demanded civilian police oversight as part of their policy agendas. In the 1970s, oversight grew slightly with the creation of the Kansas City, Missouri, Office of Citizen Complaints, which continues to exist and operate today.

Between 1980 and 2000, the number of civilian police oversight agencies in the United States grew from 13 to over 100 in the United States. In 1985, the International Association of Citizen Oversight of Law Enforcement, a non-profit organization, was created to bring together individuals and agencies working to establish or improve oversight of police officers in the United States. Later, in 1995 the organization changed its name to the National Association of Citizen Oversight in Law Enforcement. The 1990s served as a period of maturation and development of new models in police oversight, specifically the auditor/monitor model created in San Jose, California.



**1920s - 1960s:**

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Early Efforts to Establish Modern Civilian Oversight

- Influenced by the Civil Rights Movement
- Primarily consisted of volunteer agencies organized to review complaints and completed internal affairs investigations
- There was significant resistance by police unions, local politicians and policy makers

**1970s - 1980s:**

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Emergence of Investigative Models of Civilian Oversight

- Enhanced resources and authority were provided
- 1973 - Berkeley, California Police Review Commission was created by city ordinance that granted the commission the power to conduct independent investigations of police misconduct

**1990s - Present:**

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Emergence of the Auditor/Monitor and Hybrid Models of Civilian Oversight

- The Auditor/Monitor model was created to examine systemic patterns in complaints, criminal incidents, and other types of police officer conduct.

# BRIEF HISTORY OF POLICE OVERSIGHT IN AUSTIN, TEXAS

In February 1995, there was an incident where the Austin Police Department (APD) was called to a party to remove a suspected gang member. Several teenagers sustained injuries and subsequently alleged that the police responded with racial epithets, mace and excessive force. The incident became known as the “Cedar Street Incident” and it led to public calls by the Black Citizens Task force, Austin NAACP, and the African American religious community for civilian oversight of APD. In 1998, the City of Austin settled the lawsuit with the teenagers involved in the incident.

In May 1999, City Council Member William Spelman, proposed that the council appoint a citizen focus group to discuss police oversight. On May 20, 1999, the City Council approved the Police Oversight Focus Group (POFG) and charged them with determining whether or not police oversight was in the best interest of Austin and if so, what form of police oversight would be most appropriate. The POFG methodically approached their charge by gathering information from community leaders, APD, Chief Stanley Knee, the Austin Police Association and other stakeholders.

On April 20, 2000, the POFG submitted its final report and recommendations to the City Council. The POFG report recommended that police oversight be instituted in Austin and applied to all Austin Police Department officers. The POFG outlined the suggested monitor model of oversight along with the role and responsibilities of the Police Monitor, the staff of the Office of the Police Monitor and the Austin Police Review Panel, later renamed the Citizen Review Panel.

On March 8, 2001, the City Council approved a three year Meet and Confer Agreement with the Austin Police Association. The contract went into effect on October 1, 2001 and around February 2002, the Office of the Police Monitor was established.

# CONTEMPORARY MODELS OF CIVILIAN OVERSIGHT

There are over 150 civilian oversight agencies across the United States. Most oversight agencies in the U.S. today are multifaceted, in that they incorporate a combination of functions and can include a community board or commission, investigation of police misconduct complaints, monitoring/auditing of a police department's internal investigations, or review of broader policy and training systems.

Civilian oversight agencies generally fall into one of three models - Auditor/Monitor Model, Investigative Model, and Review Focused Model. The Auditor/Monitor oversight agencies review and examine police internal investigations and activities within the police department to make recommendations around policy and training. In Investigative Models, civilians conduct independent investigations of police misconduct which may replace, parallel or duplicate the internal affairs investigations. Finally, the Review Focused Model consists of volunteer review boards or commissions which are primarily designed to provide community input on internal affairs investigations.



## **AUDITOR/MONITOR MODEL:**

The Auditor Model calls for a review of the completeness and thoroughness of IA investigations while the Monitor Model calls for a monitoring of the entire internal investigations from beginning to end. In both models, incidents are reviewed for broad patterns in investigations, findings, and discipline.



## **INVESTIGATIVE MODEL:**

The Investigative Model generally involves a civilian led agency that investigates complaints of police misconduct.



## **REVIEW FOCUSED MODEL:**

In the Review Focused Model, a civilian board or panel examines the quality of internal affairs investigations.

The models vary in organizational structure and authority. Hybrid models have become common and agencies are combining organizational structures and authority models to fit their environment.

During the preliminary research phase, the Office of the Police Monitor contacted 28 civilian police oversight agencies. They included 5 Auditor/Monitor models, 14 Investigative Models, 7 Review Focused Models, and 2 Hybrid models.



