

CARDOZO LAW REVIEW

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SURVEY SAYS?: U.S. CITIES DOUBLE DOWN ON CIVILIAN OVERSIGHT OF POLICE DESPITE CHALLENGES AND CONTROVERSY

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The emergence of police accountability as an issue of concern in communities across the nation has led to a watershed era in the evolution of accountability systems involving civilian oversight of municipal police agencies. In recent years, several municipalities have opted to either create or enhance existing civilian oversight systems, despite the fact that many civilian oversight entities continue to elicit criticism. This Article reports on a survey of the civilian oversight entities in the one hundred most populous U.S. cities. The survey documents that civilian oversight has become sufficiently prevalent among the largest U.S. cities as to now be considered a normative element within the police accountability infrastructure.

This Article also sheds light on the prevalence of the various civilian oversight functions that the largest U.S. cities employ. Each civilian oversight entity is identified as providing one or more of seven oversight functions: Investigative, Review, Audit, Adjudicative, Appeals, Supervisory, and Advisory oversight. The survey illustrates the prevalence of these forms of oversight across U.S. jurisdictions and reveals the recent proliferation of layered, multi-functional civilian oversight systems, particularly among the largest cities.

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The Article draws on recent trends identified through the survey that illuminate the current challenges inherent in civilian oversight of municipal police agencies. This Article is intended to serve as a resource for civilian oversight professionals as well as local government leaders and community members who are advocating for new or revised oversight systems.

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INTRODUCTION

The emergence of police accountability as an issue of concern in communities across the nation has led to a watershed era in the evolution of accountability systems involving civilian oversight of municipal police

agencies. In the past five years, a seemingly never-ending series of controversial police use-of-force incidents have achieved national media attention, sparking debate within communities and on the national stage about policing and police accountability.¹ These incidents, and the way city administrations handle them, have laid bare deficiencies in the effectiveness and transparency of police accountability systems across the United States. Concerned communities have demanded change, and city leaders have responded by creating or revamping structures that enable civilian oversight of police.²

The concept of civilian involvement in the handling of police-misconduct complaints was considered radical when it first emerged in the 1920s as a potential way to enhance police accountability.³ Although the first oversight entity was not formally recognized until 1948,⁴ the concept of civilian oversight of law enforcement dates back to at least 1931, when the National Commission on Law Observance and

¹ The following are some of the more widely publicized incidents in recent years: the July 17, 2014, in-custody death of Eric Garner in New York City; the August 9, 2014, fatal shooting of Michael Brown in Ferguson, Missouri; the November 22, 2014, shooting of Tamir Rice in Cleveland, Ohio; the October 20, 2014, fatal shooting of Laquan McDonald in Chicago; the April 4, 2015, fatal shooting of Walter Scott in Charleston, South Carolina; the April 12, 2015, in-custody death of Freddie Gray in Baltimore; the July 2015 in-custody death of Sandra Bland in Waller County, Texas; the July 6, 2016, fatal shooting of Philando Castile in Falcon Heights, Minnesota; and the September 16, 2016, fatal shooting of Terence Crutcher in Tulsa, Oklahoma. See Jonathan Allen et al., *Factbox: U.S. Police Officers Who Killed Unarmed Black Men Often Avoid Criminal Liability*, REUTERS, Aug. 19, 2019, <https://www.reuters.com/article/us-usa-police-garner-factbox/factbox-us-police-officers-who-kill-unarmed-black-men-often-avoid-criminal-liability-idUSKCN1V91MT> [<https://perma.cc/K8ST-45S7>]; Kayla Epstein, *'So Much Mystery': A Man Went to Resolve a DUI. He Died at a Prison Days Later.*, WASH. POST (June 8, 2019, 12:41 PM), <https://www.washingtonpost.com/nation/2019/06/06/he-went-resolve-dui-warrant-two-days-later-he-died-prison> [<https://perma.cc/86ZH-8VLR>] (discussing the jail death of Sandra Bland); Kori Rumore & Chad Yoder, *Minute by Minute: How Jason Van Dyke Shot Laquan McDonald*, CHI. TRIB. (Jan. 18, 2019, 7:32 PM), <https://www.chicagotribune.com/news/laquan-mcdonald/ct-jason-vandyke-laquan-mcdonald-timeline-htmlstory.html> [<https://perma.cc/Y5S9-RHDM>] (discussing the fatal shooting of Laquan McDonald in Chicago).

² For example, in Chicago, a task force was created to address police accountability issues after significant public outcry. CHI. POLICE ACCOUNTABILITY TASK FORCE, RECOMMENDATIONS FOR REFORM: RESTORING TRUST BETWEEN THE CHICAGO POLICE AND THE COMMUNITIES THEY SERVE 1 (2016) https://chicagopatf.org/wp-content/uploads/2016/04/PATF_Final_Report_4_13_16-1.pdf [<https://perma.cc/7R6Y-ALUA>]. The task force recommended a number of changes to Chicago's police accountability infrastructure, many of which were adopted by a city ordinance, including the creation of the City's Civilian Office of Police Accountability and Deputy Inspector General for Public Safety. See CHI., ILL., CODE, ch. 2-78 (2019); *id.* §§ 2-56-205 to -280.

³ Justina R. Cintrón Perino, *Developments in Citizen Oversight of Law Enforcement*, 36 URB. LAW. 387, 387 (2004).

⁴ Historians of the subject recognize the Complaint Review Board, created in 1948 in Washington, D.C., to oversee the Washington Metropolitan Police Department, as the first civilian oversight entity. Samuel Walker, *The History of Citizen Oversight*, in CITIZEN OVERSIGHT OF LAW ENFORCEMENT: LEGAL ISSUES AND POLICY CONSIDERATIONS 1, 3 (Justina Cintrón Perino ed., 2006), http://apps.americanbar.org/abastore/products/books/abstracts/5330089samplech_abs.pdf [<https://perma.cc/5WNX-FGJW>].

Enforcement, also known as the Wickersham Commission, issued a report suggesting that “every locality” should have a disinterested agency to which citizens could report police abuse.⁵

In the nearly eighty years since the first civilian entity was formed to address police accountability, the concept of civilian oversight has been broadly recognized as a way for community interests to independently check police conduct.⁶ Communities are more frequently looking to civilian oversight as a way to enhance police accountability across a variety of fronts.⁷ For example, the Police Oversight Advisory Working Group, established in 2018 in Austin, Texas, has identified five key priorities that should guide the design and structure of Austin’s police accountability infrastructure: (1) to foster independence from the police department and from “political actors”; (2) to facilitate the process of lodging complaints or compliments about police officers; (3) to “establish a collaborative relationship” between the police department and the community; (4) to enhance transparency through data analysis and reporting; and (5) to “involve community stakeholders in the process.”⁸

Looking across the broad array of models and systems nationwide, it seems that civilian oversight systems are like snowflakes—no two are alike.⁹ But despite civilian oversight’s increasing prevalence, its success nationwide is often the subject of debate.¹⁰

⁵ The National Commission on Law Observation and Enforcement, or the Wickersham Commission, was established in 1928 by the Los Angeles Bar Association over concerns about police involvement in the illegal liquor industry. Tim Prenzler, *Scandal, Inquiry, and Reform: The Evolving Locus of Responsibility for Police Integrity*, in CIVILIAN OVERSIGHT OF POLICE: ADVANCING ACCOUNTABILITY IN LAW ENFORCEMENT 3, 8–9 (Tim Prenzler & Garth den Heyer eds., 2015) [hereinafter CIVILIAN OVERSIGHT OF POLICE]. The commission found widespread corruption including the use of torture and intimidation to coerce confessions. *Id.*

⁶ Prenzler, *supra* note 5, at 5.

⁷ See Geoffrey P. Alpert et al., *Citizen Oversight in the United States and Canada: Applying Outcome Measures and Evidence-Based Concepts*, in CIVILIAN OVERSIGHT OF POLICE, *supra* note 5, at 179, 180 (“When allegations of excessive force, racism, and other forms of misconduct and corruption surface, citizens question the foundation on which the police authority is based and departments’ abilities to control the actions of their own officers. . . . To address these shortcomings, stakeholders have called for citizen oversight agencies to investigate and adjudicate claims of police misconduct and corruption.”).

⁸ OFFICE OF THE POLICE MONITOR, CITY OF AUSTIN, POLICE OVERSIGHT ADVISORY WORKING GROUP RECOMMENDATIONS 11–12 (2018) [hereinafter AUSTIN OVERSIGHT RECOMMENDATIONS], https://www.austintexas.gov/sites/default/files/files/Police_Monitor/OPM_Working_Group_FNLReport_FINAL_WEB.pdf [<https://perma.cc/BMJ2-37EL>].

⁹ Mark Iris, *Police Discipline in Chicago: Arbitration or Arbitrary?*, 89 J. CRIM. L. & CRIMINOLOGY 215, 217–18 (1998).

¹⁰ DAVID A. HARRIS, GOOD COPS: THE CASE FOR PREVENTIVE POLICING 104 (2005) (describing the variation in success of oversight agencies nationwide: “Some have performed well; others have failed utterly; still others have hobbled along for years without being of much use to anyone.”).

Throughout the twentieth century, a “continuing pattern of police abuse, misconduct, and corruption, coupled with the failure of government to address these problems in a transparent way, led to a movement of citizen involvement in the police accountability process.”¹¹ In the 1960s, concerns about police racism frequently sparked calls for civilian oversight.¹²

In recent years, many civilian oversight entities have elicited criticism as concerned community members have grown disappointed by their performance.¹³ Despite these ongoing challenges, several municipalities have recently opted to either start up or enhance the powers of existing civilian oversight entities.¹⁴ Many jurisdictions have made changes intended to achieve more effective oversight that is better equipped to satisfy citizen concerns, and those changes have led to the creation of more complex, multi-tiered systems.¹⁵

These recent developments have resulted in a critical mass of civilian oversight systems. A survey¹⁶ of entities in the one hundred most populous U.S. cities indicates that civilian oversight has become sufficiently prevalent among them as to now be considered a normative element within the police accountability infrastructure.

Many cities that have recently adopted new or enhanced structures for civilian oversight have done so to comply with reforms required by settlement agreements with the U.S. Department of Justice (DOJ).¹⁷

¹¹ Alpert et al., *supra* note 7, at 181.

¹² Prenzler, *supra* note 5, at 9.

¹³ See, e.g., *Mission Failure: Civilian Review of Policing in New York City, 1994–2006*, N.Y. CIVIL LIBERTIES UNION, <https://www.nyclu.org/en/mission-failure-civilian-review-policing-new-york-city-summary-findings> [<https://perma.cc/H79K-Q8JF>]; see also *City Officials Hold Hearing About Department that Investigates Citizen Complaints Against Police*, NEWS 5 CLEVELAND (May 8, 2019, 9:57 AM), <https://www.news5cleveland.com/news/local-news/city-officials-hold-hearing-about-department-that-investigates-citizen-complaints-against-police> [<https://perma.cc/QWH9-5ZSM>].

¹⁴ See *infra* Part III for a discussion of civilian oversight entity creation and revision in the past five years: Section A identifies jurisdictions that have initiated civilian oversight, Section B discusses new oversight entities recently added to existing civilian oversight systems, and Section C discusses civilian oversight systems that have been redesigned.

¹⁵ For example, in 2017, Seattle revamped its civilian oversight system, creating a three-tiered approach comprised of: the civilian-led Office of Police Accountability, an investigative agency; the Community Police Commission, which engages the community on oversight issues; and an independent Office of the Inspector General, which reviews the quality of disciplinary investigations and audits the Office of Police Accountability’s and Seattle Police Department’s management practices and policies to “ensure the City maintains police reforms.” See *Organizations Charged with Civilian Oversight of the Police*, SEATTLE.GOV, <https://www.seattle.gov/civilian-oversight> [<https://perma.cc/B9DT-PM6U>].

¹⁶ For access to detailed information from the survey, please visit policeoversight.uchicago.edu.

¹⁷ For example, in 2017, Baltimore created the Community Oversight Task Force to comply with a DOJ consent decree. *Community Oversight Taskforce (COTF)*, BALT. POLICE DEP’T, <https://www.baltimorepolice.org/cotf>.

However, many entities were created not because of legal prompting, but, rather, in response to community activism.¹⁸ Although controversial police use-of-force incidents are frequently the impetus behind new civilian oversight initiatives, some jurisdictions have undertaken preemptive reforms to enhance public trust in accountability systems.¹⁹

I. A SURVEY OF CIVILIAN OVERSIGHT IN THE 100 MOST POPULOUS U.S. CITIES: INTRODUCTION AND METHODOLOGY

Despite the debate and controversy that continues to swirl around civilian oversight,²⁰ a recent survey of the one hundred most populous U.S. cities indicates that support for civilian oversight of police continues to expand and evolve as more cities introduce oversight and as other cities create more complex, multi-tiered oversight systems.

A. Information Sources

Because issues related to policing and police accountability tend to have greater salience in larger, more urban jurisdictions, the survey discussed herein was intended to focus on the largest U.S. cities. Accordingly, the survey was based on the *Modern Cities Top 100 US Cities Ranked by 2017 Population* list, which is derived from U.S. Census population data.²¹ Information about existing civilian oversight entities was gathered through internet searches and is derived from one or more of the following types of sources: state statutes; municipal ordinances or other applicable legislation; online information and documentation, such as entity websites; entity rules and policy statements; and local news

www.baltimorepolice.org/transparency/community-oversight-taskforce-cotf [https://perma.cc/676R-34ZE].

¹⁸ For example, in 2019, Austin, Texas, embarked on a series of reforms based on recommendations from a civilian oversight working group. See AUSTIN OVERSIGHT RECOMMENDATIONS, *supra* note 8.

¹⁹ For example, the idea for Wichita's Citizen's Review Board, in part, grew out of a Wichita State University study released in 2015 that looked at the Wichita Police Department's structure and practices. Amy Renee Leiker, *Wichita Police Will Soon Have Citizen Review. Can It Be Effective?*, WICHITA EAGLE (Nov. 6, 2017, 6:40 AM), <https://www.kansas.com/news/local/article182669481.html> [https://web.archive.org/web/20180829053501/https://www.kansas.com/news/local/article182669481.html].

²⁰ See Kevin King, Note, *Effectively Implementing Civilian Oversight Boards to Ensure Police Accountability and Strengthen Police-Community Relations*, 12 HASTINGS RACE & POVERTY L.J. 91, 100–04 (2015) (discussing the issues fueling the debate over the powers and effectiveness of the various types of civilian oversight entities).

²¹ Ennis Davis, *Top 100 US Cities Ranked by 2017 Population*, MODERN CITIES (May 24, 2018), <http://www.moderncities.com/article/2018-may-top-100-us-cities-ranked-by-2017-population> [https://perma.cc/5MKN-9DUC].

articles. The survey focused exclusively on oversight of municipal police departments. Therefore, information about county-wide oversight systems was not included.²²

B. *Classification of Oversight Entities*

Based on the available information, each identified civilian oversight entity was classified as providing one or more of the following oversight functions:

Investigative: An entity that investigates police incidents independently from the police department and that employs at least one professional investigator.

Review: An entity that reviews or monitors investigations of police incidents being conducted by the police department.

Audit: An entity that audits investigations of police incidents conducted by the police department. For purposes herein, an auditing entity reviews only a sample of investigations, rather than reviewing all investigations or all investigations of a certain type.

Adjudicative: An entity that adjudicates specific disciplinary matters by making findings and recommendations at the conclusion of a disciplinary hearing or other proceeding.

Appeals: An entity that reviews outcomes of disciplinary investigations upon the request of either the complainant or the accused officer.

Supervisory: An entity that makes high-level policy and strategic decisions regarding police department operations.

Advisory: An entity that makes recommendations to the police department regarding high-level policy and operational strategies.²³

The above classifications were not considered mutually exclusive, as many agencies provide more than one of these oversight functions.

²² Civilian oversight has expanded to include coverage of county-wide law enforcement entities. For example, the Los Angeles County Office of Inspector General audits and reviews the Los Angeles County Sheriff's Department's operations, including through periodic use-of-force assessments. See OFFICE OF INSPECTOR GEN., CTY. OF L.A., <https://oig.lacounty.gov> [<https://perma.cc/7XC3-RWG9>]. A survey of these systems would be an appropriate area for future research.

²³ Commentators have categorized civilian oversight entities in a variety of ways. The author developed this particular classification scheme based on the findings of this one hundred-city survey. For an example of another, similar classification scheme, see Cintrón Perino, *supra* note 3, at 388–89.

C. *List of Cities and Tercile Analysis*

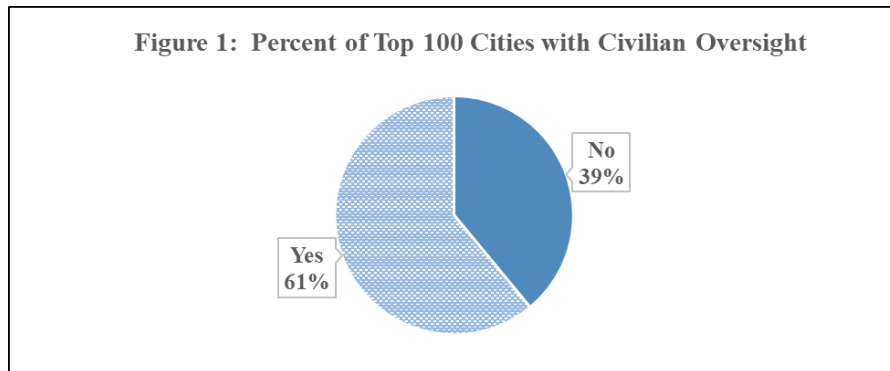
The civilian oversight entities identified as providing at least one of the seven oversight functions to a city on the *Top 100* list were analyzed to assess the prevalence of civilian oversight among the cities overall, as well as the prevalence of each type of oversight.

