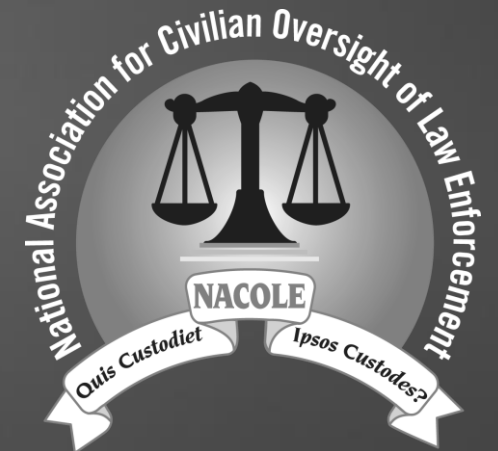


CIVILIAN OVERSIGHT OF LAW ENFORCEMENT

A TRAINING BY THE NATIONAL ASSOCIATION FOR CIVILIAN OVERSIGHT OF LAW ENFORCEMENT FOR THE MADISON, WISCONSIN POLICE CIVILIAN REVIEW BOARD

MARCH 4, 2021

EDUCATIONAL SESSION I



INTRODUCTIONS

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Gathering Statement

My name is _____ and I serve on the PCOB because_____.

What I hope to get out of this training is_____.

TRAINING OVERVIEW

- Civilian Oversight of Law Enforcement
- Role and Authority of the Police Civilian Oversight Board and Independent Monitor
- Staffing Considerations and Qualifications

CIVILIAN OVERSIGHT ALONE IS NOT SUFFICIENT TO GAIN LEGITIMACY. WITHOUT IT, HOWEVER, IT IS DIFFICULT, IF NOT IMPOSSIBLE, FOR THE POLICE TO MAINTAIN THE PUBLIC'S TRUST.





CIVILIAN OVERSIGHT
OF LAW
ENFORCEMENT
DEFINED

CIVILIAN OVERSIGHT DEFINED

- ▶ Investigates, audits, or reviews internal law enforcement investigations or processes, including community complaints and use of force incidents.
- ▶ Conducts ongoing monitoring of law enforcement agencies' policies, procedures, training, management, and supervision practices.
- ▶ Includes any agency or procedure that involves active participation in the above by persons who are not sworn law enforcement.

FACTS ABOUT THE FIELD

- ▶ There are nearly 200 civilian oversight entities across the United States — no two are exactly alike.
- ▶ Most large cities and large law enforcement agencies have oversight agencies, as do a growing number of small and mid-size cities.
- ▶ Many began in reaction to specific incidents of police misconduct or scandals.
- ▶ Civilian oversight has been prominently featured in USDOJ settlement agreements.

WHY OVERSIGHT?

- ▶ **BUILDS BRIDGES** between law enforcement and the public
- ▶ Ensures greater **ACCOUNTABILITY**
- ▶ Enhances **RISK MANAGEMENT**
- ▶ Supports **EFFECTIVE POLICING**
- ▶ Increases **PUBLIC CONFIDENCE AND TRUST** in the police
- ▶ **PROTECTS** human rights

COMMON GOALS OF OVERSIGHT

- ▶ To ensure the police complaint process is **ACCESSIBLE** to all and to remove impediments to the filing of complaints
- ▶ To ensure that investigations are **FAIR AND THOROUGH**, that findings are **REASONABLE** and **DISCIPLINE IS APPROPRIATE**
- ▶ To **IMPROVE PUBLIC CONFIDENCE** in the police
- ▶ To enhance the **TRANSPARENCY** of police organizations by publicly reporting on the department's efforts in holding officers accountable

COMMON GOALS OF OVERSIGHT

- ▶ To **IMPROVE** law enforcement agencies by analyzing patterns in complaints and other police-related data to improve policies, practices, training and management
- ▶ To **DETER OFFICER MISCONDUCT** through the creation of more effective and consistent investigation and disciplinary processes
- ▶ To **REDUCE LEGAL LIABILITY** from officer misconduct
- ▶ To improve the public's **UNDERSTANDING** of police policy, training, and practices