***Given, [the] differences between cities and counties in the U.S., it is likely that no single model of oversight will work for all jurisdictions. As a result, the best form of oversight for individual jurisdictions simply depends on the circumstances faced by the jurisdiction that is either creating or updating its oversight processes.<sup>2</sup>***



# CONTEMPORARY MODELS OF OVERSIGHT

## Common Characteristics and Forms of Authority by Oversight Model<sup>3</sup>

	Auditor/ Monitor Model	Investigative Model	Review Focused Model	Austin OPM
Receives community complaints	Frequently			Always
Decides how a complaint will be handled*	Sometimes	Frequently	Rarely	Never
Reviews Police Complaint investigations for thoroughness, completeness and accuracy	Frequently	Sometimes	Frequently	Always
Conducts independent fact finding investigations	Sometimes	Frequently	Rarely	Never
Performs data driven policy evaluations	Frequently	Sometimes		Always
Recommends findings on investigations**	Frequently		Sometimes	
Recommends discipline to police chief	Sometimes		Rarely	Always
Attends Disciplinary Hearings	Sometimes		Rarely	Always
Has a board composed of community members	Sometimes	Frequently		Always
Hears Appeals***	Rarely	Sometimes		Never
Has Paid Professional Staff	Frequently		Sometimes	Always

\* Determines whether or not it will be investigated

\*\* Findings include: Sustained, Exonerated, Unfounded, Not Sustained, Withdrawn, Other

\*\*\* Hear appeals of the complainant

# AUDITOR/MONITOR MODEL

The auditor/monitor models generally review and examine police internal affairs investigations and the police department activity and make recommendations around policy and training. It is the newest form of police oversight and is often referred to by several different names such as Police Monitor, Police Auditor, or Inspector General. This model is focused on police misconduct; it involves a systematic examination of the police department's internal complaint process to ensure that misconduct investigations are conducted in a fair and thorough manner.

A significant strength of the auditor/monitor model is the ability to review all complaints and other sources of information about police activity to analyze trends and patterns of conduct. The auditor/monitor may also evaluate other police agency systems, such as use of force review procedures, police training, or risk management programs. Such information is often used to generate reports, make policy and training recommendations, and effect broader change in the police agency, as well as identify officers or specialized units with a problematic complaint history.

## Factors for Consideration - Auditor/Monitor Model<sup>5</sup>:

- Whether the auditor/monitor will focus only on reviewing complaint investigations or has the authority to investigate cases;
- The range of the auditor/monitor's access to police agency data;
- Whether the auditor/monitor will be on scene at critical incidents;
- The statute of limitations for bringing complaints;
- Review and appeal options for complainants and officers;
- Whether the auditor/monitor has the authority to analyze other police systems such as use of force review procedures or training programs;
- Whether there are clear procedures for the law enforcement agency to respond to recommendations made by the auditor/monitor;
- Whether the auditor/monitor has the power to require implementation of policy and training recommendations; and,
- The frequency and nature of reports to be generated by the auditor/monitor to the police agency and public.

## Primary Goals of Auditor/Monitor Models include<sup>4</sup>:



Ensuring a jurisdiction's processes for investigating allegations of misconduct are thorough, complete and fair



Participating in open internal affairs investigations



Conducting evaluations of police policies, practices and training



Significant public reporting

# AUDITOR/MONITOR MODEL



## STRENGTHS

- Generally less expensive than full investigative model but more expensive than review focused models.
- May be more effective at promoting long term, systemic change in police departments by tracking whether or not police department implement recommendations and determine whether or not those changes have resulted in organizational improvements
- More robust reporting
- Greater staffing resource to conduct community outreach



## WEAKNESSES

- Some skepticism because the agency is staffed by full time, paid staff
- Subject to criticism by both community and police
  - Role of office is to be fair, unbiased and evidence based
- Strongly dependent on the quality of the staff hired
  - Requires a high level of sophistication and training
- Most auditors/monitors can only make recommendations and cannot compel law enforcement to make systemic changes

## Cities Contacted in this Model

**Austin** - Office of the Police Monitor

**San Jose** - Office of the Independent Auditor

**New Orleans** - Independent Police Monitor

**Fairfax County, VA** - Independent Police Monitor

**Denver** - Office of the Independent Monitor

**Bay Area Rapid Transit** - Office of the Independent Police Auditor

**King County - Seattle** - Office of Police Accountability



## INVESTIGATIVE MODEL

In the investigative oversight model, civilians are responsible for conducting investigations of police misconduct. These investigations are done independent of the police department. They may parallel, replace or duplicate the police internal affairs process.