A tercile analysis compared both the prevalence and types of oversight employed in the most and least populous U.S. cities. This analysis involved separating the cities in the *Top 100* list into three terciles based on population ranking: the most populous thirty-three cities were assigned to the Top Tercile, the least populous thirty-four cities were assigned to the Bottom Tercile, and the remaining thirty-three cities were assigned to the Middle Tercile.

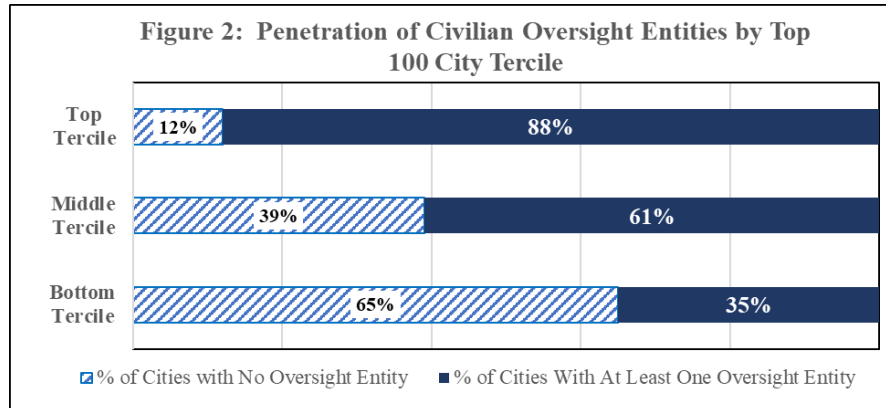
II. THE PREVALENCE OF CIVILIAN OVERSIGHT IN THE 100 MOST POPULOUS U.S. CITIES

A. *Civilian Oversight Has Reached Critical Mass: A Majority of the Largest U.S. Cities Have Established an Entity Performing at Least One Form of Civilian Oversight*

As outlined in Figure 1 below, sixty-one of the one hundred cities surveyed have at least one entity that performs one of the seven oversight functions: Investigative, Review, Audit, Adjudicative, Appeals, Supervisory, or Advisory.

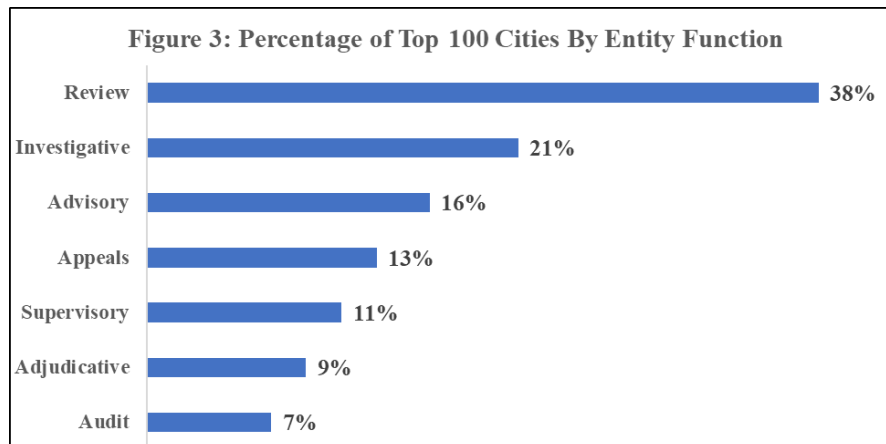


As might be expected, oversight agencies were more prevalent among the most populous cities. As outlined in Figure 2 below, 85% of the Top Tercile cities had a governmental entity that performed at least one of the seven oversight functions. That number fell to 61% among the Middle Tercile cities and to 35% among the Bottom Tercile cities.



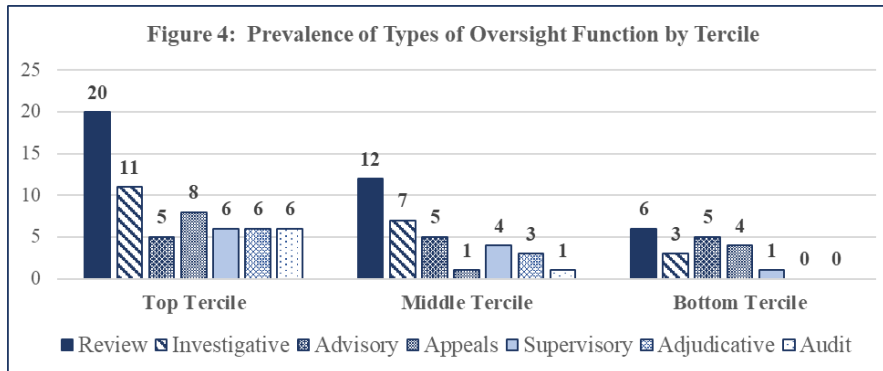
B. *The Review Function is the Most Prevalent Form of Civilian Oversight, Followed by the Investigative Function*

Among the one hundred cities surveyed, the most prevalent form of civilian oversight was the Review function. As outlined in Figure 3 below, 38% of the cities presently operate a civilian oversight agency that provides the Review form of oversight. The next most prevalent form of oversight was the Investigative function, which can be found in 21% of the one hundred cities surveyed. A smaller, yet still significant, number of cities have entities that perform other civilian oversight functions: Advisory, 15%; Appeals, 13%; Supervisory, 11%; Adjudicative, 9%; and Audit, 7%.²⁴



²⁴ A total of sixty-one of the one hundred cities surveyed, or 61%, operate an entity providing at least one of the seven oversight functions. Because many jurisdictions operate one or more entities that provide more than one form of oversight, the total of the percentages in Figure 3 is greater than 61%.

As outlined in Figure 4 below, the more populous cities are more likely to have entities providing the Investigative and Review oversight functions. The less populous cities are more likely to have the Review and Advisory models of oversight and less likely to have the Supervisory, Adjudicative, and Audit forms of oversight.



C. Many Jurisdictions Have Adopted Multi-Layered Civilian Oversight Systems, with One or More Entities Providing Multiple Forms of Oversight

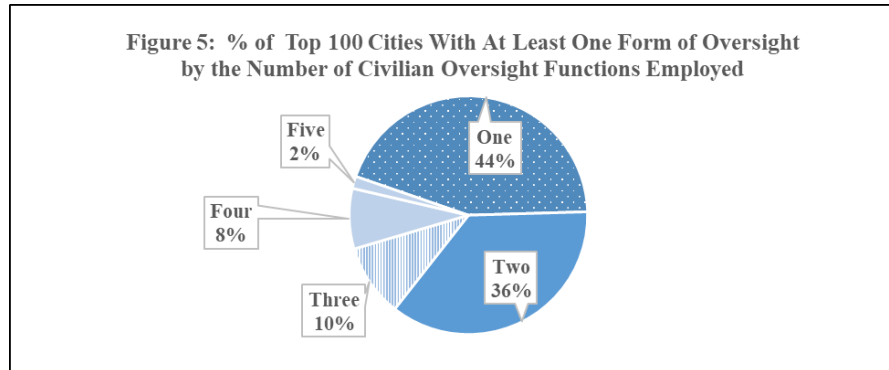
As outlined in Figure 5 below, more than half of the sixty-one cities which have at least one form of oversight employ two or more forms of civilian oversight. Some cities have separate entities performing different functions. For example, Chicago currently has three separate civilian oversight entities, with each performing a separate oversight function: the Civilian Office of Police Accountability (COPA) primarily performs the Investigative function, the Public Safety Inspector General (PSIG) primarily performs the Audit function, and the Chicago Police Board (CPB) primarily performs the Adjudicative function.²⁵ Each of these entities also provides Advisory oversight because they each have the power to make policy recommendations to the police department.²⁶

Many other cities have a single civilian oversight entity that performs two or more oversight functions. For example, in Milwaukee, the Milwaukee Police and Fire Commission performs the Investigative, Review, and Adjudicative functions.²⁷

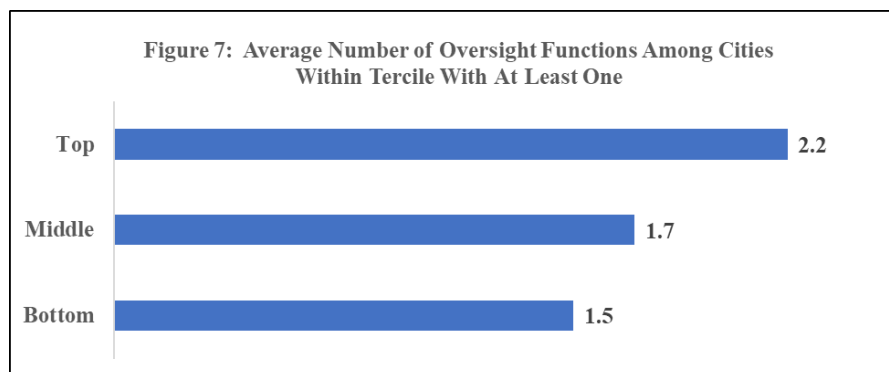
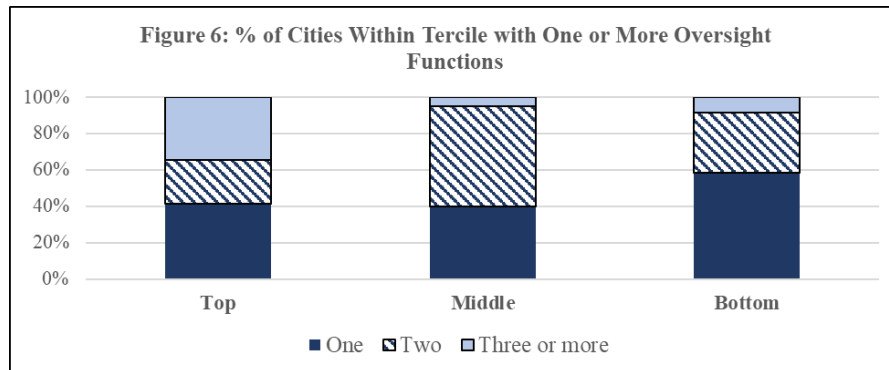
²⁵ The jurisdiction and function of each of these agencies is outlined in their respective city ordinances. See CHI., ILL., CODE ch. 2-78 (2019) (COPA); *id.* ch. 2-56 (PSIG); *id.* ch. 2-84 (CPB).

²⁶ See *id.* § 2-78-120(m) (COPA); *id.* § 2-56-230(d) (PSIG); *id.* § 2-84-030(3) (CPB).

²⁷ Milwaukee, Wis., Rules of the Board of Fire and Police Commissioners r. XV, § 3 (2019), <https://city.milwaukee.gov/ImageLibrary/Groups/cityFPC/Rules/FPCRules.pdf> (stating that Commission staff will “conduct an investigation of every complaint received”); *id.* r. XV, § 6

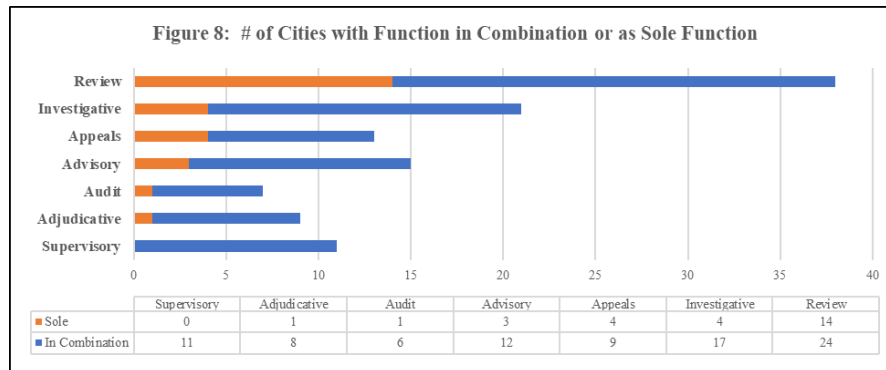


As might be expected, and as outlined in Figure 6 below, multiple layers of civilian oversight are more likely to be found in the more populous jurisdictions. Almost one-third of the Top Tercile cities employ three or more civilian oversight functions. The Bottom Tercile cities are most likely to employ only one or two forms of oversight.



(stating that the Executive Director of the Commission has the power to review investigations conducted based on complaints filed with the police department); *id.* r. XVI (describing the rules and procedures for the adjudication of disciplinary matters before the Commission).

As outlined in Figure 3 above, the most prevalent form of oversight is the Review function. As outlined in Figure 8 below, more than half of the cities that employ the Review function also employ another form of oversight, and the Supervisory form of oversight is always employed in conjunction with at least one other form of oversight.



Similarly, it is notable that, although twenty-one of the one hundred cities surveyed employ the Investigative function of oversight, only four do so exclusively. The remaining seventeen complement the Investigative function with other forms of oversight.

As outlined in Figure 9 below, the most prevalent combinations of oversight functions among the jurisdictions that employ more than one form of civilian oversight are: (1) the Review function combined with the Investigative function, and (2) the Review function combined with the Advisory function. Each of these combinations is found in ten of the cities surveyed.

The Investigative function is also frequently paired with the Supervisory function. Each of the five cities that combine the Investigative function with the Supervisory function utilize the “police commission” form of oversight.²⁸

²⁸ The five jurisdictions that employ both the Investigative and Supervisory oversight functions include: San Francisco, California; Detroit, Michigan; Oakland, California; Milwaukee, Wisconsin; and Seattle, Washington. S.F., CAL., CHARTER §§ 4.109, .136 (2019) (the Department of Police Accountability provides the Investigative function, while the Police Commission provides the Supervisory function); DETROIT, MICH., CHARTER §§ 7-802 to -804 (2012) (the Office of the Chief Investigator provides the Investigative function and reports to the Board of Police Commissioners, which provides Supervisory oversight); OAKLAND, CAL., CODE §§ 2.45.020, .46.010 (the Community Police Review Agency provides the Investigative function, while the Police Commission provides Supervisory oversight); MILWAUKEE FIRE & POLICE COMM’N, CITY OF MILWAUKEE, HOW TO FILE A COMPLAINT, https://city.milwaukee.gov/ImageLibrary/Groups/cityFPC/Brochures/Complaint_Brochure.pdf [<https://perma.cc/58XF-MYAU>] (the Milwaukee Fire and Police Commission provides both Investigative and Supervisory oversight); *Office of Police Accountability*, SEATTLE.GOV, <http://www.seattle.gov/council/issues/past-issues/opa>

Figure 9: Number of Cities With Single vs. Combinations of Oversight Functions

	Investigative	Review	Audit	Adjudicative	Appeals	Supervisory	Advisory
Investigative	4						
Review	10	14					
Audit	4	4	1				
Adjudicative	5	3	3	1			
Appeals	4	4	0	1	4		
Supervisory	5	6	2	2	2	0	
Advisory	3	10	1	1	3	1	3

Legend:

- The numbers in the gray cells along the diagonal indicate the number of cities that employ only that single form of oversight.
- The numbers in the other cells indicate the number of cities that employ the combinations of oversight functions as specified along the horizontal and vertical axes.

III. RECENT CHANGES AND ADDITIONS TO CIVILIAN OVERSIGHT SYSTEMS

Despite the challenges oversight providers have faced across the country, many jurisdictions have responded to community demands for improved police accountability by creating new entities²⁹ or by strengthening the capabilities of existing entities.³⁰

The survey identified at least twenty-two new civilian oversight entities established since 2014.³¹ Reflecting the trend toward multi-functional and tiered oversight systems, fifteen of the twenty-two were established to serve alongside other civilian entities by performing one or more additional oversight functions.³² The remaining seven entities were newly established as the sole civilian oversight entity within the jurisdiction.³³

[<https://perma.cc/8MCZ-3VA9>] (the Office of Police Accountability serves as the Investigative function and the Community Police Commission provides the Supervisory function).

²⁹ See *infra* Sections III.A–B.

³⁰ See *infra* Section III.D.

³¹ See *infra* app. A for a list of the entities.

³² See *infra* app. A.

³³ See *infra* app. A.

A. *Jurisdictions that Have Recently Initiated Civilian Oversight by Establishing New Entities*

1. Anaheim, California

In 2014, Anaheim launched a two-year pilot program regarding civilian police oversight.³⁴ The City created the Public Safety Board in response to protests and civilian unrest that erupted following two fatal officer-involved shooting incidents.³⁵ In 2018, the City formally established the new Police Review Board.³⁶ According to its website, the Board receives “real-time input on major police incidents,” reviews current and proposed police department policies, and reports statistics on officer-involved shootings, uses of force, and complaints.³⁷ Anaheim also employs the Los Angeles–based Office of Independent Review (OIR) as an external auditor for its police department.³⁸

2. Aurora, Colorado

In 2014, Aurora, Colorado, created the Independent Review Board, a new civilian oversight group to advise city leaders on how to handle police disciplinary matters.³⁹ The Board was created in response to local and national protests against controversial police use-of-force incidents.⁴⁰ The Board, which was seated in June 2018, weighs in on discipline to be imposed in cases involving “in-custody deaths, traffic collisions that result from emergency vehicle operations and pursuits, and alleged biased policing.”⁴¹

³⁴ *Police Review Board*, CITY OF ANAHEIM, <https://www.anaheim.net/4802/Police-Review-Board> [<https://perma.cc/8JVN-ZRYR>].

