



## Recommendations for Effective Practices

NACOLE, through its research and work with oversight practitioners, has developed a set of recommendations for practitioners to consider in their own work. Each recommendation focuses on strengthening an agency's practices in relation to the thirteen principles for effective civilian oversight. While NACOLE has attempted to develop an extensive list of effective practices for civilian oversight, this list should not be considered exhaustive. The following addresses topics that have come up as recurring themes or concerns identified by practitioners and stakeholders.

It should be noted that "effective practices" take into consideration the core values and principles that should be satisfied to the greatest possible extent in order to produce better outcomes. Such practices value the diverse perspectives and wisdom of experienced practitioners while acknowledging that in the field of civilian oversight, there are several possible paths to success. Furthermore, they are consistent with the "best fit" approach to structuring civilian oversight and prioritizing stakeholder input and dialogue, rather than merely prescribing the "best" in all contexts.

Recommendations for effective practices are meant to offer guidance, not concrete solutions. The challenges associated with civilian oversight can rarely be boiled down to technical problems with technical solutions. Oversight practitioners must consider each recommendation with a mindset oriented towards a "best fit" approach and consider the following questions with all relevant stakeholders before implementing a particular practice:

1. *Is this practice an appropriate "fit" for our local context?*
2. *How will this practice strengthen civilian oversight in relation to the thirteen principles for effective oversight?*
3. *What are the potential unintended consequences of implementing this practice?*

The following is a list of the recommendations. Additional information regarding recommendations is available upon request during this time at [info@nacole.org](mailto:info@nacole.org).



### **Recommendations for Effective Practices**

Summary written and provided by the National Association for Civilian Oversight of Law Enforcement (June 1, 2020).

## I. Complaints Process

### A. Filing and Receiving Complaints

#### 1. Submission of Complaints

**Recommendation:** There should be several alternative modes for the filing of a complaint and the process should be as easy and accessible as possible.

#### 2. Barrier-Free Complaint Process

**Recommendation:** Members of the public, including adjudicated/pre-adjudicated, incarcerated individuals should not be discouraged, dissuaded, burdened, or otherwise threatened or intimidated by the complaint process or when filing a complaint. Unless required by state law, the complaint process should not require individuals to notarize a complaint, sign an affidavit, issue statements under penalty of perjury, or threaten potential prosecution for false statements. In addition, while it may be appropriate to look at current criminal charges as they relate to the complaint, reviewing an individual's criminal history or performing warrant or immigration checks should not be tolerated.

#### 3. Anonymous complaints

**Recommendation:** Unless prohibited by law, the complaint process should allow for the anonymous filing of complaints. Complaint forms and brochures should make clear that complaints can be submitted anonymously and that providing any identifying information is optional.

#### 4. Third-party complaints

**Recommendation:** If permitted by law, the complaint process should allow those who have witnessed or have sufficient knowledge of an incident of alleged misconduct to file a complaint.

#### 5. Internal complaints

**Recommendation:** A civilian oversight agency's complaint jurisdiction should cover internal complaints — those filed by officers or deputies within the overseen law enforcement agency — to provide law enforcement officers with a neutral and independent outlet for reporting officer misconduct and alleged retaliation for reporting misconduct.

#### 6. Accessibility for non-English speakers and persons with disabilities

**Recommendation:** Oversight agencies should, to the best of their ability, accommodate all languages spoken by significant portions of the community. Brochures and complaint forms should be made available in these languages so as to make the complaint process as accessible



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to the community as reasonably possible. Both the oversight and law enforcement agency should maintain compliance with federal Limited English Proficiency (LEP) laws to ensure language barriers are not a deterrent to filing a complaint.

## B. Case Management

### 1. Complaint Triage and Alternatives to Formal Investigation

**Recommendation:** Civilian oversight agencies with jurisdiction over complaints should develop clear protocols for how complaints are to be handled following a preliminary investigation. When formal investigation or mediation of low-level allegations are expected to require a significant commitment of resources and are unlikely to produce beneficial outcomes, alternative methods should be considered.

### 2. Handling Complaints Alleging Potentially Criminal Conduct

**Recommendation:** Upon receiving a complaint, oversight staff should evaluate whether it has jurisdiction over the complaint and whether the complaint should also be referred to either a law enforcement agency or prosecutor. Protocols should be established for referring complaints alleging potential criminal misconduct and when an administrative investigation should be stayed during the pendency of a criminal investigation.

### 3. Referring complaints to mediation

**Recommendation:** The seriousness of a complaint and likelihood of a successful mediation outcome should determine whether an individual complaint will be referred to mediation.