Most investigative models serve as the primary point of contact for public complaints of police conduct and usually contain four elements: 1) they review and classify the nature of the complainant's allegations, 2) conduct independent investigations, 3) they are staffed by civilian investigators, and 4) generally report to a community board or commission that may hold hearings and make findings on the investigations.

The general scope of investigative oversight agencies includes classifying complaints, framing the misconduct issues by delineating allegations, identifying witnesses to be interviewed and questions to be asked, and determine relevant evidence to review. Civilian witnesses may be more willing to be involved and forthcoming in an investigation if it is conducted by an independent agency separate from the law enforcement agency. Investigative methods, skill level, and creativity influence the thoroughness and, in many instances, the outcome of the investigation.

### Factors for Consideration - Investigative Model<sup>6</sup>:

- The types of complaints that can be investigated (e.g., on duty/off duty, criminal, use of force, biased policing, discourteous conduct, etc.);
- The ability to require witnesses to provide testimony (through subpoena power or otherwise);
- Whether investigators will be on scene at critical incidents;
- Have access to incident reports, communications data, use-of-force statements, video and audio recordings, and other evidence maintained by the law enforcement agency;
- Witness representation rights;
- The statute of limitations for bringing complaints;
- Timelines for completing investigations;
- Whether complaints need to be triaged so that only the most serious allegations or those involving broader organizational issues will be investigated;
- Who will make final decisions on complaints and how discipline will be determined;
- Review and appeal options for complainants and officers; and,
- Whether there will be systematic reviews of complaint trends to report to the police agency and public

### Primary Goals of Investigative Models include:



Help rebuild the trust of the community—particularly in communities in which confidence in the police department's ability to investigate itself has been compromised by a history of lackluster or inadequate investigations.



Their core responsibility is to assure the quality and integrity of individual investigations of citizen complaints.

# INVESTIGATIVE MODEL



## STRENGTHS

- Most independent form of oversight
- May reduce bias in investigations of citizen complaints
- Full time civilian investigators have higher specialized training
- Civilian led investigations may increase community trust in the investigative process



## WEAKNESSES

- Most expensive and organizationally complex form of civilian oversight
- Civilian investigators may face strong resistance from police personnel
- Lack of understanding of the police policies they are investigating
- Difficulty of having a civil service appeal of discipline based on their investigation

## Cities Contacted in this Model

**Minneapolis** - Office of Police Conduct Review

**Pittsburgh** - Citizen Police Review Board

**San Francisco** - Department of Accountability

**Washington, DC** - Office of Police Complaints

**Atlanta** - Citizen Review Board

**San Diego County** - Citizen Law Enforcement Review Board

**Oakland** - Community Police Review Agency

**Albuquerque** - Civilian Police Oversight Agency

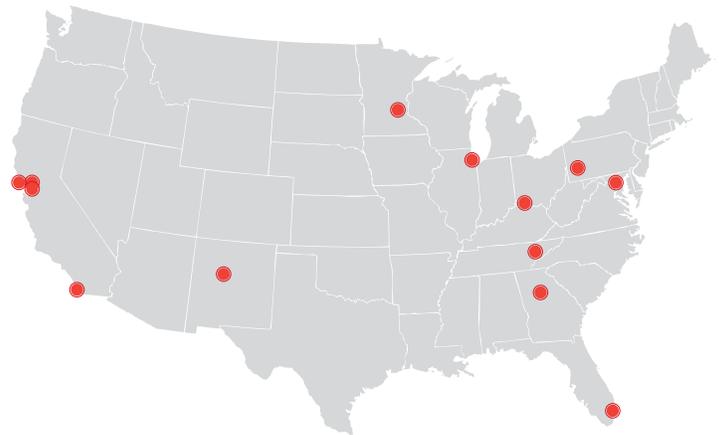
**Berkeley** - Police Review Commission

**Miami** - Civilian Investigative Panel

**Cincinnati** - Citizen Complaint Authority

**Knoxville** - Police Advisory & Review Committee

**Chicago** - Civilian Oversight for Police Accountability



# REVIEW FOCUSED MODEL

The review focused model examines the quality of internal affairs investigations. Many have been created in the form of a volunteer review board or commission appointed by the mayor and confirmed by the city council, or a similar process for the specific jurisdiction. Many review focused models review the completed internal affairs investigation, review the thoroughness of the investigation, vote on the findings, make recommendations and some hear appeals.