EVOLUTION OF OVERSIGHT

Civilian oversight is often seen as a **REACTIVE** response:

- ▶ Agencies created after a high-profile incident or scandal
- ▶ Responds primarily to individual complaints
- ▶ Reviews policies in the wake of one or more complaints
- ▶ Emphasizes legalistic rules
- ▶ Uses adversarial, administrative process
- ▶ Recommends sanctions for individual officers
- ▶ Relies on deterrence

EVOLUTION OF OVERSIGHT

Civilian oversight now often includes a **PROACTIVE** element:

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



HISTORY OF CIVILIAN OVERSIGHT OF LAW ENFORCEMENT

HISTORY OF CIVILIAN OVERSIGHT

1928
Committee on
Constitutional
Rights Formed

1948
First Official Civilian
Oversight Board Formed
in Washington, DC

1958
Police Advisory
Board formed in
Philadelphia, PA

1931
Wickersham Commission
Recommends Disinterested
Agency to combat
"Lawlessness in Law
Enforcement"

1953
New York City
Civilian Complaint
Board Formed

HISTORY OF CIVILIAN OVERSIGHT

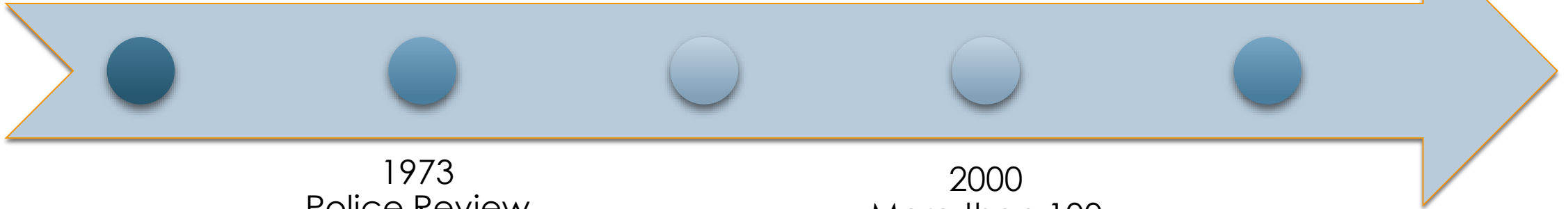
1969
Kansas City, MO Office
of Citizen Complaints
Established

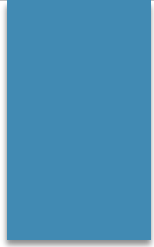
1980
13 Civilian Oversight
Agencies in
Operation

2020
Nearly 200 Civilian
Oversight Agencies in
Operation

1973
Police Review
Committee Established
in Berkeley, CA by Voter
Referendum

2000
More than 100
Oversight Agencies





CIVILIAN OVERSIGHT MODELS

LEGITIMACY

What is **LEGITIMACY IN POLICING**? The belief that...

- ▶ the police are trustworthy, honest, and concerned about the well being of the people they deal with;
- ▶ police authority ought to be accepted;
- ▶ people should voluntarily accept police decisions and follow police directives; and
- ▶ they should comply with the law and cooperate with the police.

LEGITIMACY (continued)

What is **LEGITIMACY IN OVERSIGHT**? The belief that...

- ▶ The oversight agency is trustworthy, honest, and concerned about the well being of the people they deal with
- ▶ Oversight and its authority ought to be accepted
- ▶ People should accept oversight agency decisions and recommendations
- ▶ They should comply with the law and cooperate with the oversight agency

WHAT SHAPES LEGITIMACY?

The primary issue shaping people's views about legitimacy when dealing with the police is whether the police are exercising their authority in fair ways (**PROCEDURAL JUSTICE**).