³⁵ Thy Vo, *Anaheim Moving Toward Creation of a New Police Review Board*, VOICE OF OC (Dec. 7, 2017), <https://voiceofoc.org/2017/12/anaheim-moving-toward-creation-of-a-new-police-review-board> [<https://perma.cc/VLB7-YHAJ>].

³⁶ *Police Review Board*, *supra* note 34.

³⁷ *Id.*

³⁸ POLICE REVIEW BD., CITY OF ANAHEIM, FACT SHEET (2019), <https://www.anaheim.net/DocumentCenter/View/23165/Police-Review-Board-fact-sheet-summer-2019> [<https://perma.cc/2VHA-HLJC>]. OIR Group is not considered a governmental oversight entity for the purposes of this survey.

³⁹ *See Aurora Offers Final Contenders for New Police Discipline Review Board*, SENTINEL (Dec. 8, 2014), <https://sentinelcolorado.com/news/independent-review-board-list-finalized> [<https://perma.cc/2376-BKN5>].

⁴⁰ *Id.*

⁴¹ *Id.*

3. Nashville, Tennessee

For many years, activists have called for some kind of civilian oversight of the Metro Nashville Police Department (MNPDP).⁴² In the 1990s, the NAACP called for civilian oversight in the wake of a fatal officer-involved shooting.⁴³ Since 2012, Nashville community groups have grown increasingly concerned about police violence in Black communities.⁴⁴

In November 2017, legislation proposing the creation of an independent community oversight board was introduced before the Nashville Metro Council.⁴⁵ However, in January 2018, the Council voted against holding a public hearing on the proposal, even though the City had already appropriated money to create the agency.⁴⁶ Despite that setback, support for civilian oversight prevailed. In November 2018, a city-wide referendum on an amendment to the City's charter creating the Community Oversight Board passed with overwhelming support.⁴⁷ The Metro Council appointed eleven members to the Board in January 2019.⁴⁸ The Board was to be up and running by March 29, 2019.⁴⁹ The Board has the power to investigate allegations of misconduct, issue policy recommendations, and review or audit MNPDP's complaint processes.⁵⁰

⁴² *The Coalition, CMTY. OVERSIGHT NASHVILLE*, <https://communityoversightnashville.wordpress.com/about> [<https://perma.cc/CR4C-GMJV>] (last updated Nov. 2017).

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ Joey Garrison, *Nashville Amendment 1 for Police Oversight Board Passes Overwhelmingly*, TENNESSEAN (Nov. 7, 2018, 11:59 AM), <https://www.tennessean.com/story/news/politics/tn-elections/2018/11/06/nashville-amendment-1-police-oversight-board-appears-track-passage/1734253002> [<https://perma.cc/ZD6C-UH5B>].

⁴⁸ *Meet the 11 Members of Nashville's New Police Oversight Board*, TENNESSEAN (Jan. 23, 2019, 9:12 AM), <https://www.tennessean.com/story/news/2019/01/23/nashville-police-community-oversight-board-who-11-members/2655942002> [<https://perma.cc/E6JA-PSPY>].

⁴⁹ *Id.*

⁵⁰ *Community Oversight Board*, CITY OF NASHVILLE, <https://www.nashville.gov/Government/Boards-and-Committees/Committee-Information/ID/132/Community-Oversight-Board.aspx> [<https://perma.cc/S9Q8-H6AZ>] (“The Board shall have the power to investigate allegations that [MNPDP] officers have committed misconduct against members of the public, as well as issue policy advisory and resolution reports assessing allegations of misconduct by MNPDP, recommendations to agencies involved in public safety and the administration of justice, and have the option of establishing a monitoring program that provides an ongoing review or audit of the complaint process administered by the MNPDP Office of Professional Accountability (OPA) or equivalent internal affairs program in MNPDP.”).

4. Newark, New Jersey

In 2014, the DOJ issued a report stating that its investigation of the Newark Police Department (NPD) uncovered, among other operational issues, a pattern or practice of constitutional violations in NPD's stop and arrest practices.⁵¹ The report also highlighted serious deficiencies in NPD's accountability system.⁵² In response to the DOJ's findings, the Newark Municipal Council in March 2016 established the Citizens Complaint Review Board.⁵³ However, the police union immediately challenged the Board's legality.⁵⁴ As a result, the Board was prevented from performing its duties for several months while the City litigated the Board's oversight powers.⁵⁵ In June 2019, a New Jersey appellate court sided with the City and reinstated most, but not all, of the Board's investigatory powers.⁵⁶

5. Omaha, Nebraska

In 2014, Omaha established the Citizen Complaint Review Board.⁵⁷ The Board has jurisdiction over appeals of the outcomes of administrative complaint investigations when the complainant requests a review.⁵⁸ The structure and powers of the new entity were the product of collaboration between the mayor, police leadership, and the police union.⁵⁹

⁵¹ Fraternal Order of Police, Newark Lodge No. 12 v. City of Newark, 212 A.3d 454, 462 (N.J. Super. Ct. App. Div. 2019).

⁵² *Id.* at 462–63.

⁵³ *Id.* at 463.

⁵⁴ Rebeca Ibarra, *Newark Judge Weakens Police Review Board*, WNYC NEWS (Mar. 15, 2018), <https://www.wnyc.org/story/newark-judge-weakens-board-meant-fight-police-wrongdoing> [<https://perma.cc/8ZQR-A9AG>]; *see also infra* Section V.D.

⁵⁵ Ibarra, *supra* note 54.

⁵⁶ In March 2018, a New Jersey Superior Court judge stripped the newly created entity of virtually all of its investigatory powers, precluding the agency from investigating misconduct, holding hearings, issuing subpoenas, and making recommendations. *Fraternal Order of Police*, 212 A.3d at 461. However, the appellate court reinstated most of these powers. There were only two areas where the appellate court found the city ordinance infringed on officer's rights: (1) making the agency's findings of fact binding, and (2) permitting the disclosure of the identities of the complainant and the officers. *Id.*

⁵⁷ Omaha, Neb., Exec. Order No. S-30-15 Amended (Aug. 10, 2016).

⁵⁸ *Id.*

⁵⁹ *Citizen Board Will Review Complaints Against Police Officers*, MAYOR JEAN STOTHERT, CITY OF OMAHA, <https://mayors-office.cityofomaha.org/city-news/53-citizen-board-will-review-complaints-against-police-officers> [<https://perma.cc/5FUC-ALSQ>].

6. Tampa, Florida

In 2015, Tampa launched the Citizens Review Board, a new entity that reviews completed disciplinary cases and issues of importance to the community.⁶⁰ The Board was formed out of the conflict between the police and city residents over the disproportionate ticketing of Black bicyclists.⁶¹ The Review Board reports its findings to the Chief of Police and, when appropriate, may make recommendations for possible policy changes.⁶²

7. Wichita, Kansas

In 2017, Wichita established the Citizen's Review Board based on suggestions arising from a 2015 Wichita State University study of the City's police department.⁶³ The Board provides "assistance in policy development, education and communications related to racial and other biased-based policing."⁶⁴ The Board also reviews "post discipline findings of the Professional Standards Bureau in alleged officer misconduct matters upon the request of the Chief of Police."⁶⁵

B. *Jurisdictions that Have Recently Added New Oversight Entities to Existing Oversight Systems*

1. Baltimore, Maryland

In 2017, pursuant to a consent decree with the DOJ, Baltimore established a new Community Oversight Task Force.⁶⁶ The Task Force is charged with identifying and recommending reforms for Baltimore's

⁶⁰ *Citizens Review Board*, CITY OF TAMPA, <https://www.tampagov.net/city-clerk/citizens-review-board> [<https://perma.cc/2LDH-S9SK>].

⁶¹ Charlie Frago, *Tampa's Police Oversight Board Enters Third Year with Mixed Reviews*, TAMPA BAY TIMES (Feb. 3, 2018), https://www.tampabay.com/news/localgovernment/Tampa-s-police-oversight-board-enters-third-year-with-mixed-reviews_165041683 [<https://perma.cc/6SUX-33AC>].

⁶² *Citizens Review Board*, *supra* note 60.

⁶³ Amy Renee Leiker, *Wichita Police will Soon Have Citizen Review. Can It Be Effective?*, WICHITA EAGLE (Nov. 6, 2017, 6:40 AM), <https://www-1.kansas.com/news/local/article182669481.html> [<https://perma.cc/W3JX-SVFT>].

⁶⁴ *Wichita Citizen's Review Board*, WICHITA POLICE DEP'T, <https://www.wichita.gov/WPD/Pages/CitizenReviewBoard.aspx> [<https://perma.cc/HR2B-K7YM>].

⁶⁵ *Id.*

⁶⁶ *Community Oversight Taskforce (COTF)*, *supra* note 17.

civilian oversight system, which already includes the Civilian Review Board created in 1999.⁶⁷

2. Buffalo, New York

In 2017, facing increasing community concerns regarding the conduct of Buffalo police officers, the City agreed to form a community advisory board.⁶⁸ At that time, the Buffalo Police Department was overseen by the Buffalo Common Council's Police Oversight Committee.⁶⁹ In May 2018, the Buffalo Common Council unanimously adopted a resolution that created the Community Advisory Board, made up of eleven residents, to make recommendations to the Common Council and the Buffalo Police Department.⁷⁰ The Board conducts public meetings to hear community concerns and reports its findings and recommendations to the Common Council's Police Oversight Committee.⁷¹ The Community Advisory Board complements the oversight provided by the Police Oversight Committee.

3. New York, New York

A 2014 amendment to the New York City Charter created a new Audit function within the City's Department of Investigations to oversee the New York City Police Department (NYPD).⁷² The Office of the Inspector General (OIG) for NYPD, which complements the oversight provided by the long-standing Civilian Complaint Review Board,⁷³ has

⁶⁷ *Id.*

⁶⁸ Daniela Porat, *City Hall Agrees to Increased Police Oversight*, INVESTIGATIVE POST (Sept. 26, 2017), <http://www.investigativepost.org/2017/09/26/city-hall-agrees-to-increased-police-oversight> [<https://perma.cc/SD4E-6DG5>].

⁶⁹ See Deidre Williams, *New Community Advisory Board to Augment City's Police Oversight Committee*, BUFFALO NEWS (Mar. 8, 2018), <https://buffalonews.com/2018/03/08/new-community-advisory-board-to-augment-citys-police-oversight-committee> [<https://perma.cc/QYE4-YSN4>]. The Buffalo Common Council is the legislative branch of government for the City of Buffalo. *Common Council*, CITY OF BUFFALO, <https://www.buffalony.gov/362/Common-Council> [<https://perma.cc/H6KN-RCCC>].

⁷⁰ Williams, *supra* note 69. See generally Common Council Res. 18-423 (Buffalo, N.Y., 2018).

⁷¹ Common Council Res. 18-423.

⁷² Local Law 70, Council Int. No. 1079, (N.Y.C., N.Y., 2013), <https://www1.nyc.gov/assets/doi/oignypd/local-law/Local-Law-70.pdf> [<https://perma.cc/3ZH2-MH2A>].

⁷³ See *Frequently Asked Questions*, INSPECTOR GEN. FOR THE NYPD, <https://www1.nyc.gov/site/doi/oignypd/faq.page> [<https://perma.cc/EB99-9PXJ>] (noting the OIG “was not established to replicate the investigative functions of the Civilian Complaint Review Board (CCRB) or NYPD’s Internal Affairs Bureau (IAB)”). The Civilian Complaint Review Board was established in 1953. *History*, CIVILIAN COMPLAINT REV. BOARD, <https://www1.nyc.gov/site/ccrb/about/history.page> [<https://perma.cc/L47D-L4EA>].

the authority to “investigate, review, study, audit and make recommendations relating to the operations, policies, programs and practices, including ongoing partnerships with other law enforcement agencies, of the [NYPD].”⁷⁴

In the wake of the police use-of-force incident that resulted in the death of Eric Garner, the NYPD OIG reviewed incidents involving the use of chokeholds.⁷⁵ The review raised significant questions about how diligently the NYPD had enforced its chokehold ban. The review also outlined concerns about the disciplinary process in general and the related interactions between the NYPD and the Civilian Complaint Review Board.⁷⁶

4. St. Louis, Missouri

The St. Louis Board of Police Commissioners has governed the St. Louis Metropolitan Police Department, pursuant to a Missouri state statute, since around 1861.⁷⁷ But, in 2014, the City created the Civilian Oversight Board to receive complaints and monitor the Police Department’s internal investigations.⁷⁸ The Board was formed to “provide an additional level of transparency and accountability” for police oversight,⁷⁹ but its creation was not unanimously welcomed. A January 2015 meeting of the City’s Public Safety Committee “turned into a melee between protestors and police” when police officers spoke out against creating the Board.⁸⁰ Notwithstanding the controversy, the City in mid-2018 took the additional step of granting the Board subpoena power.⁸¹

⁷⁴ Local Law 70.

⁷⁵ OFFICE OF THE INSPECTOR GEN. FOR THE NYPD, N.Y.C. DEP’T OF INVESTIGATION, OBSERVATIONS ON ACCOUNTABILITY AND TRANSPARENCY IN TEN NYPD CHOKEHOLD CASES ii (2015), https://www1.nyc.gov/assets/doi/oignypd/response/chokehold_report_1-2015.pdf [<https://perma.cc/C25S-E6YJ>].

⁷⁶ See *id.* at ii–vi.

⁷⁷ *Historical Milestones*, ST. LOUIS METROPOLITAN POLICE DEP’T, <https://www.slmpd.org/history.shtml> [<https://perma.cc/4FEU-UGDY>].

⁷⁸ Bd. B. 208, 2014–2015 Sess. (St. Louis, Mo., 2015).

⁷⁹ Alvin Reid, *St. Louis City’s Civilian Oversight Board Is in Operation and Has Received Calls*, ST. LOUIS MAG. (May 11, 2016, 9:01 AM), <https://www.stlmag.com/news/st-louis-city%E2%80%99s-civilian-oversight-board-is-in-operation-and> [<https://perma.cc/L3S2-287Y>].

⁸⁰ Ryan Krull, *St. Louis’ Civilian Oversight Board Almost Always Agrees with Internal Affairs*, RIVERFRONT TIMES (Apr. 2, 2018, 6:30 AM), <https://www.riverfronttimes.com/newsblog/2018/04/02/st-louis-civilian-oversight-board-almost-always-agrees-with-internal-affairs> [<https://perma.cc/R76V-JZJM>].

⁸¹ *St. Louis Aldermen Give Police Civilian Oversight Board Subpoena Power*, FOX 2 NOW (Apr. 27, 2018, 5:50 AM), <https://fox2now.com/2018/04/17/st-louis-aldermen-give-police-civilian-oversight-board-subpoena-power> [<https://perma.cc/5JQM-YCYP>].

5. Sacramento, California

Civilian oversight was initiated in Sacramento in 1999 with the creation of the Office of Public Safety Accountability, which tracks and monitors serious police-misconduct investigations.⁸² In 2016, the City added the Community Police Review Commission to its oversight structure.⁸³ The new entity was created to review and recommend police department policies and practices and to “monitor the implementation, evaluation, and sustainability of city policing initiatives and programs.”⁸⁴

C. *Jurisdictions that Have Recently Redesigned or Restructured Civilian Oversight Systems*

Some jurisdictions have recently responded to upheaval and controversy regarding police accountability by completely overhauling their accountability systems. The following are a few examples of systems that have been redesigned since 2014.

1. Austin, Texas

In 2018, Austin, Texas, began dismantling its police oversight infrastructure while simultaneously planning to rebuild it based on “best practices.”⁸⁵ Austin has had civilian oversight of its police department since 2001, when the City created the Citizen Review Panel and the Office of the Police Monitor pursuant to the City’s contract with the Austin Police Association.⁸⁶ However, much has transpired in the intervening years, creating new issues and calls for reform.⁸⁷ In a June 2018 report, the Austin City Auditor concluded that citizen oversight had not created substantive change within the Austin Police Department, largely due to City procedures and police department practices.⁸⁸ In particular, the Auditor identified several impediments to successful

⁸² *About the Office of Public Safety Accountability*, CITY OF SACRAMENTO, <https://www.cityofsacramento.org/OPSA/About> [<https://perma.cc/B2R2-ZGT7>].

⁸³ *See* SACRAMENTO, CAL., CODE § 2.110.010 (2019).

⁸⁴ *See id.* § 2.110.020.

⁸⁵ AUSTIN OVERSIGHT RECOMMENDATIONS, *supra* note 8, at 4.

⁸⁶ Nina Hernandez, *Police Oversight: Starting From Scratch*, AUSTIN CHRON. (Sept. 14, 2018), <https://www.austinchronicle.com/news/2018-09-14/police-oversight-starting-from-scratch> [<https://perma.cc/4HW9-VP2D>].