## STRENGTHS

- Ensures community input in the investigation process
- Community review may increase public trust
- It is generally the least expensive form of civilian oversight because it primarily relies on volunteers
- Ability to identify deficiencies in policy or training as they apply to individual cases being reviewed



## WEAKNESSES

- Has limited authority and fewer organizational resources
- Volunteer board members may have less expertise in police issues
- Volunteers have limited time to perform their work reviewing cases
- May be less independent than other forms of oversight
- Limited ability to promote large scale systemic change because they primarily focus on individual case investigations

## Cities Contacted in this Model

**Houston** - Independent Police Oversight Board

**San Antonio** - Chief's Advisory Action Board

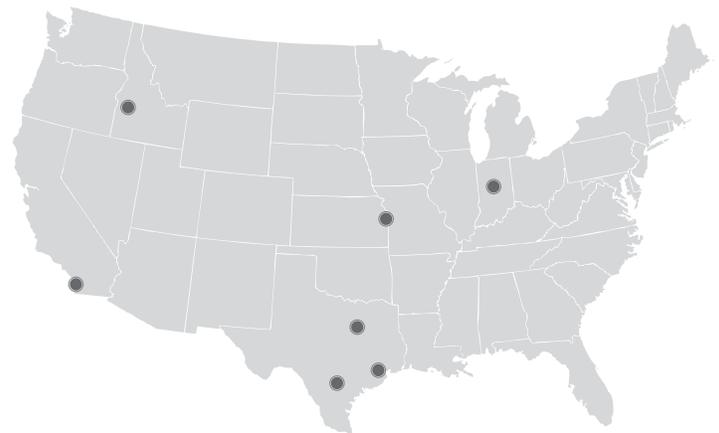
**Dallas** - Citizens Police Review Board

**Kansas City** - Office of Community Complaints

**San Diego** - Community Board on Police Practices

**Indianapolis** - Citizen Police Complaint Board & Citizen Police Complaint Office

**Boise** - Office of Police Oversight



# POLICE OVERSIGHT IN TEXAS

## 4 | OVERSIGHT MODELS



### DALLAS

#### **Oversight Model - REVIEW FOCUSED**

##### **No Civilian staffed office**

##### **Citizens Police Review Board**

- 14 members on the Board- Appointed by City Council
- Board Chairperson appointed by the Mayor
- Meets 1x/month
- Receives a presentation by IA on cases
- Board votes on whether or not they agree with IA findings

### SAN ANTONIO

#### **Oversight Model - REVIEW FOCUSED**

##### **No Civilian staffed office**

##### **Chief's Advisory Action Board**

- 14 members
- Meets 2x/month
- Makes non-binding recommendations on discipline
- Includes sworn officers on the board

### HOUSTON

#### **Oversight Model - REVIEW FOCUSED**

##### **No Civilian staffed office**

##### **Independent Police Review Board**

- 24 members
- Board is broken down into panels- the panels meet at HPD to review the IA files
- Investigations are conducted by IA
- Only reviews cases of alleged excessive force
- Panel makes non-binding recommendations
- Panel chairs meet separately with HPD in an executive panel

### AUSTIN

#### **Oversight Model - AUDITOR/MONTIOR**

##### **Civilian staffed office- Office of the Police Monitor**

- Unfettered access to Internal Affairs (IA) Investigation files
- Oversee all Internal Affairs interviews
- Takes complaints
- Staffed with a community liaison
- Staffed with a data analyst- 6 month and annual reports

##### **Citizen Review Panel (CRP)**

- Seven members appointed by the City Manager
- Meets 1x/month
- Reviews completed IA investigations
- May make recommendation to the Chief of Police that IAD conduct further investigation;
- May make training or policy recommendations to the Chief of Police;
- May request an independent investigation, in certain cases.
- The only time the CRP has the authority to recommend an allegation be sustained or to recommend discipline is in the case of a critical incident; such as an officer involved shooting.

# COMPARATIVE ANALYSIS: AUDITOR/MONITOR MODEL

	Auditor/ Monitor Model	Austin OPM
Receives community complaints	Frequently	Always
Decides how a complaint will be handled*	Sometimes	Never
Reviews Police Complaint investigations for thoroughness, completeness and accuracy	Frequently	Always
Conducts independent fact finding investigations	Sometimes	Never
Performs data driven policy evaluations	Frequently	Always
Recommends findings on investigations**	Frequently	Sometimes
Recommends discipline to police chief	Sometimes	Always
Attends disciplinary hearings	Sometimes	Always
Has a board composed of community members	Sometimes	Always Via Meet and Confer Agreement
Hears Appeals***	Rarely	Never
Has paid professional staff	Frequently	Always
Accepts anonymous complaints	Frequently	Never
Legal Authority	Typically, County/ Municipal Ordinance	Charter Via City Manager
Has subpoena power	Rarely	Never
Authority to implement policies or procedures	Rarely	Never
Authority to implement discipline	Never	Never
Affidavits needed for complaints	Rarely	Always Formal Complaints
Chief of Police required to respond to recommendations	Sometimes	Never
Authority to be on scene for officer involved shooting	Frequently	Always
Access to PD records	Frequently	Sometimes
Access to electronic databases	Frequently	Sometimes
Access to body cam and in car cameras	Frequently	Always
Access to early warning systems	Sometimes	Never
Access to internal affairs records	Sometimes	Always
Performance evaluated by external stakeholders	Sometimes	Sometimes
Mediation program	Sometimes	Always
Release information to the public	Frequently	Sometimes