- ▶ Quality of decision making: Are decisions made fairly, in a neutral, unbiased way?
- ▶ Quality of treatment: Are people treated fairly, in a respectful, courteous way?
- ▶ **PROCEDURAL JUSTICE IS OFTEN MORE IMPORTANT THAN THE LEGAL OUTCOME OF THOSE ENCOUNTERS AND EXPERIENCES.**

TYPES OF AUTHORITY

STATUTORY AUTHORITY

Local ordinances, state and federal law

FOUNDATION:

- ▶ Reactive
- ▶ Authority-driven
- ▶ Problem-driven
- ▶ Focus on accountability and punishment
- ▶ Command and Control: lawful use of authority
- ▶ Measuring Numbers and Results

LEGITIMACY-BASED AUTHORITY

Community expectations and values

FOUNDATION:

- ▶ Proactive approach
- ▶ Willing compliance
- ▶ Community outreach and engagement
- ▶ Quality of the process is as important than the outcome
- ▶ Changing the conditions that lead to police misconduct
- ▶ Measuring Success

COMMON MODELS OF OVERSIGHT

- ▶ **Review-Focused Model**
- ▶ **Monitoring/Auditing-Focused Model**
- ▶ Investigation-Focused Model
- ▶ **Hybrid Models**

REVIEW-FOCUSED MODEL

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

AUDITOR/MONITOR-FOCUSED MODEL

- ▶ Often have more robust reporting practices than other models
- ▶ May be more effective at promoting long-term, systemic change in police departments
- ▶ Generally less expensive than full investigative agencies
- ▶ Allow the agency to actively engage in many or all of the steps of the complaint process

HYBRID MODELS

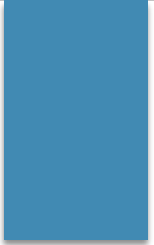
- ▶ Contain elements from one or more of the three models
- ▶ Have been developed to address the needs of a specific community and conform to state or local laws
- ▶ May be modifications of a previous oversight agency
- ▶ Are increasingly common

PRINCIPLES FOR EFFECTIVE CIVILIAN OVERSIGHT

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

Break

10 MINUTES



Role and Authority of the Police Civilian Review Board and Independent Monitor

Police Civilian Oversight Board

- Purpose
- Composition
- Appointment
- Training and Support
- Procedures

Police Civilian Oversight Board

Powers and Duties:

- Appoint and supervise the Independent Monitor
- Evaluate effectiveness of the Office of the Independent Monitor
- Conduct annual review of the Chief of Police
- Conduct community outreach
- Make policy Recommendations
- Publish annual public report
- Issue Subpoenas

Police Civilian Oversight Board

Other Considerations:

- Relationship with Police and Fire Commission
- Relationship with Independent Monitor

Independent Monitor

- Qualifications
- Recruitment
- Reporting Structure

Independent Monitor

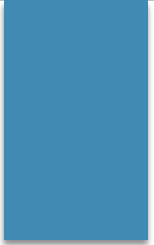
Powers and Duties:

- Monitor policy compliance
- Monitor MPD programs, activities, investigations, and use-of-force incidents
- Develop and issue reports and policy recommendations
- Create and support a system for receiving and processing complaints
- Conduct community outreach
- Staff the Police Civilian Oversight Board
- Hire OIM staff and engage independent contractors
- Access MPD records and issue subpoenas
- Retain independent legal counsel

Independent Monitor

Other Considerations:

- Confidentiality
- Relationship with the Madison Police Department



Staffing Considerations and Qualifications

Qualifications

The qualifications for an oversight executive should meet minimum educational, experience, and skill requirements dictated by agency mandates and municipal or county employment standards.

According to Section 5.19(3), candidates must have extensive knowledge of

- Civilian oversight of policing
- “Best practices” in policing
- Civil rights
- Equity

Minimum Standards

- Knowledge of law enforcement administration and organization and its rules, laws, and regulation
- Principles, practice, and procedures related to conducting investigations
- Understanding of general legal principles
- Demonstrated organization and management practices and methods
- Prior knowledge of civilian oversight and its principles
- Strong commitment to community relations
- Ability to work effectively with the various stakeholders
- Knowledge of the current and historical context surrounding social justice issues