⁸⁷ *Id.*

⁸⁸ OFFICE OF THE CITY AUDITOR, CITY OF AUSTIN, EFFECTIVENESS OF CITIZEN POLICE OVERSIGHT 5 (2018), http://www.austintexas.gov/sites/default/files/files/Auditor/Audit_Reports/Effectiveness_of_Citizen_Police_Oversight_June_2018.pdf [<https://perma.cc/U3QF-4QK9>].

oversight, including: (1) that city policies prevented the Citizen Review Panel from communicating directly with the police chief; (2) that the City did not establish a system for keeping track of the Panel's recommendations; (3) that the time lag between critical incidents and when the police department presented a case to the Citizen Review Panel limited the panel's ability to issue effective and timely recommendations; (4) that incomplete or unavailable information impacted the Citizen Review Panel's recommendations; and (5) that the police chief was not required to acknowledge the receipt of or respond to the Panel's recommendations.⁸⁹

When the police union contract came up for renegotiation in 2017, the City looked to enhance civilian oversight, but the union pushed back.⁹⁰ When the contract expired, it became virtually impossible for the Citizen Review Panel to continue operating.⁹¹ In early 2018, the Austin City Council directed the City Manager to develop evidence-based best practices regarding police oversight and to deliver to the Council recommendations to improve the effectiveness, transparency, and efficiency of the City's current accountability system.⁹² The Police Oversight Advisory Working Group issued a report in October 2018 detailing a series of recommendations for Austin's civilian oversight infrastructure.⁹³

For much of 2018, the City and the union remained at odds over civilian oversight and budget issues.⁹⁴ The impasse lasted for approximately nine months, which was quite unusual based on their prior negotiating history.⁹⁵ Fortunately, in late 2018, the parties reached a consensus.⁹⁶ The new agreement allowed for several enhancements to the oversight structure, including giving the oversight entity the power to investigate anonymous misconduct complaints⁹⁷ as well as the authority to lodge its own complaints.⁹⁸ However, even with these enhancements,

⁸⁹ *Id.*

⁹⁰ Hernandez, *supra* note 86.

⁹¹ *See id.*; Mark Wilson, *Citizen Police Oversight Did Not Create Change at APD, Audit Finds*, AUSTIN AM.-STATESMAN (July 24, 2018, 12:01 AM), <https://www.statesman.com/news/20180724/citizen-police-oversight-did-not-create-change-at-apd-audit-finds/1> [<https://perma.cc/7956-QKLT>].

⁹² AUSTIN OVERSIGHT RECOMMENDATIONS, *supra* note 8, at 4.

⁹³ *Id.* at 8–26.

⁹⁴ Hernandez, *supra* note 86.

⁹⁵ *Id.*

⁹⁶ *See* Agreement Between the City of Austin and the Austin Police Association, Nov. 15, 2018, <http://www.austintexas.gov/edims/document.cfm?id=310410> [<https://perma.cc/RT6P-5KCA>].

⁹⁷ *Id.* art 16, § 2(b) (“The Parties specifically agree that anonymous written or verbal communications meet [the] definition of ‘Complaint.’”).

⁹⁸ *Id.* § 2(c) (“[T]he [Office of Police Oversight] ‘may act as complainant in any allegation on its own initiative’”).

the new contract does not provide subpoena power for the Citizen Review Panel.⁹⁹

2. Chicago, Illinois

In October 2016, the Chicago City Council passed legislation intended to reform the City's police accountability system, which had come under fire in the wake of the officer-involved shooting of Laquan McDonald.¹⁰⁰ The new ordinance replaced the agency responsible for police-misconduct investigations, the Independent Police Review Authority (IPRA), with the new Civilian Office of Police Accountability (COPA).¹⁰¹ The ordinance expanded the civilian agency's jurisdiction to include allegations of improper searches and seizures and the responsibility to investigate certain incidents involving motor vehicle deaths.¹⁰² The new agency was provided additional resources via a budget floor and the power to obtain legal advice independent of city attorneys.¹⁰³ The City Council also added to the police accountability infrastructure by creating and funding the new Deputy Inspector General for Public Safety position.¹⁰⁴

Some Chicago police accountability activists and community groups are advocating for the creation of a community board to oversee both the Chicago Police Department and the COPA.¹⁰⁵ An ordinance has been presented to the City Council's Public Safety Committee that would create a new nine-member Community Commission for Public Safety.¹⁰⁶

⁹⁹ Michael Barajas, *New Contract Could Give Austin One of the Most Transparent Police Departments in the Country*, TEX. OBSERVER (Nov. 16, 2018, 4:10 PM), <https://www.texasobserver.org/new-contract-could-give-austin-one-of-the-most-transparent-police-departments-in-the-country> [<https://perma.cc/HY8J-ARDJ>].

¹⁰⁰ *Our History*, CIVILIAN OFF. OF POLICE ACCOUNTABILITY, <https://www.chicagocopa.org/about-copa/our-history> [<https://perma.cc/6FK8-887P>]; see Curtis Black, *Demand for Community Control of Police Oversight Isn't Going Away*, CHI. REP. (Oct. 6, 2016), <https://www.chicagoreporter.com/demand-for-community-control-of-police-oversight-isnt-going-away> [<https://perma.cc/GAQ8-758L>].

¹⁰¹ CHI., ILL., CODE ch. 2-78 (2019). The author of this Article served as the Chief Administrator for the IPRA and its successor agency, COPA, from December 2015 through early October 2017.

¹⁰² See *id.* § 2-78-120.

¹⁰³ *Id.* § 2-78-105 (establishing a minimum budget for the agency at one percent of the annual appropriation for the Chicago Police Department); *id.* § 2-78-120(q) (allowing the Chief Administrator to retain outside counsel to advise and represent the agency in proceedings related to its investigative work).

¹⁰⁴ *Id.* § 2-56-200 to -280.

¹⁰⁵ Annie Sweeney, *Revamped Ordinance for Community Oversight of Chicago Police Department Faces Likely Uphill Battle*, CHI. TRIB., (Mar. 5, 2019, 8:10 PM), <https://www.chicagotribune.com/news/breaking/ct-met-chicago-police-reform-community-oversight-20190305-story.html> [<https://perma.cc/R9R3-S2E8>].

¹⁰⁶ *Id.*

Prior versions of the ordinance were controversial because they would have given the entity the power to set Police Department policy and the power to fire the police superintendent.¹⁰⁷

3. Dallas, Texas

Community concerns about the effectiveness of the Dallas Citizens Police Review Board are well-documented.¹⁰⁸ In 2017, U.S. Representative Eddie Bernice Johnson commissioned a report that outlined reforms for the agency.¹⁰⁹ However, the need for reform did not get much political traction until 2019, when a twenty-six-year-old man was shot and killed inside his own apartment by an off-duty police officer.¹¹⁰ In December 2018, local community members complained that the Dallas Civilian Police Review Board had been “unable to provide meaningful oversight” over the Dallas Police Department and recommended that an entirely new oversight structure be implemented.¹¹¹

In April 2019, the Dallas City Council considered a proposal for reform that included renaming the Review Board the “Community Police Oversight Board” and creating a new three-person city department to be called the Office of Police Oversight (OPO).¹¹² According to the proposal, the OPO would receive complaints and mediate disputes between complainants and the police department.¹¹³ OPO would also have the power to independently investigate and monitor police department internal investigations.¹¹⁴ Some community activists expressed concern about the level of involvement that the police union had been afforded in drafting the revisions to the oversight system.¹¹⁵

¹⁰⁷ *Id.*

¹⁰⁸ See Peter Simek, *Proposal to Increase Community Oversight of Dallas Police Department Heads to City Council*, D MAG. (Apr. 2, 2019, 11:33 AM), <https://www.dmagazine.com/frontburner/2019/04/proposal-to-increase-community-oversight-of-dallas-police-department-heads-to-city-council> [<https://perma.cc/YT2D-CFA5>].

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

¹¹¹ Dall. Cmty. Police Oversight Coal., *The Dallas Community Police Oversight Board: A New Model To Improve Accountability and Public Trust*, Presentation to the Dallas Citizen’s Police Review Board (Dec. 11, 2018), <https://assets.documentcloud.org/documents/5634441/20181217182736243.pdf> [<https://perma.cc/YWK2-3YU9>].

¹¹² U. Renee Hall, Chief of Police, Dall. Police Dep’t, *Proposed Recommendations and Amendments to the Citizens Police Review Board*, Dallas City Council Briefing 5 (Apr. 3, 2019), https://dallascityhall.com/government/Council%20Meeting%20Documents/proposed-recommendations-and-amendments-to-the-citizens-police-review-board_combined_040319.pdf [<https://perma.cc/2HFK-XC6L>].

¹¹³ *Id.* at 6.

¹¹⁴ *Id.* at 6–7.

¹¹⁵ Dall. Cmty. Police Oversight Coal., *supra* note 111, at 3.

Despite this, the Dallas City Council voted unanimously to enact the reforms and gave the newly renamed Community Police Oversight Board a budget and staff of four to monitor complaints against police officers.¹¹⁶

4. Seattle, Washington

In 2017, the City passed historic legislation creating a new multi-faceted accountability structure, including enhancing the existing Office of Police Accountability, making the Community Police Commission a permanent fixture, and creating the role of Inspector General for Public Safety.¹¹⁷ In so doing, the legislators explicitly acknowledged the benefit of having a multi-tiered oversight system in the ordinance, stating: “Having a collaborative relationship between all police oversight entities, with specific roles and responsibilities for each, strengthens police accountability in a manner that is not possible for each entity alone.”¹¹⁸

The establishing ordinance delineated the responsibilities of the new oversight triumvirate. The Office of Police Accountability (OPA) “help[s] ensure the actions of SPD [Seattle Police Department] employees are constitutional and in compliance with federal, state, local laws, and with City and SPD policies, and to promote respectful and effective policing”; the Office of Inspector General for Public Safety (OIG) “help[s] ensure the fairness and integrity of the police system as a whole in its delivery of law enforcement services by providing civilian auditing of the management, practices, and policies of SPD and OPA,” and also oversees compliance with the City’s federal consent decree; and the Community Police Commission (CPC) “help[s] ensure public confidence in the effectiveness and professionalism of SPD and the responsiveness of the police accountability system to public concerns.”¹¹⁹

5. Oakland, California

In 2018, Oakland disbanded the Citizens Police Review Board after amending the City Charter to create a new Police Commission and establish a new investigative agency, the Community Police Review Agency.¹²⁰ The new Police Commission oversees the Oakland Police

¹¹⁶ *Dallas Expands Powers of Police Oversight Board*, ASSOCIATED PRESS, Apr. 24, 2019, <https://apnews.com/0af3a0b3f6b74f78806535d09e815e1d> [<https://perma.cc/G93J-TWEZ>].

¹¹⁷ See Steve Miletich, *Seattle City Council Passes Historic Police-Accountability Legislation*, SEATTLE TIMES (May 22, 2017), <https://www.seattletimes.com/seattle-news/crime/seattle-city-council-passes-historic-police-accountability-legislation> [<https://perma.cc/3X3Z-QE4C>].

¹¹⁸ Seattle, Wash., Ordinance 125315 § 1(N) (June 1, 2017).

¹¹⁹ *Id.* § 3.29.010(B).

¹²⁰ OAKLAND, CAL., CODE § 2.45.020 (2019)).

Department by reviewing and proposing changes to its policies and procedures.¹²¹ The Police Commission can also terminate the Chief of Police for cause without the mayor's approval.¹²² The new Community Police Review Agency can investigate complaints involving use of force, in-custody deaths, profiling, and public assemblies. Under the new regime, the Police Commission can also direct the Review Agency to look into other possible incidents of police misconduct.¹²³ The Review Agency must submit its findings and proposed discipline to the Police Commission and the Chief of Police.¹²⁴ Differences of opinion between the Review Agency and the Chief of Police are reviewed and resolved by a three-person panel comprised of members of the Police Commission.¹²⁵ To ensure sufficient manpower, the City Charter requires the Review Agency to employ at least one investigator for every one hundred sworn officers of the Police Department.¹²⁶

In addition to establishing the Police Commission and revamping the Review Agency, a city ordinance also created the Office of Inspector General to provide the Audit function external to the police department.¹²⁷ After the new Police Commission has operated for one year, the police department's internal inspector general function will be renamed, and the Inspector General will report directly to the Police Commission.¹²⁸

6. Albuquerque, New Mexico

In 1996, the Albuquerque City Council initiated a process to review its police oversight system and abolished the then-existing Public Safety Advisory Board, replacing it with the Police Oversight Commission.¹²⁹ In 2013, the City Council established the Ad Hoc Police Oversight Task Force to again re-evaluate the police oversight structure.¹³⁰ In 2014, the U.S. Department of Justice concluded that Albuquerque's oversight system had contributed to systemic problems regarding use-of-force encounters.¹³¹ To address these issues and concerns, the City Council in

¹²¹ OAKLAND, CAL., CHARTER § 604; OAKLAND, CAL., CODE § 2.45.070.

¹²² OAKLAND, CAL., CODE § 2.45.070(E).

¹²³ OAKLAND, CAL., CHARTER § 604(f)(1); OAKLAND, CAL., CODE § 2.46.030; .

¹²⁴ OAKLAND, CAL., CHARTER § 604(f)(3).

¹²⁵ *Id.* § 604(g)(2).

¹²⁶ *Id.* § 604(e)(4).

¹²⁷ OAKLAND, CAL., CODE § 2.45.100.

¹²⁸ *Id.*

¹²⁹ ALBUQUERQUE, N.M., CODE § 9-4-1-3(B) (2019).

¹³⁰ *Id.* § 9-4-1-3(C).

¹³¹ *Id.* § 9-4-1-3(D).

2014 enacted an ordinance that created a new oversight system.¹³² This new system is comprised of the Civilian Police Oversight Agency, an Investigative agency, and the Police Oversight Board, which reviews the latter's findings and makes disciplinary recommendations.¹³³

D. *Jurisdictions that Have Recently Enhanced the Powers of Existing Oversight Entities*

In the past five years, some jurisdictions have implemented more modest reforms for enhancing the scope or powers of existing oversight entities. A few examples of these follow.

1. Atlanta, Georgia

In 2016, the Atlanta City Council revised the ordinance governing its Citizen Review Board by expanding the types of cases the agency could review and allowing citizens to make anonymous complaints to the Board.¹³⁴

2. Boston, Massachusetts

In 2017, the Community Ombudsman Oversight Panel created a new, neutral location for the public to file complaints and increased the number of cases it would review from ten percent to twenty percent.¹³⁵ Additionally, any case involving allegations of discrimination or use of force resulting in serious injury is now automatically referred to the Oversight Panel for review.¹³⁶

3. Denver, Colorado

In 2015, the Denver City Council approved an ordinance requiring local police agencies to work with the Office of the Independent Monitor

¹³² Albuquerque, N.M., Ordinance O-2016-013 (June 22, 2016).

¹³³ *Id.*

¹³⁴ Dan Klepal, *Powers of Atlanta Citizen Review Board Expanded*, ATLANTA J.-CONST. (Mar. 21, 2016), <https://www.ajc.com/news/local-govt--politics/powers-atlanta-citizen-review-board-expanded/a13gYGBnuUkUER0xfKw6II> [<https://perma.cc/WWF8-ZKN8>].

¹³⁵ *Police Oversight and Public Complaint Programs Expanded*, BOSTON.GOV (June 7, 2017), <https://www.boston.gov/news/police-oversight-and-public-complaint-programs-expanded> [<https://perma.cc/KW7N-DFN8>].

¹³⁶ *Id.*

during internal investigations and disciplinary proceedings.¹³⁷ Additionally, in 2016, the Council entertained a measure that would add the civilian police oversight agency to the City's charter, thereby making it more difficult for city officials to alter or eliminate the agency's powers.¹³⁸

In 2019, city officials further revised the agency's mandate. For example, the agency was given jurisdiction to investigate the Chief of Police and Sheriff.¹³⁹ The ordinance also banned retaliating against people who report concerns to the Monitor and requires law enforcement to respond in writing to the entity's policy recommendations.¹⁴⁰ The agency is also authorized to publish policy papers and in-depth investigations.¹⁴¹

4. Houston, Texas

Civilian oversight has been an issue of controversy in Houston for decades. The Houston City Council, voting along racial lines, decided against the establishment of a civilian review board in 1989.¹⁴² In 2016, the Houston Independent Police Oversight Board came under attack by community activists as well as some of its own members who claimed the Board had not performed effective oversight in the five years since it was created.¹⁴³ During that time, there had been 150 officer-involved shootings with no officer being found at fault.¹⁴⁴

The twenty-one-member board, which had no paid staff and lacked subpoena power, could provide only limited oversight because its jurisdiction was limited only to matters that were referred to it by the

¹³⁷ Adam McCoy, *City Moves to Protect Police Oversight Agency*, COLO. POLITICS (Aug. 11, 2016), https://www.coloradopolitics.com/news/city-moves-to-protect-police-oversight-agency/article_bca363fb-da2c-5f97-9746-15b8ed9759a9.html [https://perma.cc/G43F-DRPX].