\* Determines whether or not it will be investigated

\*\* Findings include: Sustained, Exonerated, Unfounded, Not Sustained, Withdrawn, Other

\*\*\* Hear appeals of the complainant

# COMPARATIVE ANALYSIS: INVESTIGATIVE MODEL

	Investigative Model	Austin OPM
Receives community complaints	Frequently	Always
Decides how a complaint will be handled*	Frequently	Never
Reviews Police Complaint investigations for thoroughness, completeness and accuracy	Sometimes	Always
Conducts independent fact finding investigations	Frequently	Never
Performs data driven policy evaluations	Sometimes	Always
Recommends findings on investigations**	Frequently	Sometimes
Recommends discipline to police chief	Sometimes	Always
Attends disciplinary hearings	Sometimes	Always
Has a board composed of community members	Frequently	Always Via Meet and Confer Agreement
Hears Appeals***	Sometimes	Never
Has paid professional staff	Frequently	Always
Accepts anonymous complaints	Sometimes	Never
Legal Authority	County/Municipal Ordinance or City/County Charter	Charter Via City Manager
Has subpoena power	Frequently	Never
Authority to implement policies or procedures	Rarely	Never
Authority to implement discipline	Never	Never
Affidavits needed for complaints	Rarely	Always Formal Complaints
Chief of Police required to respond to recommendations	Frequently	Never
Authority to be on scene for officer involved shooting	Frequently	Always
Access to PD records	Sometimes	Sometimes
Access to electronic databases	Sometimes	Sometimes
Access to body cam and in car cameras	Frequently	Always
Access to early warning systems	Sometimes	Never
Access to internal affairs records	Sometimes	Always
Performance evaluated by external stakeholders	Frequently	Sometimes
Mediation program	Sometimes	Always
Release information to the public	Frequently	Sometimes

\* Determines whether or not it will be investigated

\*\* Findings include: Sustained, Exonerated, Unfounded, Not Sustained, Withdrawn, Other

\*\*\* Hear appeals of the complainant

# COMPARATIVE ANALYSIS: REVIEW FOCUSED MODEL

	Review Focused Model	Austin OPM
Receives community complaints	Frequently	Always
Decides how a complaint will be handled*	Rarely	Never
Reviews Police Complaint investigations for thoroughness, completeness and accuracy	Frequently	Always
Conducts independent fact finding investigations	Rarely	Never
Performs data driven policy evaluations	Sometimes	Always
Recommends findings on investigations**	Sometimes	Sometimes
Recommends discipline to police chief	Rarely	Always
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Release information to the public	Sometimes	Sometimes

\* Determines whether or not it will be investigated

\*\* Findings include: Sustained, Exonerated, Unfounded, Not Sustained, Withdrawn, Other

\*\*\* Hear appeals of the complainant

## NEXT STEPS

The Police Oversight Advisory Working Group has been created to advise City management in the development of recommendations to enhance our current oversight system. The members of the working group include representatives from key City departments, the City's Human Rights Commission and the Public Safety Commission, the (former) Citizen Review Panel, the Austin Police Department, the Austin Police Association, and various community organizations.

The working group will meet regularly to discuss the ways in which our oversight system can be improved, which will be used to develop a draft oversight proposal. Once this work is completed, City management plans to conduct a community engagement process to gather additional public input on the draft proposal. Our goal is to establish a thorough, thoughtful, and collaborative process that gives all key stakeholders an opportunity to have meaningful input in the process.

The first meeting of the working group was held on Thursday June 21, 2018.

