



MEMORANDUM

City Manager's Office

DATE: August 24, 2020

TO: Council Ad-Hoc Subcommittee on Race, Equity, and Inclusion

FROM: Melvin E. Gaines, Principal Management Analyst
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Operating Officer

VIA: Kimbra McCarthy, City Manager

SUBJECT: Police Oversight Models

BACKGROUND

In response to the killing of George Floyd by a Minneapolis police officer, people across the country have joined together to protest against police brutality and demand racial equity. There has been a heightened interest in the reevaluation of police policies and practices and greater accountability for police misconduct amongst other calls for action.

Mountain View residents, too, have made their voices heard. Hundreds have participated in peaceful protests, e-mailed Councilmembers and City staff, and spoken at City Council and other community meetings. Many residents have expressed interest in the creation of a formal opportunity for citizens to engage with the Mountain View Police Department (MVPD), review policies and practices, and participate in decision-making.

At the June 30, 2020 meeting of the Council Ad-Hoc Subcommittee on Race, Equity, and Inclusion (REI Subcommittee), Subcommittee members expressed interest in exploring different models of police oversight that include public participation.

Mountain View has not experienced the types of pervasive community-police relations issues that are often catalysts for communities to appoint police oversight agencies. Even so, the City is committed to continuous improvement and can take this opportunity for a thoughtful approach to considering the type of community-involved oversight model that could work best in Mountain View.

Staff has been examining police oversight models by learning about the practices of other cities in the Bay Area and nationwide, speaking with stakeholders, working with

Stanford University researchers, and reviewing literature on police oversight. This memorandum summarizes staff's research on oversight models to date and provides a progress update and opportunity for Subcommittee questions and dialogue.

Notably, the upcoming Human Relations Commission Community Listening Forums will provide opportunities for further stakeholder engagement and help staff identify community interests as staff continues to research police oversight models and examine MVPD data. Staff will return to the REI Subcommittee with a recommendation in November for ultimate consideration by the full Council in December.

ANALYSIS

As issues of trust and accountability have moved to the forefront of community-police relations, civilian/community oversight of law enforcement has become an oft-used tool to increase police accountability. In general, police oversight programs have the common goals of improving public trust, increasing transparency and accountability, promoting dialogue and mutual understanding, fostering collaborative approaches to meeting community needs, promoting fair and thorough investigations, and ensuring police actions are consistent with the values of the city and policies of the department.

The structures of police oversight programs vary, ranging in size, composition, budget, and the levels of authority granted to members/agents. Some oversight programs are unfunded bodies comprised of civilians with little to no expertise on police issues, and other programs have extensive budgets and include paid professional civilian staff who are granted powers to review, audit, investigate, and make judgments.

While there are more than 100 unique police oversight agencies in the United States, the National Association for Civilian Oversight of Law Enforcement (NACOLE) categorizes oversight agencies into three general models:

1. **Investigative Agencies** that conduct independent investigations of complaints against police.
2. **Auditing/Monitoring Agencies** that systematically review and examine police internal investigations and operations.
3. **Review Boards and Commissions** comprised of volunteer community members who fulfill various assignments that may include holding public forums to receive public input and discuss public safety, reviewing investigations conducted by professional staff, and making recommendations to improve community-police relations.

In addition to the three aforementioned models, some communities have launched **Temporary Task Forces** to review their police department policies and practices and make recommendations. Each of the three models and task forces are further discussed below and summarized in Table A and Table B.

Ultimately, there is no best practice for oversight programs. Most jurisdictions focus on the best fit and structure their oversight program to meet the local needs of their community based on the political, social, cultural, and operational realities that demonstrate a need for increased public trust and police accountability. Crime and public safety concerns are also factors that influence the structure of oversight programs as the police department's ability to help residents feel safe impacts public trust and police accountability in similar ways to police officer conduct.

When considering the need for, and structure of, an oversight program for MVPD, the City should assess the areas where public trust and accountability need to be increased and the extent of public oversight necessary to accomplish this. The City should also consider MVPD's culture, history of community policing and collaboration, leadership, and current and future ability to monitor its own accountability. Lastly, the City must consider the fiscal resources necessary to implement an effective oversight program.

Investigative Agencies

Investigative agencies conduct independent investigations of complaints against police. These agencies are usually staffed by nonsworn "civilian" investigators and may either replace or duplicate police internal affairs. Typically, investigative agencies have significant budgets and paid staff.