¹³⁸ *Id.*

¹³⁹ Elise Schmelzer & Andrew Kenney, *Denver City Council to Consider Closing Loophole Excusing Police Chief, Sheriff from Investigation by City's Independent Watchdog*, DENVER POST (Jan. 10, 2019, 11:59 AM), <https://www.denverpost.com/2019/01/10/denver-office-independent-monitor-police-chief-sheriff> [https://perma.cc/SX9D-HQFN].

¹⁴⁰ David Sachs, *Denver's Police Watchdog Just Got Sharper Teeth*, DENVERITE (Feb. 19, 2019, 7:44 PM), <https://denverite.com/2019/02/19/denvers-police-watchdog-just-got-sharper-teeth> [https://perma.cc/AQ78-7VJR].

¹⁴¹ *Id.*

¹⁴² Iris, *supra* note 9, at 220.

¹⁴³ James Pinkerton, *Houston's Police Oversight Group Called a 'Toothless Watchdog'*, HOUS. CHRON. (Sept. 17, 2016, 9:23 PM), <https://www.houstonchronicle.com/news/houston-texas/houston/article/Houston-s-police-oversight-group-called-a-9229728.php> [https://perma.cc/4MKE-2UYS].

¹⁴⁴ *Id.*

police department.¹⁴⁵ One of the Board members, a former federal prosecutor, publicly called for enhancing the Board's powers to enable it to conduct truly independent police-misconduct investigations and to make policy recommendations.¹⁴⁶ In June 2018, the mayor issued an executive order delineating new powers for the Board,¹⁴⁷ including the power to review any internal investigation of possible misconduct by Houston Police Department employees involving the use of force, the discharge of firearms, and serious bodily injury or death.¹⁴⁸

5. San Antonio, Texas

In response to recommendations made by the Police Executive Research Forum,¹⁴⁹ San Antonio changed the composition of its Citizen Advisory Action Board.¹⁵⁰ The Board is now comprised of seven appointees, selected from a panel of fourteen community members.¹⁵¹ Pursuant to the collective bargaining agreement between the City and the police union, seven uniformed employees will also serve on the Board.¹⁵² The citizen membership of the Board will periodically be rotated.¹⁵³

6. San Francisco, California

In 1982, San Francisco amended its city charter to create the Office of Citizen Complaints as a city department under the Police Commission's direct supervision.¹⁵⁴ The agency was tasked with investigating police misconduct complaints, regularly reporting on the complaints, and making recommendations "concerning policies or practices of the department which could be changed or amended to avoid unnecessary tension with the public or a definable segment of the public

¹⁴⁵ *Id.*

¹⁴⁶ *Id.*

¹⁴⁷ Hous. Exec. Order No. 1-5 Revised (June 25, 2018).

¹⁴⁸ *Id.* § 5.1.

¹⁴⁹ The Police Executive Research Forum is a non-profit organization founded in 1976 that conducts research related to policing policy and provides management and technical assistance to law enforcement agencies. POLICE EXEC. RES. FORUM, <https://www.policeforum.org> [<https://perma.cc/5SLV-U79N>].

¹⁵⁰ *Citizen Advisory Action Board*, CITY OF SAN ANTONIO, <https://webapp9.sanantonio.gov/boardcommapplication/PrintAgenda?id=Citizen%20Advisory%20Action%20Board> [<https://perma.cc/9BUR-DYA2>].

¹⁵¹ *Id.*

¹⁵² *Id.*

¹⁵³ *Id.*

¹⁵⁴ S.F., CAL., CHARTER § 4.127 (2015).

while insuring effective police services.”¹⁵⁵ In 2016, a city ordinance renamed the entity the Department of Police Accountability and empowered it with its own budget and the ability to biannually audit the San Francisco Police Department’s handling of complaints and use-of-force incidents.¹⁵⁶

7. St. Paul, Minnesota

A 2016 ordinance changed the makeup of the City’s Police Civilian Internal Affairs Review Commission and provided it with additional powers.¹⁵⁷ The size of the Commission was increased from seven voting members to nine.¹⁵⁸ Additionally, the ordinance eliminated the requirement that two Commission members be members of the St. Paul Police Federation. Under a new appointment scheme, the City’s Director of the Department of Human Rights and Equal Economic Opportunity will recommend candidates for appointment by the mayor.¹⁵⁹ The ordinance also expanded the scope of the Commission’s review powers beyond complaints of excessive force and inappropriate use of firearms to include complaints of racial profiling and other complaints that the Director of the Department of Human Rights and Equal Economic Opportunity refers to the Board.¹⁶⁰

IV. LONGEVITY OF CIVILIAN OVERSIGHT ENTITIES

Sustainability continues to be a challenge for civilian oversight entities. Nonetheless, the survey found that out of the eighty-eight oversight entities currently operating in the one hundred most populous U.S. cities, thirty-nine entities are at least twenty years old.¹⁶¹ The five longest-standing entities are police commissions which were established in the late nineteenth and early twentieth centuries.

¹⁵⁵ *Id.*

¹⁵⁶ *About Us*, DEP’T OF POLICE ACCOUNTABILITY, CITY & CTY. OF S.F., <https://sfgov.org/dpa> [<https://perma.cc/ASX2-8WBC>].

¹⁵⁷ St. Paul, Minn., Ordinance 16-49 (Dec. 14, 2016) (codified at ST. PAUL, MINN., CODE ch. 102 (2019)).

¹⁵⁸ ST. PAUL, MINN., CODE § 102.02(a).

¹⁵⁹ *Id.* § 102.02(b).

¹⁶⁰ *Id.* § 102.01(b).

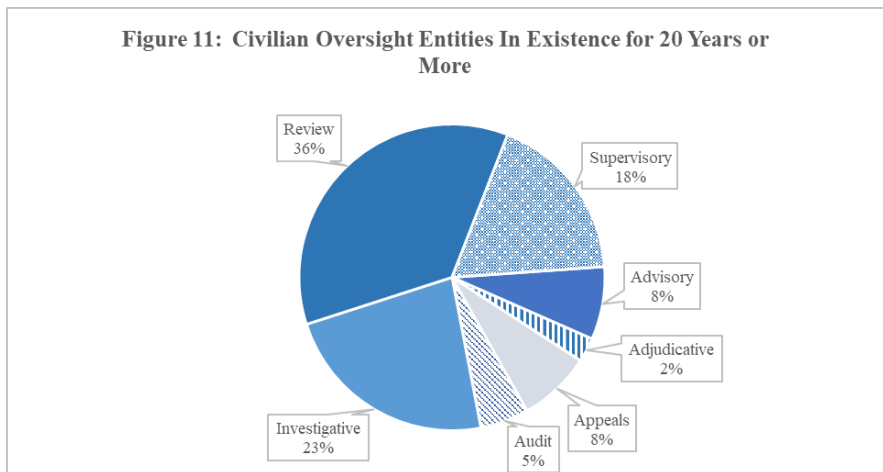
¹⁶¹ See *infra* Appendix B for a list of thirty-nine civilian oversight entities that have existed for twenty years or more.

Figure 10: Five Longest standing civilian oversight entities.

City	Year Established	Entity
St. Louis, MO	1861	Board of Police Commissioners
Milwaukee, WI	1885	Milwaukee Police and Fire Commission
Los Angeles, CA	1920s	Board of Police Commissioners
Honolulu, HA	1932	Honolulu Police Commission
Kansas City, MO	1939	Board of Police Commissioners

At that time, many state legislatures created police commissions as a “means of wresting control” over local police departments from opposing city-based political networks.¹⁶² However, other forms of civilian oversight began cropping up in the latter half of the twentieth century. Numerous entities have been operating since the 1970s and 1980s.¹⁶³ There was also a proliferation of entities in the 1990s.

Among those entities that are at least twenty years old, those that provide Supervisory oversight (typically a police commission) tend to be the longest running, yet more entities perform the Review and Investigative functions.



¹⁶² See Samuel Walker, *Governing the American Police: Wrestling with the Problems of Democracy*, 2016 U. CHI. LEGAL F. 615, 637 (2016) (“The nineteenth century police commissions were generally created by state legislatures as a means of wresting control of a police department from city political machines, which were controlled by the legislature’s rival political party. . . . The most notable police commissions that exist today include the Kansas City, Missouri, Police Commission; the Milwaukee Fire and Police Commission, created in 1885; the Los Angeles Police Commission; the San Francisco Police Commission; and the Detroit Board of Police Commissioners, which was created in 1973.”).

¹⁶³ See *infra* app. B.

Despite their longevity, the effectiveness and transparency of civilian oversight entities across the country, including some of the longest-standing organizations, continually draw criticism, which results in ongoing debate. As one commentator has noted, “[t]he fortunes of civilian review bodies have waxed and waned as political support and opposition shifted ground and policing scandals broke and subsided.”¹⁶⁴

In May 2019, the Cleveland Council Safety Committee held a hearing on whether that city’s civilian oversight entities, the Office of Professional Standards, established in 2008, and the Civilian Police Review Board, established in 1984, have successfully provided effective oversight.¹⁶⁵ The local news media claimed to have uncovered efficiency and transparency problems with the decades-old Civilian Police Review Board¹⁶⁶ and that, in 2018, the Cleveland Police Chief went against the Review Board’s recommended discipline in more than one-third of cases.¹⁶⁷

Even one of the longest-running civilian oversight entities in the United States, New York’s Civilian Complaint Review Board, continues to spark criticism. The New York Civil Liberties Union (NYCLU) recently claimed the agency has failed to fulfill its mission because it has not established an effective investigative operation.¹⁶⁸ The NYCLU also claimed the agency has failed to effectively advocate for reforms of police practices that pose a risk to public safety.¹⁶⁹

¹⁶⁴ Prenzler, *supra* note 5, at 8.

¹⁶⁵ *City Officials Hold Hearing About Department that Investigates Citizen Complaints Against Police*, ABC NEWS 5 CLEVELAND (May 8, 2019, 9:57 AM), <https://www.news5cleveland.com/news/local-news/city-officials-hold-hearing-about-department-that-investigates-citizen-complaints-against-police> [https://perma.cc/E9NF-JVBE].

¹⁶⁶ In December 2014, a local television news channel’s investigation uncovered that the Civilian Police Review Board had ruled on only 36 of 441 cases of alleged police misconduct reported by citizens in 2014. Kristin Volk, *No Progress with Civilian Police Review Board*, ABC NEWS 5 CLEVELAND (Apr. 19, 2016, 8:20 PM), <https://www.news5cleveland.com/news/local-news/cleveland-metro/civilian-police-review-board-website-shows-no-transparency-or-progress-15-years-later> [https://perma.cc/49HP-V8VG]. The same problem existed as of September 2015, when further investigations revealed that the Board had only ruled on 46 out of 474 complaints lodged in 2014. *Id.* By that time, Cleveland was working on reforms pursuant to a consent decree with the DOJ, which included several provisions related to the police accountability system. *See generally* Settlement Agreement, *United States v. City of Cleveland*, No. 1:15-cv-01046-SO(N.D. Ohio June 12, 2015), <https://www.justice.gov/crt/case-document/file/908536/download> [https://perma.cc/E522-DBZ5].

¹⁶⁷ Jordan Vandenberg, *Report: CPD Chief Went Against Civilian Review Board’s Recommendations 35% of the Time in 2018*, ABC NEWS 5 CLEVELAND (May 8, 2019, 5:30 PM), <https://www.news5cleveland.com/news/local-news/cleveland-metro/report-police-chief-went-against-civilian-review-boards-recommendations-35-of-the-time-in-2018> [https://perma.cc/59N5-TS6W].

¹⁶⁸ *Mission Failure: Civilian Review of Policing in New York City, 1994–2006*, N.Y. CIVIL LIBERTIES UNION, <https://www.nyclu.org/en/mission-failure-civilian-review-policing-new-york-city-summary-findings> [https://perma.cc/6NEM-B3K2].

¹⁶⁹ *Id.*

In April 2018, the New York Police Department and the Civilian Complaint Review Board were at odds over disciplinary recommendations.¹⁷⁰ Upset about an agency rule change, the Police Commissioner started rejecting more of the Board's disciplinary recommendations.¹⁷¹

V. KEY IMPEDIMENTS TO EFFECTIVE CIVILIAN OVERSIGHT

A. *Lack of Independence*

Independence is broadly recognized as both a core principle and an essential element of effective civilian oversight.¹⁷² Without independence, accountability systems often fail to meet community expectations, leading to a repetitive cycle of “crisis, debate, attempt at reform”.¹⁷³ Accordingly, independence has emerged as a core value for many of the entities formed in recent years.¹⁷⁴ Many local governments have explicitly identified independence as a key objective when devising the structure and powers of their oversight entities.¹⁷⁵ Several components of independence can profoundly affect an oversight entity's ability to hold officers accountable, and certain powers and capabilities

¹⁷⁰ Benjamin Mueller, *Police, at Odds with Oversight Board, Reject More of Its Penalties*, N.Y. TIMES (Apr. 12, 2018), <https://www.nytimes.com/2018/04/12/nyregion/police-at-odds-with-oversight-board-reject-more-of-its-penalties.html> [<https://perma.cc/AP69-B7RC>].

¹⁷¹ *Id.*

¹⁷² Prenzler, *supra* note 5, at 24.

¹⁷³ For a discussion of this cyclical evolution, see *infra* Section V.E; see also Prenzler, *supra* note 5, at 8 (“The failure to deliver on this most basic requirement [independence] means that systems remain broken and calls for reform continue.”).

¹⁷⁴ For example, a report issued by the working group established to make recommendations regarding civilian oversight for the city of Austin, Texas, recognized that independence not only from the police department, but also from city managers was an important objective for the new oversight structure. AUSTIN OVERSIGHT RECOMMENDATIONS, *supra* note 8, at 13 (“Several members of the Working Group have expressed a strong desire that the oversight agency operate independent of the City of Austin. The extent to which oversight is independent of police, political actors and other special interests have been argued to be strongly related to the effectiveness of oversight.”).

¹⁷⁵ See, e.g., ST. LOUIS, MO., REV. CODE ch. 3.140 (2019)) (stating that “community policing, citizen cooperation, and citizen participation are vital . . . to law enforcement, and can be enhanced by an independent citizen oversight process”); ALBUQUERQUE, N.M., CODE § 9-4-1-2(B) (2019) (stating that the purpose of the measure is to “[e]nsure that the civilian police oversight body functions as independently as possible from the executive and legislative branches of government”); see also Omaha, Neb., Exec. Order No. S-30-15 Amended (Aug. 10, 2016) (stating the purpose is to augment the investigations of citizen complaints against sworn officers “by providing for an independent review”).

are essential to independence: subpoena power,¹⁷⁶ access to law enforcement information and internal department documents and evidentiary material,¹⁷⁷ and financial resources.¹⁷⁸

Subpoena power, in particular, has emerged as a major source of debate.¹⁷⁹ Those who oppose it claim that providing civilian oversight agencies with subpoena power will undermine or interfere with department investigations or potential criminal prosecutions.¹⁸⁰ Yet, the power to compel both law enforcement and civilian witnesses to provide information is essential to the investigatory process and is also relevant to the Review and Appeals forms of oversight.¹⁸¹

Another aspect of independence that can profoundly affect an entity's effectiveness and credibility is budgetary independence. Lack of resources can undermine the thoroughness and timeliness of investigations. When agencies accumulate significant case backlogs, complainants and officers alike become frustrated. Many of the recently created entities have addressed this by explicitly funding oversight separate from the police department.¹⁸²

¹⁷⁶ See, e.g., Reenah L. Kim, *Legitimizing Community Consent to Local Policing: The Need for Democratically Negotiated Community Representation on Civilian Advisory Councils*, 36 HARV. C.R.-C.L. L. REV. 461, 501–02 & n.181 (2001) (recognizing the importance of subpoena power for effective civilian oversight); King, *supra* note 20, at 108–10 (same); Ken Takahashi, *The Release-Dismissal Agreement: An Imperfect Instrument of Dispute Resolution*, 72 WASH. U. L.Q. 1769, 1796–97 (1994) (same).

¹⁷⁷ See, e.g., Udi Ofer, *Getting It Right: Building Effective Civilian Review Boards to Oversee Police*, 46 SETON HALL L. REV. 1033, 1046 (2016) (recognizing the importance of access to internal police documents, disciplinary records, medical records, surveillance footage, and other materials relevant to a police misconduct investigation).

¹⁷⁸ A 2016 report issued by Chicago's Police Accountability Task Force noted lack of resources as one of the barriers to effectiveness plaguing the Independent Police Review Authority, which was the civilian investigative agency in place at the time of the Laquan McDonald shooting. CHI. POLICE ACCOUNTABILITY TASK FORCE, RECOMMENDATIONS FOR REFORM: RESTORING TRUST BETWEEN THE CHICAGO POLICE AND THE COMMUNITIES THEY SERVE 77(2016) https://chicagopatf.org/wp-content/uploads/2016/04/PATF_Final_Report_4_13_16-1.pdf [<https://perma.cc/7R6Y-ALUA>]. When the Chicago City Council created the new oversight agency, the Civilian Office of Police Accountability, it included a budget floor in the establishing ordinance which set a minimum for the civilian investigative agency's budget relative to the annual appropriation for the Chicago Police Department. See CHI., ILL., CODE § 2-78-105 (2019).

¹⁷⁹ See discussion *infra* Section V.D.

¹⁸⁰ King, *supra* note 20, at 110.

