

# Police Oversight

Farah Muscadin - Interim Police Monitor  
May 22, 2018

# Presentation Outline

- City Council Resolution
- Overview of Preliminary Research
  - Oversight Models
- Preliminary Observations
- Next Steps/Timeline

# City Council Resolution - 20180322-047

“The City Manager is directed to develop evidence-based best practices regarding police oversight and to report back within 90 days to City Council with any recommendations to improve the effectiveness, transparency, and efficiency of our current system. The best practices should also include evidence-based evaluation tools to assess the effectiveness of any adopted accountability strategy. As a part of the development process the City Manager should consult with:

- Police Department staff,
- The Office of the Police Monitor,
- Other law enforcement agencies,
- Other law enforcement accountability offices,
- The Austin Public Safety Commission,
- The Austin Human Rights Commission, and
- Interested community organizations”

# NACOLE

The National Association for Civilian Oversight of Law Enforcement

NACOLE is a non-profit organization that brings together individuals and agencies working to establish or improve oversight of police officers in the United States.

“Jurisdictions should focus on “Best-Fit” rather than “Best Practices” when considering how to structure civilian oversight.”

# 21st Century Policing Recommendations - Pillar 2 - Policy & Oversight

2.8 Recommendation: Some form of civilian oversight of law enforcement is important in order to strengthen trust with the community.

Every community should define the appropriate form and structure of civilian oversight to meet the needs of that community.

“Citizen review is not an advocate for the community or for the police. This impartiality allows oversight to bring stakeholders together to work collaboratively and proactively to help make policing more effective and responsive to the community. 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.”

Brian Buchner, Former President of NACOLE

Statement at Policy and Oversight Listening Session on January 30, 2015

# NACOLE

## Five Common Goals of Civilian Oversight Programs\*

- Improving Public Trust
- Ensuring Accessible Complaint Processes
- Promoting Thorough, Fair Investigations
- Increasing Transparency
- Deterring Police Misconduct

\*Based on data collected from 97 civilian oversight programs by NACOLE

# Types of Police Oversight Models

## 3 Models as defined by NACOLE

- Investigative Model - Civilian led agency that investigates complaints of police misconduct
    - Examples: San Francisco, CA; Washington D.C.; San Diego County, CA
  - Review Focused Model - Examine the quality of internal affairs investigations
    - Examples: Indianapolis, IN; San Diego, CA; Kansas City, MO
  - Auditor/Monitor Model - Audit and/or monitor internal investigations and review broad patterns in investigations, findings, and discipline
    - Examples: Austin, TX; San Jose, CA; Denver, CO; Fairfax County, VA; New Orleans, LA
- \*Hybrid - Combination of the various above models
- Examples: Seattle, WA; Portland, OR

# Sample of Factors Considered: Agencies Contacted

Goal: To speak with broad range of oversight agencies

- Oversight model
- Length of time the agency has existed
- City population
- Size of the Police Department
- City resident median income
- How the agency was created - legal authority

# Preliminary Research: Police Oversight Contacts

- Contacts with Agency Directors

- 28 Initial Contacts
  - 14 Investigative
  - 7 Review Focused
  - 5 Auditor/Monitor Model
  - 2 Hybrid

- Additional Contacts

- NACOLE Research Fellow
- 2 Consultants
- 2 Board Chairs - BART and Dallas
- Board Liaisons
  - Houston Independent Police Oversight Board
  - San Antonio Chief's Advisory Action Board
- NYPD Inspector General

## Examples of Police Oversight Models throughout the U.S.



# Preliminary Observations

These are some preliminary observations from the calls with the oversight agency directors.

A more complete analysis will be provided to City Council once the review process has been completed.

- Legal Hurdles to Overcome
  - Most of these agencies do not have legal restrictions like Chapter 143 to overcome when creating / amending their police oversight agency
  - That absence makes it much different than the oversight process in Austin
- Authority
  - Most if not all oversight agencies were created by charter, ordinance or state statute
    - Seattle and Albuquerque - some aspects will be negotiated in collective bargaining
    - Denver - ordinance delineates what can and can not be bargained i.e. oversight
    - Charter / Ordinance in Austin can not supercede state law.
- Funding of the Oversight Agency
  - Many are funded as a percentage of the police department's budget
    - Range between .5% to 1% of Police Department's budget

# Preliminary Observations

These are some preliminary observations from the calls with the oversight agency directors.

A more complete analysis will be provided to City Council once the review process has been completed.

- Discipline Timeframe - i.e. 180 Day Rule
  - Most jurisdictions do not have a timeframe for discipline
- Civilian Board
  - Range from 9 - 23 members
    - Appointed by Mayor and Council
    - Operate in panels of 3-5
  - 30-40 hours a month commitment
- Discipline
  - Most provide recommendations
  - Vary in how disagreements are handled
- Staffing
  - Ranges from 2 - 15 depends on the model
- Complaints Received
  - Range from 30 - 1500 per year depending on the model and jurisdiction

## Next Steps

- Continue Research and Analysis
- Involve stakeholders and interested community organizations in review of oversight agency selection
- Narrow Scope of Oversight Cities to Further Review
  - Determine if visits need to be onsite or remote
    - Finalize city recommendations
    - Finalize site visit/remote team
- Develop Community Outreach Plan
- Legal Review
  - After seeing what processes and authority other agencies have, conduct a legal analysis on what can be done in Austin independent of the Meet and Confer Agreement
  - Of the remaining items, determine which ones we would like to bargain over in negotiations.

	Austin	Minneapolis	Pittsburgh	San Francisco	Washington D.C.	Cincinnati	Atlanta	San Diego	Oakland	Albuquerque	Berkeley	Miami	Houston	San Antonio	Kansas City	Dallas	Knoxville	Indianapolis	Fairfax County, VA	Bay Area Rapid Transit
Does state law mandate confidentiality?																				
Power to Subpoena Officers?																				
Is there a deadline to discipline an officer?																				
Do they allow anonymous complaints?																				
Does Chief have to respond publicly?																				
Is there a civilian board?																				
Can oversight agency initiate investigation?																				
Are Board/Monitor Records public?																				
Is oversight created by Charter/Ordinance?																				
Can Board/Monitor initiate investigations?																				

# Draft Timeline

June  
Research

Council Status Update on

- Draft Preliminary Oversight Report
- Final List for Site Visits and Site Visit Team

July  
Conference

Site Visit/Video

August/September

Legal Review  
Community Outreach

- Commissions
- Stakeholders

October  
Oversight

Finalizing the report/Propose  
Recommendations

"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."



- Civilian Oversight in Law Enforcement  
A Review of the Strengths and Weaknesses of Various Models  
Joseph De Angelis | Richard Rosenthal | Brian Buchner

# Questions

City of Austin - Office of the Police Monitor