## II. Communication with Complainants

### A. Status updates

**Recommendation:** The complaint process is more likely to be perceived as fair and transparent if complainants receive regular updates regarding their complaint and can obtain status updates at any time.

### B. Close-out meetings

**Recommendation:** Once a complaint has been adjudicated and/or after a disciplinary decision has been made, the civilian oversight agency should invite complainants to an in-person, close-out meeting.



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## C. Complaint Process and Mediation Feedback Surveys

**Recommendation:** When a complaint has been mediated, or when an investigation has been completed and adjudicated, the civilian oversight agency should invite complainants and officers to complete a survey about their experience and provide feedback regarding the complaint and mediation processes.

## III. Independence

### A. Political independence

#### 1. Enabling legislation

**Recommendation:** An oversight agency is more politically independent and less susceptible to political interference when its mission and authority are established by municipal charter.

#### 2. City Council Confirmation

**Recommendation:** A volunteer board or commission's real and perceived independence can be strengthened by requiring the city council to confirm appointments.

#### 3. Recruitment and Selection of Oversight Executive

**Recommendation:** The independence and effectiveness of a civilian oversight agency can be strengthened by selecting the agency executive through an inclusive, deliberative, and consensus-based process.

#### 4. Removal of Oversight Executive

**Recommendation:** The decision to terminate an oversight agency executive should be for cause only, and the result of a consensus-based decision.

#### 5. Reporting structure

**Recommendation:** The civilian oversight agency should be structured within government so as to minimize real or perceived political influence on the decision-making, reporting, recruitment, and termination of key political staff.



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## B. Operational and Procedural Independence

### 1. Report Editorial Authority

**Recommendation:** Stakeholders outside of the civilian oversight agency should not be able to edit, modify, or influence the contents of the agency's public reports.

### 2. Essential Functions and Daily Operations

**Recommendation:** Agency staff should be able to make key decisions regarding the oversight agency's daily operations without consulting or requiring prior approval from outside entities.

### 3. Budget and Staffing Floors

**Recommendation:** Budget or staffing minimums established in an oversight agency's enabling legislation ensure that the agency will have adequate resources to perform its work and protect it from budget cuts that could undermine its effectiveness.

## IV. Boards and Commissions

### A. Diversity and Inclusion of Community Groups

**Recommendation:** The diversity of civilian boards or commissions should closely mirror the diversity of the community served. Stakeholders should consider involving sufficiently knowledgeable and relevant local civic organizations and community groups in the appointment process, so as to leverage their expertise, outreach, and representation of cross-sections of the community.

### B. Staggered Terms and Term Limits

**Recommendation:** Volunteer boards or commissions should have staggered terms and term limits for its members so as to introduce fresh perspectives while maintaining institutional knowledge.

### C. Stipends

**Recommendation:** Board diversity and participation can be enhanced by providing stipends to offset expenses relating to a volunteer member's duties and work for the board or commission.



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## V. Access to Information

### A. Oversight Models and Information Access

**Recommendation:** Stakeholders and oversight agencies should consider the records and corresponding level of access needed in relation to the oversight model deployed and the oversight functions to be performed by the agency.

### B. Enabling Legislation Language Relating to Accessing Department Records

**Recommendation:** Legislation establishing civilian oversight must explicitly address an oversight agency's unfettered access to relevant records and documentation, as well as the law enforcement agency's obligation to cooperate with the oversight agency's request in a reasonable and timely manner.

### C. Law Enforcement Liaisons

**Recommendation:** Law enforcement cooperation with civilian oversight can be strengthened by designating at least one high-ranking individual within the chain of command to serve as a liaison and the point of contact responsible for coordinating the civilian oversight agency's requests.

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### E. Direct Access to Law Enforcement Databases

**Recommendation:** Direct access to law enforcement databases reduces delays in information requests, permits the civilian oversight agency to run advanced queries of the database content, and ensures the accuracy and integrity of the overseen law enforcement agency's data.

### F. Disciplinary Sanctions for Failure to Cooperate

**Recommendation:** Law enforcement agencies that are subject to civilian oversight should establish policies outlining the role of their civilian oversight agency, processes and procedures for cooperation, and the duty of officers and staff subject to oversight to cooperate with an



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oversight agency's requests. Failing to cooperate should be subject to discipline similar to the type of discipline imposed for failing to cooperate with an internal investigation.