¹⁸¹ *Id.* at 108–09; see also Nathan Witkin, *The Police-Community Partnership: Civilian Oversight as an Evaluation Tool for Community Policing*, 18 SCHOLAR 181, 215 (2016) (noting that subpoena power is a way to overcome both apathy and resistance on the part of witnesses).

¹⁸² See, e.g., ST. LOUIS, MO., REV. CODE § 3.140.050(2) (2019) (noting that the Civilian Oversight Board's budget resides within the city's appropriation for the Department of Public Safety); ALBUQUERQUE, N.M., CODE § 9-4-1-4(A)(2) (2019) ("The CPOA [Civilian Police Oversight Agency] shall have a dedicated and independent source of funding . . . [and shall] administer its own budget . . ."); DALL., TEX., CODE § 37-38 (2019) (explicitly stating that funding for the city's oversight entities is to be provided by the city outside of the police department's budget).

Some jurisdictions have emphasized the importance of budgetary independence by establishing a budgetary floor relative to the police department's budget. For example, by ordinance, the budget for Albuquerque's Civilian Police Oversight Agency must be at least one-half of one percent of the Albuquerque Police Department's budget.¹⁸³ In Chicago, the budget floor for the Civilian Office of Police Accountability is one percent of the Chicago Police Department's budget.¹⁸⁴

Another strategy to enhance independence that has recently gained more traction among civilian oversight entities is the power to engage independent legal counsel. The legal issues that arise in the context of police disciplinary matters can be quite complex because the underlying legal framework lies at the intersection of constitutional law, state statutes, municipal codes, collective bargaining agreements, and department- and city-wide rules and policies. Thus, oversight professionals may require the assistance of legal professionals in the performance of their duties. Because most oversight entities are arms of municipal government, they may be prohibited by law from using legal representation other than the designated attorney for the city. In Chicago, attorneys in the office of the City's Corporation Counsel represent all city agencies, including the police department and the oversight agencies, in all legal proceedings.¹⁸⁵ As such, attorneys within the Corporation Counsel's office defend the City and its police officers in suits alleging police misconduct. When attorneys within this same office are also tasked with advising the police oversight entities, these dual responsibilities may come into direct conflict.¹⁸⁶ This issue was a major bone of contention when city leaders were drafting the powers and responsibilities of Chicago's Civilian Office of Police Accountability.¹⁸⁷ Ultimately, the City Council overruled the Law Department's objection, and the new

¹⁸³ ALBUQUERQUE, N.M., CODE § 9-4-1-4(A)(2).

¹⁸⁴ CHI., ILL., CODE § 2-78-105 (2019).

¹⁸⁵ *Ferguson v. Patton*, 985 N.E. 2d 1000, 1010 (Ill. 2013) ("Section 21-11 of the Illinois Municipal Code expressly provides that the corporation counsel 'shall appear for and protect the rights and interests of the city in *all* actions, suits, and proceedings brought by or against it *or any city officer, board or department.*'").

¹⁸⁶ See William Josephson & Russell Pearce, *To Whom Does the Government Lawyer Owe the Duty of Loyalty When Clients Are in Conflict*, 29 HOW. L.J. 539, 540 (1986) (recognizing that an ethical conflict exists when a government lawyer represents two agencies that "are on opposite sides of a legal argument").

¹⁸⁷ Fran Spielman, *Civilian Office on Police Accountability to Replace IPRA*, CHI. SUN-TIMES (Aug. 29, 2016, 6:03 PM), <https://chicago.suntimes.com/2016/8/29/18335727/civilian-office-on-police-accountability-to-replace-ipra> [<https://perma.cc/WCX3-4L9M>] (discussing that an initial draft of the establishing ordinance did not provide the investigative agency with the power to engage outside counsel because the city's law department was against giving the agency that power).

agency was given the power to hire outside counsel, with some restrictions on the selection process.¹⁸⁸

Because there may be complex cases in which oversight decision-makers could benefit from unconflicted legal advice, many of the recently established oversight entities have the power to engage outside counsel.¹⁸⁹ The Austin Police Oversight Advisory Working Group recognized this conflict in the issues and recommendations they identified to be addressed by the design of that city's oversight system.¹⁹⁰

B. *Legal Impediments to Transparency*

Transparency has been and continues to be a challenge for civilian oversight entities. Transparency is important within the context of police accountability because it reflects the extent to which those affected by police misconduct, and the community at large, are able to learn the relevant facts, as well as the mechanism and process by which an incident was assessed.¹⁹¹

For example, Houston's Independent Police Oversight Board has been criticized for its lack of transparency.¹⁹² The Board cannot publicly announce its findings, so citizens have no way of knowing whether the Board ever disagreed with the police department in a disciplinary matter.¹⁹³

In October 2018, Baltimore's Civilian Review Board was in the thick of a dispute with the Baltimore Police Department regarding transparency issues. According to a Letter to the Editor written by a Board member and published in the Baltimore Sun, the City

¹⁸⁸ CHI., ILL., CODE § 2-78-120(q) (stating that COPA has the power to “retain counsel to enforce and defend against subpoenas and to advise and represent the Office [COPA] with respect to its investigations,” but restricting the selection of outside counsel to a set of “five firms previously approved by the Corporation Counsel after consultation with the Office”).

¹⁸⁹ See, e.g., OAKLAND, CAL., CODE § 2.45.180(D) (2019) (outlining provisions for a non-City attorney legal advisor to provide advice and counsel to the Oakland Police Commission and Community Police Review Agency); CHI., ILL., CODE § 2-78-120(q) (giving the Civilian Office of Police Accountability the power to engage outside counsel with some restrictions on the selection process); ALBUQUERQUE, N.M., CODE § 9-4-1-4(A)(3) (2019) (giving the Albuquerque Civilian Police Oversight Agency the power to retain or employ independent legal counsel on a contractual basis to advise and represent the agency).

¹⁹⁰ AUSTIN OVERSIGHT RECOMMENDATIONS, *supra* note 8, at 8 (listing the “[p]otential conflict of interest with City of Austin Law Department that represents both the Austin Police Department and the OPM [Office of the Police Monitor]” as among the “Identified Issues” guiding recommendations for police oversight).

¹⁹¹ See, e.g., RICHARD E. OLIVER, WHAT IS TRANSPARENCY? 5 (2004) (defining “transparency” as “a principle that allows those affected by administrative decisions . . . to know not only the basic facts and figures but the mechanisms and processes”).

¹⁹² Pinkerton, *supra* note 143.

¹⁹³ *Id.*

Administrator had asked the Board to sign a confidentiality agreement that would significantly restrict the Board's ability to share information concerning its actions with the public.¹⁹⁴ The Board refused to sign the agreement, promising to continue to abide by its statutory confidentiality obligations.¹⁹⁵ In response, the police department stopped providing case files, thereby undermining the Board's ability to investigate allegations.¹⁹⁶ The police department also refused to comply with the Board's subpoenas.¹⁹⁷ Ultimately, the City backed off on its request for confidentiality, ending the stalemate between the agency and the police department.¹⁹⁸

The Oklahoma City Police Citizen's Advisory Board has also been widely criticized for its lack of transparency.¹⁹⁹ The eleven-member Board, which was created in 2005 in the wake of a 2002 police-brutality incident, was established to foster greater engagement between the police department and the community.²⁰⁰ Yet, all of the Board's oversight activities take place out of public view.²⁰¹ The Board meets behind closed doors, no agenda is publicized, minutes and reports are unpublished, and members are not permitted to talk about their work.²⁰²

It is important to note, however, that the extent to which oversight agencies report on their processes and findings is often constrained by local and state law.²⁰³ An oversight agency's reporting may be explicitly

¹⁹⁴ Bridal Pearson, *Civilian Review Board: Baltimore Police Undermining Oversight Efforts*, BALT. SUN (Oct. 18, 2018, 10:55 AM), <https://www.baltimoresun.com/opinion/op-ed/bs-ed-op-1019-20181018-story.html> [<https://perma.cc/Z28B-USW4>].

¹⁹⁵ *Id.*

¹⁹⁶ *Id.*

¹⁹⁷ *Id.*

¹⁹⁸ Jessica Anderson, *Baltimore Police Civilian Review Board No Longer Required to Sign Confidentiality Deals, City Solicitor Says*, BALT. SUN (Nov. 19, 2018), <https://www.baltimoresun.com/news/crime/bs-md-ci-crb-resolution-20181119-story.html> [<https://perma.cc/2J3Y-D94S>].

¹⁹⁹ Juliana Keeping, *Oklahoma City Police's Citizens Advisory Board Treads Line Between Accountability, Secrecy*, OKLAHOMAN (Mar. 30, 2015, 12:00 AM), <https://oklahoman.com/article/5405432/oklahoma-city-polices-citizens-advisory-board-treads-line-between-accountability-secrecy> [<https://perma.cc/HNH4-DT9B>].

²⁰⁰ *Id.*

²⁰¹ *Id.*

²⁰² *Id.* According to the entity's website, members are may not "[r]elease any written or oral report of any board activity to any individual or body other than to the Chief of Police or the Office of the city Manager." *Citizens Advisory Board*, OKLA. CITY POLICE DEP'T, <https://www.okc.gov/departments/police/about-us/citizens-advisory-board> [<https://perma.cc/T86E-H8LV>].

²⁰³ *See, e.g.*, ST. LOUIS, MO., REV. CODE § 3.140.080(3) (June 6, 2015) ("The COB [Civilian Oversight Board] shall hold closed meetings in compliance with State law (including § 610.021, RSMo.), in any matter that includes the reviewing and investigating of a complaint regarding personnel, personnel records, or any other records protected from disclosure by law."); Omaha, Neb., Exec. Order No. S-30-15 Amended § IV (Aug. 10, 2016) ("Due to the provisions of the City Charter governing advisory committees to the Mayor, Section 23-25 of the Omaha Municipal Code, state and federal constitutional protections, as well as the Collective Bargaining Agreement

limited by its establishing ordinance, relevant collective bargaining agreements, or other municipal law.²⁰⁴ Additionally, although some states allow for greater transparency, many have statutes restricting public disclosure of police-disciplinary matters.²⁰⁵

Many jurisdictions are trying to more proactively address transparency by building into their oversight systems mechanisms geared toward making as much information publicly available as is legally permissible.²⁰⁶ For example, in response to the controversy surrounding the release of the video of the officer-involved shooting of Laquan McDonald, Chicago implemented a new policy requiring the release of information and video materials relating to serious police incidents.²⁰⁷ Pursuant to this policy, the civilian investigative agency (COPA) releases the following material within sixty days of an incident covered by the policy:

- All video and audio recordings relating to the incident, including tapes of 911 calls;
- Office of Emergency Management & Communication (OEMC) dispatch recordings;

between the City and the Police Union, the proceedings of the CCRB [Citizen Complaint Review Board] are considered confidential and shall not be open to the public and/or media.”).

²⁰⁴ See, e.g., Omaha, Neb., Exec. Order No. S-30-15 Amended § IV.

²⁰⁵ The State of California recently passed legislation allowing for greater disclosure of police disciplinary records, see S.B. 1421, 2017–2018 Reg. Sess. (Cal. 2017) (codified at CAL. PENAL CODE § 832.7 (West 2019)), whereas several other states continue to restrict disclosure of such records, see Kristine Cordier Karnezis, Annotation, *Validity, Construction, and Application of Statutory Provisions Relating to Public Access to Police Records*, 82 A.L.R.3d 19 (1978) (discussing the various statutory provisions relating to public access to police records). For example, a Texas statute prohibits the disclosure of disciplinary information maintained in police department personnel files. TEX. LOC. GOV'T CODE ANN. § 143.089(g) (West 2019) (“A fire or police department may maintain a personnel file on a fire fighter or police officer employed by the department for the department’s use, but the department may not release any information contained in the department file to any agency or person requesting information relating to a fire fighter or police officer.”).

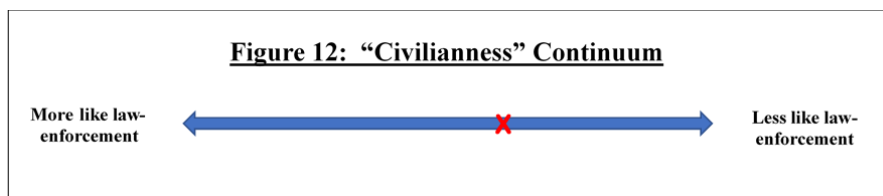
²⁰⁶ For example, the new system in Austin, Texas, will allow the oversight entity to make its records, including policy recommendations and case summaries, publicly available online. Mark D. Wilson, *Policing the Police: Austin Police Oversight Office Flexes New Muscles*, AUSTIN AM.-STATESMAN (Jan. 30, 2019, 11:08 AM), <https://www.statesman.com/news/20190130/policing-police-austin-police-oversight-office-flexes-new-muscles> [<https://perma.cc/VYR8-4M2G>]. The issue of transparency was sufficiently important to be mentioned in the ordinance establishing Tampa’s Citizens Review Board. TAMPA, FLA., CODE § 18-8(b) (2019) (“The purpose of the CRB is to foster transparency, enhance communication and ensure a relationship of trust and respect between the Tampa Police Department (“Department”) and the community . . .”). Additionally, by ordinance, the Newark Civilian Complaint Review Board must hold public meetings at least every other month. NEWARK, N.J., REV. GEN. ORDINANCES § 2:2-86.5 (2019).

²⁰⁷ Chi., Ill., Civilian Office of Police Accountability Rules and Regulations § 6.1.1 (2018), <http://www.chicagocopa.org/wp-content/uploads/2018/04/Final-COPA-Rules-and-Regulations-April-2018.pdf> [<https://perma.cc/XBA4-NVY8>] (outlining COPA’s Video Release Policy).

- Chicago Police Department (CPD) radio calls;
- Video and audio from CPD dash or body cameras;
- Videos from CPD or OEMC Police Observation Devices (POD) (e.g., cameras);
- Any video or audio recordings made using cameras or equipment not owned or controlled by the City that come into the possession or control of CPD or COPA; and
- Any arrest reports, original case incident reports, tactical response reports (TRRs), and officer’s battery reports (OBRs).²⁰⁸

C. *Lack of Actual or Perceived Neutrality*

The extent to which oversight entities continue to operate with a law enforcement–like culture continues to be the subject of debate.²⁰⁹ An important but somewhat subtle challenge facing civilian oversight entities is the “civilianness” of an entity’s culture.²¹⁰ Every oversight entity operates according to a set of customs and norms, which contribute to an entity-wide culture. The term “civilianness” is used to describe the extent to which an entity embodies a law-enforcement ethos.²¹¹ The range of cultures observable in oversight entities across jurisdictions nationwide likely reflects a continuum of “civilianness” depending on the extent to which the entity embraces law enforcement–like methods and cultural norms.



The issue of civilianness often arises within the context of agency staffing; specifically, whether or not civilian entities should be populated

²⁰⁸ *Id.*

²⁰⁹ See Stephen P. Savage, *Seeking ‘Civilianness’: Police Complaints and the Civilian Control Model of Oversight*, 53 BRIT. J. CRIMINOLOGY 886, 902 (2013) (“[T]here seem to be remnants of police-related cultural forms which have been reconstituted within the environment of oversight bodies.”).

²¹⁰ *Id.* at 886 (describing “civilianness” in the context of the military as the degree to which a civil entity is “distinct from the military”).

²¹¹ *Id.* at 886–87 (noting that the cultural profile of a civilian oversight entity is defined by the extent to which it lacks a law enforcement ethos).

with individuals who have prior law enforcement experience.²¹² Although this issue is perhaps most relevant to the Investigative form of oversight, it is also a consideration when populating boards that provide other functions.²¹³ Many jurisdictions value prior law enforcement experience as relevant and helpful within the context of police oversight and thus hire or permit the appointment of former law enforcement officers.²¹⁴ However, the potential issue with hiring previously sworn officers is that they often import attitudes and methods that could undermine the neutrality, or the perception of neutrality, of the civilian oversight process while also destabilizing the balance of civility of an entity's culture.²¹⁵

The extent to which oversight entities should be populated with previously sworn officers was the subject of great debate in Chicago when city and community leaders were negotiating the details of the Civilian Office of Police Accountability. Community members were concerned that allowing the new agency to hire investigators who had previously worked as sworn law enforcement officers would lead to investigative outcomes biased toward accused officers. However, city leaders were concerned that a complete prohibition against hiring professionals who had served as sworn officers would severely limit the agency's ability to hire investigators with relevant experience, thereby undermining the potential expertise and professionalism of its investigative staff. Although there are many experienced investigators who have acquired expertise in the private sector or in unsworn government roles, the most directly relevant investigative experience for civilian oversight of law enforcement is prior work in law enforcement. A compromise was ultimately reached, and the Chicago ordinance outlined that only investigators who had served as a sworn officer within the Chicago Police Department in the preceding five years would be prohibited from employment with the oversight agency.²¹⁶

²¹² *Id.* at 887 (“The issue of former police officers working within civilian oversight bodies has been and continues to be a significant source of controversy.”).

²¹³ For example, the ordinance establishing the Albuquerque Police Oversight Board requires that members “have not been employed by law enforcement for one year prior to appointment.” ALBUQUERQUE, N.M., CODE § 9-4-1-5(B)(1) (2019).