# POLICE OVERSIGHT ADVISORY WORKING GROUP

Farah Muscadin, Office of the Police Monitor

Sukyi McMahon, Austin Justice Coalition

Dominic Gonzales, Former Citizen Review Panel

Alexis Gonzales, Former Citizen Review Panel

Nelson Linder, NAACP

Quincy Dunlap, Austin Urban League

Yvonne Massey Davis, Task Force on Institutional Racism & Systemic Inequities - Civil and Criminal Justice Committee

Amber Vazquez, Austin Criminal Defense Lawyers Association

Christopher Harris, Grassroots Leadership

Cary Roberts, Greater Austin Crime Commission

Deven Desai, Labor Relations Office

Matt Simpson, ACLU

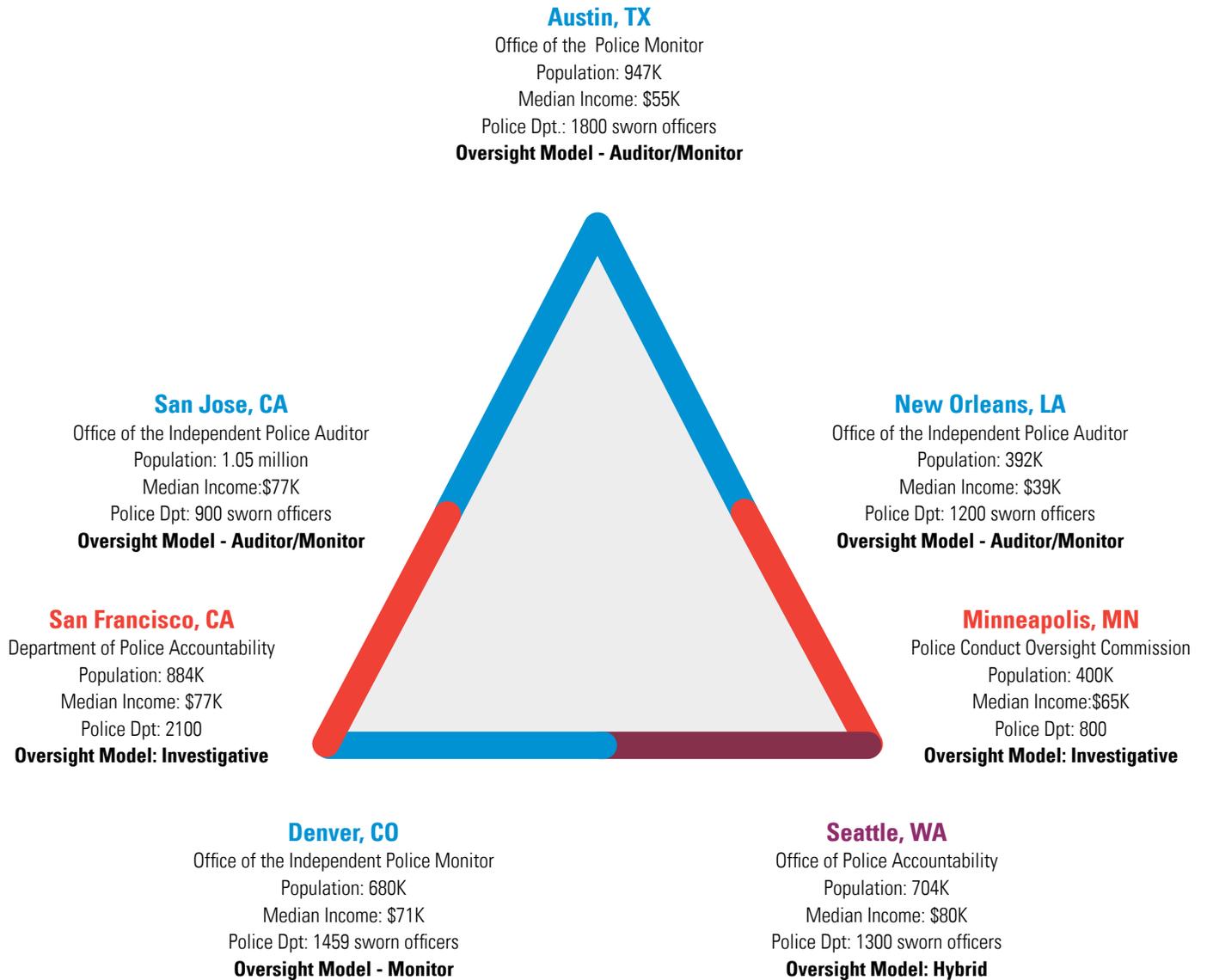
Rebecca Webber, Public Safety Commission

Brian Manley, Austin Police Department

Sheldon Askew, Austin Police Association

Human Rights Commission (to be appointed by the Commission on June 25, 2018)