## VI. **Staffing**<sup>1</sup>

### A. Oversight Executive

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

### B. Supervisory Investigators and Investigators

**Recommendation:** The qualifications for supervisory investigators and investigators should meet minimum educational, experience, and skill requirements dictated by agency mandates and municipal or county employment standards.

### C. Policy Analysts

**Recommendation:** The qualifications for policy analysts should meet minimum educational, experience, and skill requirements dictated by agency mandates and municipal or county employment standards.

### D. Outreach Staff

**Recommendation:** The qualifications for staff dedicated to community outreach should meet minimum educational, experience, and skill requirements dictated by agency mandates and municipal or county employment standards.

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<sup>1</sup> National Association for Civilian Oversight of Law Enforcement, "Qualification Standards for Oversight Agencies." Note: additional, detailed information regarding staffing education, experience, and skill requirements has been put together by NACOLE and can be found at [www.nacole.org](http://www.nacole.org).



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## VII. Training

### A. Board or Commission Member Training

**Recommendation:** All board or commission members must receive training, shortly after appointment, on the policies and procedures of their local law enforcement agency, the basics of civilian oversight, and the authority and responsibilities associated with their role as a board or commission member.

### B. Staff Training

**Recommendation:** Staff should be given training on the policies and procedures of their local law enforcement agency, the basics of civilian oversight, the authority and responsibilities associated with their agency, as well as continuing education and professional development on an ongoing basis.

### C. Law Enforcement Agency's Role in Training

**Recommendation:** Members of the overseen law enforcement agency should be involved in the development and implementation of training for civilian oversight staff and board/commission members.

## VIII. Investigations

### A. Investigation Manuals

**Recommendation:** An oversight agency should develop a manual guiding the processes and procedures for handling complaints and conducting a thorough misconduct investigation.

### B. Conducting Interviews

**Recommendation:** Oversight agencies with the authority to conduct investigations should have clearly stated protocols for interviewing complainants, officers and civilian witnesses.



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## C. Evidentiary Standards

**Recommendation:** The findings of an administrative investigation should be based upon the standard of proof established by the jurisdiction. Oversight agency staff conducting investigations or reviewing findings must be thoroughly trained on the applicable standard.

## IX. Auditing

### A. Required Audits

**Recommendation:** Auditor/monitor-focused agencies should be required to audit matters of ongoing community interest in order to improve the law enforcement agency's compliance with its own policies and enhance the trust between law enforcement and the community.

### B. Follow-up Audits

**Recommendation:** The civilian oversight agency should perform follow-up audits regarding issues it previously examined to determine whether any reforms previously implemented have remained in place, are still effective, or whether additional remedies need to be implemented to address outstanding issues.

### C. Audit Standards and Standardization

**Recommendation:** Civilian oversight agency audits should be planned and performed with a set of uniform or standardized criteria.

## X. Monitoring

### A. Monitoring Cases of Interest

**Recommendation:** Civilian oversight agencies authorized to monitor open law enforcement internal investigations should be permitted to monitor any case the agency deems in the public interest.



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## B. Interview Monitoring and Participation

**Recommendation:** Civilian oversight agencies authorized to monitor open law enforcement department internal investigations should be able to actively watch or listen to relevant interviews in real-time. The oversight agency should be able to provide specific questions before or during the interview as well as consult investigators regarding the direction of the investigation.

## C. Public Demonstrations and First Amendment Assemblies

**Recommendation:** Civilian oversight agencies with adequate staff and sufficient resources should be authorized to monitor, evaluate, and report on the overseen law enforcement agency's policies, procedures, and tactics for policing public demonstrations and similar First Amendment-related gatherings if deemed by stakeholders to be a matter in the public interest.

# XI. Reviewing Investigations

## A. Investigation Review Checklists and Matrices

**Recommendation:** The civilian oversight agency should develop and use a case review checklist or evaluation matrix to consistently evaluate the thoroughness, accuracy, and fairness of internal investigations.

## B. Voting Seat on Use of Force Review Boards

**Recommendation:** A representative from the civilian oversight agency should have a minimum of one voting seat on the law enforcement agency's Use of Force Review Board (UOFRB).

# XII. Data and Policy Analysis

## A. Internal Data Collection

**Recommendation:** The civilian oversight agency should collect sufficient internal data and records relating to its own work to analyze strengths and weaknesses in its operations, identify patterns and trends in law enforcement relevant to its mandate, present information to the public, and provide additional insight if the agency is being evaluated.