²¹⁴ For example, the job description for investigator position at Chicago's Civilian Office of Police Accountability notes that preference will be given to candidates who have prior experience as a sworn law enforcement officer, while also noting that, by ordinance, the agency cannot hire anyone who worked in the Chicago Police Department for the preceding five years. *Bid/Job Announcement*, CHI., ILL., CIVILIAN OFFICE OF POLICE ACCOUNTABILITY, <http://www.chicagocopa.org/wp-content/uploads/2019/05/Investigator-Job-posting-May-2019.pdf> [https://perma.cc/2CQW-AXL4].

²¹⁵ Savage, *supra* note 209, at 902–03.

²¹⁶ CHI., ILL., CODE § 2-78-120(s) (2019).

Among the civilian oversight entities created in the past five years, many have chosen to codify a restriction on hiring or appointing members with prior law enforcement experience. Some jurisdictions prohibit the hiring or appointment of professionals with prior law enforcement experience altogether.²¹⁷ Others choose to preclude only those individuals who have worked for the police agency being overseen.²¹⁸ Yet others, like Chicago, place a time restriction on prior law enforcement work.²¹⁹ Some jurisdictions also prohibit individuals who have family members in law enforcement from serving in an oversight capacity.²²⁰

For example, Seattle's civilian oversight ordinance requires the Office of Police Accountability (OPA) to transition to an all-civilian staff at the level of supervisor and above, but allows for sworn professionals to continue to serve as investigators and intake personnel.²²¹ However, the ordinance anticipates that the Inspector General will evaluate the level of civilianization of OPA intake and investigator personnel, which could

²¹⁷ See, e.g., SACRAMENTO, CAL., CODE § 2.110.040 (2019) (“No past or present peace officer, or current employee of the city, shall be appointed to the [Sacramento Community Police Review] commission.”). The Civilian Oversight Board in St. Louis allows only one of its seven board members, at any given time, to have previously been “a commissioned employee of any municipal, state, or federal law enforcement agency.” ST. LOUIS, MO., REV. CODE § 3.140.030(3).

²¹⁸ See, e.g., TAMPA, FLA., CODE § 18-8(e) (2019) (prohibiting previous employees of the Tampa Police Department from joining the Tampa Citizens Review Board); ST. LOUIS, MO., REV. CODE § 3.140.030(2) (prohibiting any employee of the City of St. Louis or the State of Missouri from becoming members of the Civilian Oversight Board); *id.* § 3.140.030(1) (prohibiting placing current or former commissioned employees of the St. Louis Police Department on the Civilian Oversight Board's investigative staff); NEWARK, N.J., REV. GEN. ORDINANCES § 2:2-86.1(a)(2)(c) (2019) (stating that no former employees of the Newark Police Department may be a member of the Civilian Complaint Review Board); DALL., TEX., CODE § 37-31(d)(2) (2019) (stating that members of the fifteen-member Community Police Oversight Board may not be employed by the Police Department).

²¹⁹ Albuquerque has a shorter time restriction than Chicago, prohibiting law enforcement employment only in the prior year. ALBUQUERQUE, N.M., CODE § 9-4-1-5(B) (2019).

²²⁰ The St. Louis Civilian Oversight Board will not accept anyone who has an immediate family member that is currently employed by the St. Louis Police Department. ST. LOUIS, MO., REV. CODE § 3.140.030(2). In addition to prohibiting participation by some former law enforcement officers, the Tampa Citizens Review Board does not allow anyone who is directly related to a city employee to become a member. TAMPA, FLA., CODE § 18-8(e). The Dallas Community Police Oversight Board also excludes immediate family members of Dallas Police Department employees. DALL., TEX., CODE § 37-31(d)(2).

²²¹ Seattle, Wash., Ordinance 125315 § 3.29.140(A) (June 1, 2017) (“The OPA Director and the Deputy Director shall be civilians, and within 18 months of the effective date of the ordinance introduced as Council Bill 118969, all investigative supervisors shall be civilian.”); *id.* § 3.29.140(C) (“Within 12 months of the effective date of the ordinance introduced as Council Bill 118969, intake and investigator personnel shall be entirely civilian or a mix of civilian and sworn, in whatever staffing configuration best provides for continuity, flexibility, leadership opportunity, and specialized expertise, and supports public trust in the complaint-handling process.”).

lead to further restrictions on the continued employment of sworn officers.²²²

Dallas has taken a different approach. The fifteen-member, all-civilian Dallas Community Oversight Board²²³ is complemented by the Technical Resource Panel (TRP), which is comprised of three individuals who each have at least ten years of law enforcement experience and are appointed by the City Manager.²²⁴ However, active law enforcement professionals employed in Dallas County by state or local government agencies are excluded from eligibility.²²⁵ TRP members are expected to use their policing expertise and experience to assist the Board in its review and investigation of incidents and misconduct allegations.²²⁶ Members of the TRP are permitted to attend and participate fully in all Board meetings and deliberations.²²⁷ However, they are not entitled to vote as members of the Board.²²⁸

In addition to its impact on hiring and appointment criteria, civilianness can also be reflected in an entity's operational approach, organizational structure, values, and communication methods. Because the work of police oversight often arises from and is intertwined with internal police department activity, the operational methods of civilian oversight entities are often modeled on police department protocols. Similarly, many oversight entities develop hierarchical structures that emulate those in law enforcement organizations. Moreover, because the written work product of oversight entities is utilized in official department disciplinary processes, it often relies on specialized law enforcement concepts and terminology that lack meaning to lay readers. These factors can upset the balance of civilianness of an entity's culture.

A recent study on the issue of civilianness revealed that some former police officers working in police oversight “brought with them police investigative mindsets, rank-based attitudes,” and “certain ways of working with police officers under investigation.”²²⁹ There are institutional elements that can counter this kind of pro-law enforcement bias. For example, close, effective supervision of investigations and reviews can help ensure that law enforcement bias does not creep into the process.²³⁰ Senior staff members committed to neutrality can challenge the decisions and actions of investigative staff members with law

²²² *Id.* § 3.29.140(F).

²²³ DALL., TEX., CODE § 37-31(a), (d).

²²⁴ *Id.* § 37-36(a)–(b).

²²⁵ *Id.* § 37-36(c).

²²⁶ *Id.* § 37-36(f).

²²⁷ *Id.* § 37-36(e).

²²⁸ *Id.*

²²⁹ Savage, *supra* note 209, at 902.

²³⁰ *See id.*

enforcement backgrounds.²³¹ Moreover, a strong and consistently enforced agency-wide commitment to fairness and neutrality can be a countervailing influence on oversight professionals who overly rely on their prior law enforcement experience.²³²

The cultural challenge for oversight entities is to strike the right balance. Entities that are high on the “civilianness” continuum risk being perceived by outsiders as lacking sufficient professionalism and expertise in law enforcement matters to provide effective oversight. On the other hand, entities that are low on the “civilianness” continuum risk being perceived as biased toward or lacking independence from the police agency being monitored. Civilian oversight leaders should be mindful of this dichotomy when defining hiring criteria and designing organizational structures.

D. *Continued Backlash from Police Unions and Leadership*

Since the concept of civilian oversight was first raised almost a century ago, police unions, police officials, and police organizations have worked to undermine it.²³³ The survey revealed that efforts to impede the creation of and minimize the powers of civilian entities by these stakeholders continues in full force. The following are some examples of recent conflicts in which police unions and other stakeholders attempted to eliminate or otherwise minimize the scope of civilian oversight.

1. Chicago, Illinois

In March 2019, the Fraternal Order of Police Lodge No. 7 (FOP) sought an injunction against the City, claiming that investigators working for the Civilian Office of Police Accountability (COPA) are not qualified to investigate fatal incidents involving the Chicago Police Department because they are not “state-qualified law enforcement officers.”²³⁴ The local Chicago FOP union had filed a similar suit in 2016 against COPA’s

²³¹ *Id.*

²³² *Id.*

²³³ Alpert et al., *supra* note 7, at 182 (“The backlash against citizen oversight by police unions, police officials and associations, including the International Association of Chiefs of Police, continued to limit the viability of citizen review boards.”); *see also* Iris, *supra* note 9, at 219 (“Police union opposition to [civilian oversight] boards can be strident.”).

²³⁴ David Struett, *Police Union Says COPA Isn’t Qualified to Investigate Officer Shootings*, CHI. SUN-TIMES (Mar. 15, 2019, 11:08 PM), <https://chicago.suntimes.com/2019/3/15/18420886/police-union-says-copa-isn-t-qualified-to-investigate-officer-shootings> [https://perma.cc/2CQW-AXL4].

predecessor agency, the Independent Police Review Authority, which was dismissed in 2017.²³⁵

2. Cincinnati, Ohio

In July 2018, a Hamilton County, Ohio, judge ruled that Cincinnati's Citizen Complaint Authority could not interview officers involved in a shooting until the subject's criminal case was resolved.²³⁶ The ruling resolved a conflict between the oversight entity and the Hamilton County Prosecutor over when the agency had the right to question police officers.²³⁷ The police union heralded the news of the ruling in a Facebook post.²³⁸

3. Newark, New Jersey

When Newark created the Citizen Complaint Review Board in 2016, the police union filed a lawsuit claiming that the Board's subpoena power violated an officer's right to due process.²³⁹ A New Jersey Superior Court judge issued an order stripping the Board of its subpoena power, stating that the civilian makeup of the Board could potentially lead to politicized disciplinary recommendations.²⁴⁰ In June 2019, a New Jersey appellate court unanimously overruled the lower court and reinstated the Board's powers, concluding that it could provide oversight by "investigating alleged police misconduct, conducting hearings, participating in the development of a disciplinary matrix, making recommendations, and issuing subpoenas."²⁴¹ Notably, in October 2019, the New Jersey Supreme Court granted the police union's petition for certification.²⁴²

²³⁵ Fraternal Order of Police, *Chi. Lodge 7 v. City of Chicago*, No. 2016 CH 16529, 2017 WL 4070875 (Ill. Cir. Ct. July 17, 2017).

²³⁶ Jennifer Baker, *Judge: Citizen Police Review Board Can't Interview Cops Before Criminal Cases Resolved*, FOX19 NOW (July 20, 2018, 11:59 AM), <http://www.fox19.com/story/38691055/judge-citizen-police-oversight-board-cant-interview-cops-before-criminal-cases-resolved> [https://perma.cc/7H59-XCH4].

²³⁷ *Id.*

²³⁸ *Id.*

²³⁹ Fraternal Order of Police, *Newark Lodge No. 12 v. City of Newark*, 212 A.3d 454, 469 (N.J. Super. Ct. App. Div.), *cert. granted*, 218 A.3d 1164 (N.J. 2019).

²⁴⁰ *Judge Strips Subpoena Power from Civilian Oversight Board*, ASSOCIATED PRESS, Mar. 15, 2018, <https://apnews.com/4708ade1ac264baba5abca8efe940c7d> [https://perma.cc/QP72-D7FW].

²⁴¹ *Fraternal Order of Police*, 212 A.3d at 488.

²⁴² Fraternal Order of Police, *Newark Lodge No. 12 v. City of Newark*, 218 A.3d 1168 (N.J. 2019).

4. Tennessee

Following a city-wide referendum in November 2018, Nashville's Metro Council elected an eleven-member Community Oversight Board to investigate allegations of misconduct made against the Nashville Police Department.²⁴³ In reaction, Republican leaders in the Tennessee House of Representatives proposed legislation to limit the subpoena power of the Nashville oversight entity as well as other oversight entities across the state.²⁴⁴ Although lawmakers denied that the Fraternal Order of Police prompted the legislative proposal, the Board's subpoena power had been among the issues against which the police union had vehemently fought leading up to the ballot initiative.²⁴⁵ After revisions were made, the law was passed by both chambers of the Tennessee legislature in April 2019.²⁴⁶ The statute, as enacted, does not permit oversight agencies to have independent subpoena powers, but does allow entities to seek a subpoena through the local city council, which has subpoena power under state law.²⁴⁷ In addition to proscribing subpoena power, the new law prohibits boards from basing membership eligibility solely on demographics, economic status, and job history.²⁴⁸

The statute was quickly signed by Tennessee's governor and went into effect in May 2019.²⁴⁹ Despite the issues the Nashville oversight entity may face, the bill is not expected to significantly impact the Memphis civilian oversight entity. In 2016, the Memphis Civilian Law Enforcement Review Board sought an opinion from the Tennessee Attorney General as to whether state law at that time allowed the Board to have direct subpoena power.²⁵⁰ The Memphis City Council briefly considered bestowing subpoena power on the entity, but did not follow

²⁴³ Natalie Allison, *Tennessee Republicans File Bill Stripping Nashville Police Oversight Board's Subpoena Powers*, TENNESSEAN (Feb. 4, 2019, 6:29 PM), <https://www.tennessean.com/story/news/politics/2019/02/04/police-oversight-board-subpoena-power-tennessee-house-bill/2773233002> [https://perma.cc/J9YY-KGP3].

²⁴⁴ *Id.*

²⁴⁵ *Id.*

²⁴⁶ Natalie Allison, *Bill Restricting Community Oversight Boards' Subpoena Power Heads to Gov. Bill Lee's Desk*, TENNESSEAN (Apr. 18, 2019, 2:39 PM), <https://www.tennessean.com/story/news/politics/2019/04/18/police-oversight-board-subpoena-power-tennessee-bill/3509851002> [https://perma.cc/XXW5-CV35].

²⁴⁷ *Id.*

²⁴⁸ Act of Apr. 18, 2019, 2019 Tenn. Pub. Acts ch. 320. In addition to taking away subpoena power, the Act requires the members of civilian oversight boards to be registered voters. *Id.* § 1(c). The Act also restricts the public dissemination of reports issued by oversight entities. *Id.* § 1(a).

²⁴⁹ Act of Apr. 18, 2019, 2019 Tenn. Pub. Acts ch. 320 (showing that the bill was passed April 18, 2019, then signed by Governor Bill Lee on May 8, 2019).

²⁵⁰ Bill Dries, *CLERB Subpoena Power Remains Issue After Council Vote*, MEMPHIS DAILY NEWS (Aug. 15, 2016), <https://www.memphisdailynews.com/news/2016/aug/15/clerb-subpoena-power-remains-issue-after-council-vote> [https://perma.cc/H9YV-EMCL].

through based on the advice and counsel of a city attorney, who suggested that the Board could compel a witness to testify by utilizing the City Council's subpoena power.²⁵¹

5. Tulsa, Oklahoma

If the Tulsa mayor has his way, that city would create an oversight entity called the Office of the Independent Monitor.²⁵² That agency would be empowered to follow up on citizen complaints, review investigations of use-of-force incidents conducted by the Tulsa Police Internal Affairs department, review best practices and make policy recommendations, and conduct community outreach.²⁵³ According to a letter to the mayor that was not intended for public release, the Tulsa police union intends to push back against the mayor's plans, claiming that the creation of the independent monitoring function will violate the terms of the police contract.²⁵⁴

E. *Sub-Optimization of Powers Resulting from Compromise*

The survey supports an historical observation about civilian oversight of law enforcement: oversight entities are typically created from a cyclical process of scandal, followed by debate, followed by reform.²⁵⁵ A scandal sparks debate about accountability, which results in the implementation of reforms that incorporate new or enhanced oversight. The cycle then repeats when the next scandal occurs.

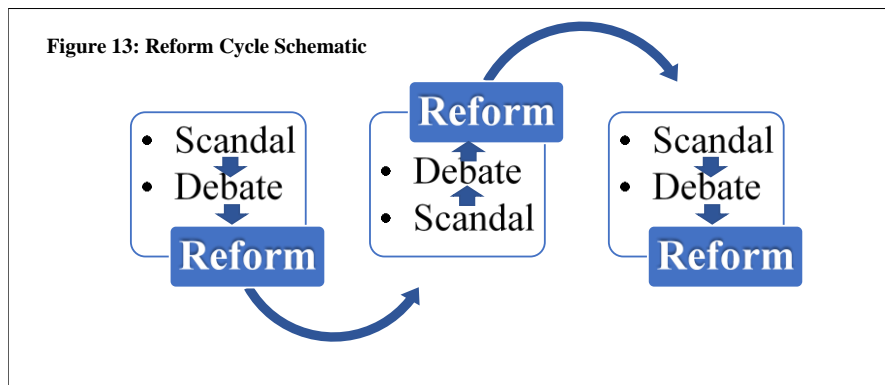
²⁵¹ *Id.*

²⁵² Kevin Canfield, *Mayor Outlines Proposal for Independent Police Monitoring*, TULSA WORLD (Apr. 10, 2019), https://www.tulsaworld.com/news/local/government-and-politics/mayor-outlines-proposal-for-independent-police-monitoring/article_eb60a8de-7693-5de1-9848-396b00470e99.html [<https://perma.cc/G8BY-7PCL>.]

²⁵³ *Id.*

²⁵⁴ *Tulsa Police Union Says Independent Monitor Would Violate Contract*, LABOR RELATIONS INFO. SYS. (Jan. 30, 2019), <https://iris.com/2019/01/30/tulsa-police-union-says-independent-monitor-would-violate-contract> [<https://perma.cc/QW9W-L4GY>].

²⁵⁵ Prenzler, *supra* note 5, at 3.