# PRELIMINARY RECOMMENDATION - CITIES FOR FURTHER ANALYSIS



# PRELIMINARY RECOMMENDATION - CITIES FOR FURTHER ANALYSIS

	Authority	Decides how a complaint is handled	Subpoena Power	Civilian Board	Accepts Anonymous Complaints	Investigation Time Frame
<b>Office of the Police Monitor Austin, TX</b>	<b>Charter Via City Manager</b>	<b>NO</b>	<b>NO</b>	<b>YES* Via Meet &amp; Confer Agreement</b>	<b>NO</b>	<b>180 days</b>
<b>Independent Police Auditor San Jose, CA</b>	Charter	YES	NO	NO, advisory committee	YES	360 days
<b>Dpt. of Police Accountability San Francisco, CA</b>			YES	YES, Police Commission		
<b>Independent Police Monitor Denver, CO</b>	Charter and Ordinance		NO	YES, Citizen Oversight Board		
<b>Office of Police Accountability Seattle, WA</b>	Ordinance		YES	YES, Police Commission		None
<b>Police Conduct Oversight Commission Minneapolis, MN</b>			NO	YES, Police Conduct Commission		
<b>Independent Police Auditor New Orleans, LA</b>			Charter and Ordinance	NO		

## PROPOSED POLICE OVERSIGHT ADVISORY WORKING GROUP TIMELINE

<b>TIMELINE</b>	
<b>JUNE 21, 2018</b>	First Meeting What Does Success Look Like?
<b>JULY 2, 2018</b>	Tentative Work Group Meetings Co Creation Session with the Innovation Office What is the problem that we are trying to solve?
<b>JULY 10, 12, 17, 19, 24, 26, 2018</b> <b>Tuesday and Thursday</b> <b>12 - 1:30 PM</b>	Tentative - Video Conference Meetings - City Hall 6 Cities: San Jose, San Francisco, Denver, Minneapolis, New Orleans, Seattle
<b>AUGUST 2, 2018</b>	Tentative Work Group Meetings
<b>AUGUST 16, 2018</b>	Tentative Work Group Meetings
<b>AUGUST 31, 2018</b>	Draft Proposal Target Date
<b>SEPTEMBER, 2018</b>	Community Outreach
<b>SEPTEMBER 27, 2018</b>	Tentative Work Group Meeting
<b>OCTOBER 16 OR 30, 2018</b>	Presentation to City Council
<b>NOVEMBER, 2018</b>	Meet and Confer Negotiation on Police Oversight

# CORE ELEMENTS OF SUCCESSFUL OVERSIGHT<sup>7</sup>

## 1. INDEPENDENCE

Independent of police, political actors, and special interests and legal protection - created through ordinance or charter

## 2. ADEQUATE JURISDICTIONAL AUTHORITY

Adequate authority to achieve organizational goals, oversight of internal and external complaints, officer involved shootings, in custody deaths and serious use of force, and recommend discipline and findings on investigations

## 3. UNFETTERED ACCESS TO RECORDS

Access to all police databases

## 4. ACCESS TO LAW ENFORCEMENT EXECUTIVES AND INTERNAL AFFAIRS STAFF

Must have regular access to police executives and they must be open and willing to consider and implement recommendations from the oversight agency.

## 5. FULL COOPERATION<sup>8</sup>

The ability of the oversight agency to gain the cooperation of the police department.

## 6. SUPPORT OF PROCESS STAKEHOLDERS

Government officials and office holders, if not supportive of an oversight agency, can reduce its effectiveness in a variety of ways, including by failing to provide the agency with adequate resources or authority or by appointing ineffective managers or board members. Opposition from police unions, local district attorneys or police executives has the potential to complicate the work of oversight agencies

## 7. ADEQUATE RESOURCES

Adequate Budget and Staffing

## 8. PUBLIC REPORTING/TRANSPARENCY

80% of Auditor/Monitor agencies publish public reports/ 85% of Investigative agencies publish public reports/ 69% of Review Focused agencies publish public reports

## 9. USE OF STATISTICAL PATTERN ANALYSIS

Pattern Analysis: Analysis and reporting on aggregate patterns in relation to complaint handling processes, officer involved shootings, in custody deaths, police data relating to stops, searches and arrests.



## 10. COMMUNITY OUTREACH

Publicize the different processes for handling complaints; Outreach out to disenfranchised members of the community who might be fearful or distrustful of the police; Talking with the community about police policies, procedures or training; and gathering input from a range of community members and groups.

## 11. COMMUNITY INVOLVEMENT

Involving community stakeholders in the process allows the oversight agency to identify and address the key accountability issues the jurisdiction is facing.

## 12. RESPECT FOR CONFIDENTIALITY

The ability of a civilian oversight agency to be effective in its work will depend, at least in part, on its ability to respect confidentiality rules. Failure to respect state statutes relating to confidentiality may constitute a serious violation of professional ethics, undermine trust between the oversight agency and the local police department and may cause the oversight agency to lose access to confidential records.