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## B. Analyzing Civil Claims and Litigation

**Recommendation:** Collecting and analyzing legal claims and lawsuits filed against the overseen law enforcement agency provides an opportunity to improve law enforcement functions, identify at-risk officers or units, and mitigate municipal and taxpayer exposure to future legal claims.

## C. Analyzing Use of Force

**Recommendation:** Oversight agencies with access to use of force reports should regularly analyze and publish disaggregated data to the public.

## D. Data Quality and Data-Driven Analyses

**Recommendation:** Civilian oversight agencies should only use credible and relevant data to support assertions made regarding the law enforcement agency's policies, practices, and procedures. Data analyses must use appropriate and methodologically-sound statistical approaches.

## E. Policy Reform Task Forces

**Recommendation:** Policy recommendations pertaining to matters of significant community interest may require the convening of a task force, including civilian oversight, law enforcement and their unions, community members and advocacy groups, relevant municipal agencies, and national experts to develop policy recommendations and assist in their implementation.

# XIII. Issuing Recommendations

## A. Developing Policy and Training Recommendations

**Recommendation:** Policy and training recommendations should include, to the greatest extent possible, specific details, relevant examples and resources, and actionable language to guide proposed actions for the law enforcement agency.

## B. Developing Disciplinary Recommendations

**Recommendation:** Disciplinary recommendations for sustained allegations of misconduct should be consistent, fair, and just.



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## C. Requiring Written, Public Responses to Oversight Recommendations

**Recommendation:** Requiring the law enforcement department to publicly respond in writing to a civilian oversight agency's recommendations can improve transparency and accountability.

## D. Status of Recommendations and Follow-Up

**Recommendation:** Oversight agencies should track and report the status of recommendations issued to the law enforcement department. If the law enforcement department has accepted a particular recommendation, the oversight agency should follow-up on its status, and assist with its implementation where possible.

# XIV. Reporting and Transparency

## A. Regular Reports

**Recommendation:** The oversight agency should issue regular reports to the public describing the agency's mission, authority, activity, and accomplishments for the reporting period.

## B. Special Reports

**Recommendation:** Investigations and reviews of matters of significant community interest should be published as standalone special reports.

## C. Publishing and Presenting Data

**Recommendation:** An oversight agency's data should be regularly published and presented in a clear and accessible format.

# XV. Retaliation and Confidentiality

## A. Prohibitions Against Retaliation

**Recommendation:** All forms of retaliation, including threats, harassment, discouragement, intimidation, coercion, or adverse action, against oversight staff or any individual who files a complaint, cooperates with an investigation, or provides information to a civilian oversight



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agency, must be expressly prohibited by the oversight agency's enabling legislation and departmental policy. Retaliation must be subject to discipline, up to and including termination.

## B. Monitoring and Reviewing Retaliation Complaints and Policy

**Recommendation:** Oversight agencies should periodically review civilian and internal retaliation complaints to assess the prevalence of retaliation and ensure that both the investigative and disciplinary processes of the law enforcement organization are functioning properly.

# XVI. Community Outreach and Inclusion

## A. Assessing Outreach Needs

**Recommendation:** Oversight practitioners should plan and evaluate its outreach needs based on its resources, mandate, goals, and local needs and challenges.

## B. Partnerships with Community Organizations

**Recommendation:** An oversight agency's outreach efforts can be strengthened by developing partnerships with local community organizations.

## C. Targeted Outreach to Key Groups

**Recommendation:** Targeting and tailoring outreach efforts to key local stakeholders can maximize an agency's reach and ability to share relevant information.

## D. Community Inclusion in Developing a Mediation Program

**Recommendation:** An oversight agency should work with local stakeholders to develop protocols determining which types of complaints are eligible for mediation.

# XVII. Evaluation

## A. Oversight Agency Evaluation

**Recommendation:** Oversight agencies should be evaluated periodically to identify strengths, weaknesses, accomplishments and promote continuous improvement.



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## B. Evaluation Approaches and Frameworks

**Recommendation:** Various approaches, methodological considerations, and frameworks should be taken into account when evaluating an oversight agency.

## C. Evaluation Metrics: Workload and Performance

**Recommendation:** When properly contextualized and interpreted, certain metrics relating to the agency's workload and performance can be helpful in understanding an oversight agency's work.

## D. External Evaluation

**Recommendation:** Stakeholders should weigh the relative benefits of having the oversight agency evaluated by community, municipal, or private entities.

## E. Internal Evaluation

**Recommendation:** Oversight staff should be periodically surveyed by an outside entity to gauge staff morale and internal perceptions of management, operations, processes, and procedures.



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