The evolution of civilian oversight in Chicago is emblematic of this kind of episodic reform. In 1960, an investigation revealed that eight Chicago police officers participated in a large-scale burglary ring in the Summerdale area of north Chicago by acting as lookouts and helping cart away the loot.²⁵⁶ The scandal that ensued led to the establishment of the Chicago Police Board,²⁵⁷ which adjudicates the more serious disciplinary matters involving Chicago police officers.²⁵⁸

In 1973, a group of almost three dozen police officers faced allegations of abuse, brutality, and false arrest in a federal lawsuit.²⁵⁹ The complaint alleged that the Superintendent of Police, the Chicago Police Board, and the City of Chicago “willfully refused to investigate or punish police misconduct.”²⁶⁰ The lawsuit and other reports of police brutality led to the creation of Office of Professional Standards (OPS) in 1974.²⁶¹ Although still residing within the police department, OPS was comprised of all civilian investigators and was responsible for examining citizen complaints of excessive force by police and all shootings by Chicago police officers.²⁶²

²⁵⁶ See Stephan Benzkofer, *The Summerdale Scandal and the Case of the Babbling Burglar*, CHI. TRIB. (July 7, 2013, 2:00 AM), <https://www.chicagotribune.com/news/ct-per-flash-summerdale-0707-20130707-story.html> [<https://perma.cc/6FHY-3JTS>].

²⁵⁷ Dan Hinkel et al., *Consent Decree for CPD Drafted Plan by Mayor, State Attorney General Aims for Long-Lasting Change*, CHI. TRIB., July 29, 2018, at 1.

²⁵⁸ See *supra* text accompanying note 25.

²⁵⁹ Robert McClory, *Black Reformers Launch: Major Attack on Police Brutality*, CHI. DAILY DEFENDER, Feb. 3, 1973, at 4.

²⁶⁰ Elizabeth J. Andonova, *Cycle of Misconduct: How Chicago Has Repeatedly Failed To Police Its Police*, 10 DEPAUL J. FOR SOC. JUST. 1, 7 (2017) (quoting McClory, *supra* note 259, at 4).

²⁶¹ *Id.* at 7–8, 30.

²⁶² See William A. Geller & Kevin J. Karales, *Shootings of and by Chicago Police: Uncommon Crises, Part I: Shootings by Chicago Police*, 72 J. CRIM. L. & CRIMINOLOGY 1813, 1828–29 (1981).

Scandals continued to erupt throughout the thirty-plus years that OPS was in operation.²⁶³ When yet another police-brutality incident rocked the city in 2007, additional reforms were implemented to quell community criticism.²⁶⁴ The City Council created a new independent city agency, the Independent Police Review Authority, to investigate complaints of certain types of police-misconduct allegations, including use-of-force incidents.²⁶⁵ Unfortunately, not even a decade later, the highly controversial shooting of Laquan McDonald by Chicago police officer Jason Van Dyke, and the City's reluctance to publicly release video of the incident, sparked community outrage and inflamed the already-simmering mistrust of Chicago's police accountability system.²⁶⁶ The City scuttled the IPRA and replaced it with the Civilian Office of Police Accountability and the newly created position of Deputy Inspector General for Public Safety within the City's Office of Inspector General.²⁶⁷

Some jurisdictions have recognized the challenge in avoiding this scandal-debate-reform cycle. For example, in the ordinance creating its new civilian oversight system, Seattle explicitly acknowledged that one of the goals was to create "a comprehensive and *lasting* police oversight system."²⁶⁸

Some commentators hypothesize that this repeated cycle results from the fact that oversight structures are often the product of political compromise between stakeholders who, on the one hand, support the concept of independent oversight, and, on the other, those who question its legitimacy and seek to limit its impact.²⁶⁹ For example, the Citizens Police Review Board recently created in Dallas is, by and large, considered the product of compromise.²⁷⁰

²⁶³ Andonova, *supra* note 260, at 30.

²⁶⁴ See *Beyond Repair: Chicago's Independent Police Review Authority*, CHI. TRIB. (Apr. 8, 2016, 3:34 PM), <https://www.chicagotribune.com/opinion/editorials/ct-ipra-laquan-police-oversight-emanuel-chicago-edit-0410-jm-20160408-story.html> [<https://perma.cc/2S23-S4LP>].

²⁶⁵ CHI., ILL., CODE § 2-57 (2015) (repealed 2016).

²⁶⁶ See *Beyond Repair*, *supra* note 264.

²⁶⁷ See discussion *supra* Section III.C.

²⁶⁸ Seattle, Wash., Ordinance 125315 § 1(K) (June 1, 2017) (emphasis added).

²⁶⁹ See, e.g., Prenzler, *supra* note 5, at 5 ("Civilian review involves a mixed model and a clear political compromise between supporters and opponents of fully independent systems.").

²⁷⁰ Stephen Young, *Citizens Police Review Board Revamp Passes Unanimously*, DALL. OBSERVER (Apr. 25, 2019, 4:00 AM), <https://www.dallasobserver.com/news/dallas-council-signs-off-on-police-review-board-11648429> [<https://perma.cc/2LZE-2PMP>] ("The new board won't be as strong as activists wanted it to be and is probably a little stronger than Dallas' police associations would've preferred"); see also Editorial, *The Dallas City Council's Compromise on Police Oversight Is a Win for Transparency and Accountability*, DALL. MORNING NEWS (Apr. 26, 2019, 3:00 AM), <https://www.dallasnews.com/opinion/editorials/2019/04/26/the-dallas-city-councils-compromise-on-police-oversight-is-a-win-for-transparency-and-accountability> [<https://perma.cc/22WU-A9J4>].

Controversies related to police accountability are often “protracted and bitter.”²⁷¹ For example, the acquittal of the four White officers accused of the infamous 1991 beating of Rodney King sparked days of rioting in Los Angeles, during which fifty-five people were killed and more than eight hundred buildings were destroyed.²⁷² The highly publicized, controversial shooting of Laquan McDonald led to significant political upheaval in and around Chicago, and the mayor and Cook County State’s Attorney faced widespread suspicion of a cover-up.²⁷³ Within months, the State’s Attorney was voted out of office.²⁷⁴

Stakeholders on both sides of the civilian oversight debate harbor deeply held convictions and beliefs. In many jurisdictions, the structure and powers of oversight entities are necessarily the product of compromise. That being the case, the systems that emerge often lack the full complement of powers necessary to provide sustainably effective oversight or to spur the transformative police reform the community expects. Community leaders developing proposals should recognize the importance of generating broad-based political support for proposed initiatives. Doing so will minimize the whittling away of critical oversight powers for the purpose of reaching the consensus necessary to shepherd reforms through the political process.

F. *Perceived Lack of Professionalism or Expertise*

The opponents of civilian oversight typically offer three explanations for why civilian oversight is unnecessary or inappropriate: (1) police agencies are capable of disciplining their own, (2) misconduct is not as widespread as the media has led the public to believe, and (3) oversight would undermine police in the performance of their jobs.²⁷⁵ Many members within the law enforcement community view the term “civilian” with suspicion and have difficulty believing that civilian professionals have the expertise to judge how officers conduct

²⁷¹ Prenzler, *supra* note 5, at 8; *see also* Iris, *supra* note 9, at 220 (“Often the issue of civilian review becomes a very hot political item.”).

²⁷² Prenzler, *supra* note 5, at 11.

²⁷³ Alvarez Defends Herself, Mayor Emanuel in Timing of Charges in Laquan McDonald Case, NBC CHI. (Nov. 24, 2015, 3:20 PM), <https://www.nbcchicago.com/blogs/ward-room/Alvarez-Opponents-Question-Timeline-of-Release-of-McDonald-Video-353183351.html> [https://perma.cc/6WPA-2Z4U].

²⁷⁴ Top Chicago Prosecutor Loses Primary Focused On Handling Of Police Killing, GUARDIAN (Mar. 15, 2016, 10:37 pm), <https://www.theguardian.com/us-news/2016/mar/15/chicago-prosecutor-anita-alvarez-loses-primary-kim-foxx-laquan-mcdonald> [https://perma.cc/37ND-AAW4] (“Voters backed Kim Foxx” in Democratic race amid criticisms that Anita Alvarez’s office waited over a year to charge officer for fatal shooting of Laquan McDonald”).

²⁷⁵ Alpert et al., *supra* note 7, at 182.

themselves.²⁷⁶ Most notably, police unions and leaders frequently argue that investigating police misconduct requires the “unique investigative expertise of police.”²⁷⁷ This assertion “ignores the wide range of investigative functions carried out in the public and private domains and the long-term capacity of oversight agencies to train nonpolice investigators.”²⁷⁸ For example, in preparation for the launch of Chicago’s Civilian Office of Police Accountability, agency management required all investigative staff members to undergo five to six weeks of training.²⁷⁹ In fact, many jurisdictions have reflected the importance of training by including training requirements in the establishing ordinances of recently created oversight entities.²⁸⁰

CONCLUSION

The recent expansion of civilian oversight, and the fact that many civilian oversight entities have operated for decades, illustrates that civilian oversight has moved into the mainstream as an important component of any police accountability system. The Review function continues to be the most prevalent form of oversight,²⁸¹ despite the relative lack of power and independence inherent in that form, as compared to other types of oversight such as the Investigative and Supervisory forms.²⁸² Some commentators argue that the effectiveness of civilian oversight writ large will continue to suffer so long as jurisdictions continue to rely heavily on the Review form of civilian oversight.²⁸³

²⁷⁶ Iris, *supra* note 9, at 219 (commenting that officers see civilians as “outside the police subculture” and believe that they “do not understand the types of people (sociopaths, drunks, etc.) with whom the police must routinely deal”).

²⁷⁷ See Prenzler, *supra* note 5, at 7.

²⁷⁸ *Id.*

²⁷⁹ *Organizational Development*, CIVILIAN OFFICE OF POLICE ACCOUNTABILITY, <https://www.chicagocopa.org/about-copa/organizational-development> [https://perma.cc/T36D-9RB5]. The author of this Article was involved in the creation and execution of this training program during their tenure as Chief Administrator.

²⁸⁰ See, e.g., OAKLAND, CAL., CODE § 2.45.190 (2019) (detailing training requirements for members of the Police Commission); *id.* § 2.46.030(C) (requiring all investigators employed by the Community Police Review Agency to “receive any necessary training in conducting fair and impartial investigations”); TAMPA, FLA., CODE § 18-8(g)(2) (2019); WICHITA, KAN., CODE § 2.10.045(a) (2019); ST. LOUIS, MO., REV. CODE § 3.1040.040(8) (2019); NEWARK, N.J., REV. GEN. ORDINANCES § 2:2-86.3(h) (2019); ALBUQUERQUE, N.M., CODE § 9-4-1-5(F) (2019); see also Omaha, Neb., Exec. Order No. S-30-15 Amended § III (Aug. 10, 2016).

²⁸¹ See *supra* Section II.B.

²⁸² See *supra* Section I.B.

²⁸³ Prenzler, *supra* note 5, at 11 (“The potential of civilian oversight in the United States continues to be undermined by attachment to the review model.”).

The trend towards the creation of multi-layered, multi-functional systems²⁸⁴ indicates that jurisdictions are opting to invest more resources in civilian oversight to achieve better results. The costs of implementing civilian oversight can be substantial, particularly regarding the Investigative function.²⁸⁵ Although the work done by civilian oversight entities arguably is work that would otherwise be done by the subject law enforcement agency,²⁸⁶ there are certainly incremental overhead costs from operating one or more separate entities to provide oversight functions.

Now that civilian oversight has become mainstream and oversight systems are becoming increasingly complex, there should be greater focus on evaluating their effectiveness. To be sure, there is much debate about how to evaluate the effectiveness of accountability systems. There are a number of outcomes that could be considered, from objective measures, such as the timeliness of investigations and the number of officers being held accountable, to more subjective measures, such as the quality, thoroughness, and neutrality of agency determinations and recommendations, as well as community perceptions of policing and accountability within the jurisdiction. Future research into the cost-benefit tradeoffs of civilian oversight in its many forms is warranted to help municipalities better assess options and design systems that best suit their needs. This suggestion is by no means intended to imply that civilian oversight might be a failed experiment. To the contrary, civilian oversight has been around for decades because it serves an important purpose and, thus, is clearly here to stay. The question is not whether the investments being made across the country in these complex systems are paying off, but, rather, how these systems can be optimized to provide the most effective and efficient oversight possible.

²⁸⁴ See *supra* Section II.C.

²⁸⁵ Cf. Prenzler, *supra* note 5, at 7 (“Putting the [civilian oversight] model into practice involves a significant cost.”).

²⁸⁶ *Id.* (noting that “one obvious answer” to concerns about the financial costs of civilian oversight is the fact that the work would have to be done anyway and thus “is simply a matter of shifting resources”).

APPENDIX A: ENTITIES CREATED JANUARY 2014 TO JUNE 2019

<i>City Rank</i>	<i>City</i>	<i>Year Est.</i>	<i>Primary Role</i>	<i>Name</i>
32	Albuquerque, NM	2014	INV	Civilian Police Oversight Agency
32	Albuquerque, NM	2014	REV	Police Oversight Board
1	New York, NY	2014	AUD	Inspector General for NYPD
40	Omaha, NE	2014	APP	Citizen Complaint Review Board
62	St. Louis, MO	2014	REV	Civilian Oversight Board
52	Tampa, FL	2015	REV	Citizens Review Board
54	Aurora, CO	2016	ADJ	Independent Review Board
3	Chicago, IL	2016	INV	Civilian Office of Police Accountability
3	Chicago, IL	2015	AUD	OIG/Public Safety Inspector General
70	Newark, NJ	2016	REV	Civilian Complaint Review Board
45	Oakland, CA	2016	INV	Community Police Review Agency
45	Oakland, CA	2016	SUP	Police Commission
35	Sacramento, CA	2016	ADV	Community Police Review Commission
30	Baltimore, MD	2017	ADV	Community Oversight Task Force
18	Seattle, WA	2017	AUD	Office of the Inspector General for Public Safety
55	Anaheim, CA	2018	ADV	Police Review Board
81	Buffalo, NY	2018	ADV	Community Advisory Board
50	Wichita, KS	2018	REV	Wichita Citizens Review Board
11	Austin, TX	2019	REV	Office of Police Oversight
9	Dallas, TX	2019	ADV	Community Police Oversight Board
9	Dallas, TX	2019	REV	Office of Community Police Oversight
24	Nashville-Davidson, TN	2019	INV	Community Oversight Board

APPENDIX B: CIVILIAN OVERSIGHT ENTITIES CREATED IN 1999 OR
EARLIER

<i>City Rank</i>	<i>City</i>	<i>Year Est.</i>	<i>Primary Role</i>	<i>Name</i>
62	St. Louis, MO	1861	SUP	Board of Police Commissioners
31	Milwaukee, WI	1885	SUP	Milwaukee Police and Fire Commission
2	Los Angeles, CA	1920s	SUP	Board of Police Commissioners
56	Honolulu, HI	1932	SUP	Honolulu Police Commission
37	Kansas City, MO	1939	SUP	Board of Police Commissioners
2	Los Angeles, CA	1953 or earlier	ADJ	Board of Rights
1	New York, NY	1953	INV	Citizens Complaint Review Board
5	Philadelphia, PA	1958	REV	Police Advisory Commission
3	Chicago, IL	1960	ADJ	Chicago Police Board
37	Kansas City, MO	1970	REV	Office of Community Complaints
71	Lincoln, NE	1970s	ADV	Citizen Police Advisory Board
23	Detroit, MI	1974	SUP	Board of Police Commissioners
8	San Diego, CA	1980s	REV	Community Review Board on Police Practices
13	San Francisco, CA	1982	INV	Department of Police Accountability
51	Cleveland, OH	1984	REV	Civilian Police Review Board
97	Richmond, VA	1984	SUP	Citizens Police Review Commission
16	Indianapolis, IN	1990	REV	Citizens Police Complaint Board
39	Long Beach, CA	1990	REV	Citizens Police Complaint Commission
46	Minneapolis, MN	1990	INV	Office of Police Conduct Review

46	Minneapolis, MN	1990	AUD	Police Conduct Oversight Commission
46	Minneapolis, MN	1990	ADJ	Police Conduct Review Panel
79	St. Petersburg, FL	1991	REV	Civilian Police Review Committee
74	Toledo, OH	1991	APP	Civilian Police Review Board
27	Oklahoma City, OK	1992	REV	Citizens Advisory Board
72	Orlando, FL	1992	REV	Citizen's Police Review Board
10	San Jose, CA	1993	REV	Office of the Independent Police Auditor
63	St. Paul MN	1993	REV	Police Civilian Internal Affairs Review Commission
89	Winston-Salem, NC	1993	APP	Citizen's Police Review Board
25	Memphis, TN	1994	INV	Civilian Law Enforcement Review Board
2	Los Angeles, CA	1995	AUD	LAPD Office of the Inspector General
65	Pittsburgh, PA	1996–97	INV	Citizen Police Review Board
17	Charlotte, NC	1997	APP	Citizens Review Board
33	Tucson, AZ	1997	REV	Independent Police Auditor
30	Baltimore, MD	1999	INV	Civilian Review Board
98	Boise, ID	1999	INV	Office of Police Oversight
28	Las Vegas, NV	1999	REV	Citizen Review Board
35	Sacramento, CA	1999	REV	Office of Public Safety Accountability
20	Washington, DC	1999	INV	Office of Police Complaints
20	Washington, DC	1999	REV	Police Complaints Board