## CONCLUSION

### Best Fit rather than Best Practices

A key lesson from the history oversight models over the last thirty years has shown that there isn't necessarily a "best practice" in the development of a civilian police oversight program. Among the over 150 oversight agencies across the country, they each determined their oversight model by considering the social, cultural and political issues in the respective jurisdiction. The key is determining the "best fit" for that particular jurisdiction. There is no one size fits all in civilian oversight and certainly no two models are alike. It is more like a recipe where the ingredients will differ from city to city.

**// Evidence that any one civilian oversight approach or mechanism is more effective than another does not yet exist, although the role and authority of a civilian oversight function often grows over time to meet emerging community needs and expectations.<sup>9</sup>**

**//**

The Police Oversight Advisory Working Group will continue to evaluate the scope and practices of the six cities recommended for further analysis. Additionally, the Working Group will review the practices in those jurisdictions that are not currently in the scope of the Office of the Police Monitor's framework. City staff will evaluate the legal and operational feasibility of those recommended practices in determining what is best for our community and whether or not those practices can be achieved with the use of or independent of the Meet and Confer Agreement.

# APPENDIX

<sup>1</sup> Anderson, Justin, Larry Brubaker, Sean DeBlieck, Brooke Leary and David Dean. 2015. "Law Enforcement Oversight: Limited Independence, Authority & Access to Information Impede Effectiveness. King County, Washington: King County Auditor's Office."

<sup>2</sup> Attard, Barbara and Kathryn Olson. 2013. "Oversight in the United States," <http://accountabilityassociates.org/wp-content/uploads/Oversight-in-the-US-%E2%80%A6FINAL.pdf>.

<sup>3</sup> Angelis, Joseph, Richard Rosenthal and Brian Buchner. 2016. "Civilian Oversight of Law Enforcement, Assessing the Evidence," [https://d3n8a8pro7vhm.cloudfront.net/nacole/pages/161/attachments/original/1481727974/NACOLE\\_AccessingtheEvidence\\_Final.pdf?1481727974](https://d3n8a8pro7vhm.cloudfront.net/nacole/pages/161/attachments/original/1481727974/NACOLE_AccessingtheEvidence_Final.pdf?1481727974).

<sup>4</sup> Angelis, Joseph, Richard Rosenthal and Brian Buchner. 2016. "Civilian Oversight of Law Enforcement, Assessing the Evidence," [https://d3n8a8pro7vhm.cloudfront.net/nacole/pages/161/attachments/original/1481727974/NACOLE\\_AccessingtheEvidence\\_Final.pdf?1481727974](https://d3n8a8pro7vhm.cloudfront.net/nacole/pages/161/attachments/original/1481727974/NACOLE_AccessingtheEvidence_Final.pdf?1481727974).

<sup>5</sup> Angelis, Joseph, Richard Rosenthal and Brian Buchner. 2016. "Civilian Oversight of Law Enforcement, Assessing the Evidence," [https://d3n8a8pro7vhm.cloudfront.net/nacole/pages/161/attachments/original/1481727974/NACOLE\\_AccessingtheEvidence\\_Final.pdf?1481727974](https://d3n8a8pro7vhm.cloudfront.net/nacole/pages/161/attachments/original/1481727974/NACOLE_AccessingtheEvidence_Final.pdf?1481727974).

<sup>6</sup> Attard, Barbara and Kathryn Olson. 2013. "Oversight in the United States," <http://accountabilityassociates.org/wp-content/uploads/Oversight-in-the-US-%E2%80%A6FINAL.pdf>.

<sup>7</sup> Attard, Barbara and Kathryn Olson. 2013. "Oversight in the United States," <http://accountabilityassociates.org/wp-content/uploads/Oversight-in-the-US-%E2%80%A6FINAL.pdf>.

<sup>8</sup> Angelis, Joseph, Richard Rosenthal and Brian Buchner. 2016. "Civilian Oversight of Law Enforcement, Assessing the Evidence," [https://d3n8a8pro7vhm.cloudfront.net/nacole/pages/161/attachments/original/1481727974/NACOLE\\_AccessingtheEvidence\\_Final.pdf?1481727974](https://d3n8a8pro7vhm.cloudfront.net/nacole/pages/161/attachments/original/1481727974/NACOLE_AccessingtheEvidence_Final.pdf?1481727974).

<sup>9</sup> Angelis, Joseph, Richard Rosenthal and Brian Buchner. 2016. "Civilian Oversight of Law Enforcement, Assessing the Evidence," [https://d3n8a8pro7vhm.cloudfront.net/nacole/pages/161/attachments/original/1481727974/NACOLE\\_AccessingtheEvidence\\_Final.pdf?1481727974](https://d3n8a8pro7vhm.cloudfront.net/nacole/pages/161/attachments/original/1481727974/NACOLE_AccessingtheEvidence_Final.pdf?1481727974).