As an example, the San Francisco Department of Police Accountability (SFDPA), formerly the Office of Citizen Complaints, is an investigative agency formed through a local ballot initiative that has been in operation since 1983. The population of San Francisco is 881,549, and the number of employees in the Police Department, according to the Fiscal Year 2019-20 budget, is 3,225, of which 2,581 are sworn police officers. SFDPA receives, investigates, and makes findings on civilian complaints of on-duty misconduct by San Francisco police officers. When the SFDPA sustains allegations against officers, they send the case to either the Police Chief or to the Police Commission depending on the severity of misconduct and of potential discipline, complexity of issues presented, and degree of public interest in the matter. The Police Commission has greater disciplinary power than the Police Chief. SFDPA has 35 paid staff members, including a director, investigators, and legal staff.

The San Francisco Police Commission consists of resident commissioners appointed by the Mayor and Board of Supervisors. It is not an investigative agency but is the authoritative body regarding police officer disciplinary actions resulting from SFDPA investigations. The Commission also has oversight of police department policies, practices, and customs, including high-level personnel decisions, and makes recommendations about the police department budget. Commission meetings are public.

Auditing/Monitoring Agencies

Auditing/monitoring agencies systematically review and examine police internal investigations. They often focus on examining broad patterns in complaint investigations, including the quality of investigations, findings, and discipline. Many auditing/monitoring agencies seek to promote broad organizational change by conducting systematic reviews of police policies, practices, or training and making recommendations for improvement.

For example, the San Jose Office of the Independent Police Auditor was established by the San Jose City Council in 1993 and made permanent by voters through a charter amendment in 1996. The population of San Jose is 1,021,795, and the number of employees in the Police Department, according to the Fiscal Year 2019-20 budget, is 1,710, of which 1,149 are sworn police officers. The Independent Police Auditor is appointed by the City Council and is tasked with receiving public complaints about San Jose police officers, ensuring that police internal investigations of complaints are done thoroughly and fairly, and recommending improvements to police department policies and procedures. Independent Auditor recommendations go to the Police Chief, City Manager, and City Council.

Review Boards and Commissions

Review boards and commissions include a diverse range of bodies comprised of volunteer community members who may hold community forums on public safety matters and provide input on community complaints against police officers. Of the three oversight models, review boards and commissions tend to have the least authority. They often receive community complaints and review police complaint investigations but do not usually decide how complaints will be resolved. In most cases, the primary power of review boards and commissions is the ability to make recommendations to police executives. Because review boards and commissions vary greatly, multiple examples are discussed below.

- **Community Complaint Review Boards (CCRBs)** are typically comprised of residents appointed by elected local governing bodies. CCRBs review police

departments' investigations of community complaints of alleged police officer misconduct. Typically, police department staff investigate community complaints and submit the investigation to the CCRB. The CCRB reviews the investigation and votes to either agree or disagree with the investigation's findings or can request that additional investigation be conducted.

CCRB decisions are normally sent to police chiefs. The complainant is also provided notice that the CCRB has reviewed their complaint. CCRB findings are considered personnel matters, so complainants are not told what the CCRB's findings are nor what disciplinary actions are taken against police officers. Normally, CCRBs provide periodic update reports to their elected local governing body. Communities with CCRBs include Tulare, California (population 65,496); Oakland, California (population 433,031); and San Diego, California (population 1,423,851).

- **Community Advisory Panels (CAPs)** are groups of residents chosen by either police chiefs or local elected bodies to be liaisons between communities and their police departments. The number of CAP members varies, although CAPs typically strive to have representation from each neighborhood in a jurisdiction. CAP members meet with police department leadership regularly to inform the department on current community concerns and provide advice and feedback on topics identified by the police department. In most cases, CAP meetings are not open to the general public. Police departments in many Bay Area cities, including Fremont (population 241,110), Palo Alto (population 65,364), and San Jose (population 1,021,795), have a form of a CAP.
- As implemented in Melbourne, Florida (population 83,029), **Community Relations Councils (CRCs)** are resident-formed groups with group-elected board members. The involvement of local governments in CRCs is limited to approving the CRC bylaws, allowing the CRCs to use public space for meetings, and ensuring police department participation. A board position is reserved for a high-ranking member of the police department. Other board members are elected by general members (residents who regularly attend meetings) annually, and board positions include a president, vice-president, secretary, and general board members.

CRC meetings provide a forum for community members and police officers to exchange experiences and communicate concerns and to suggest and discuss new programs or procedures to improve community relations and crime prevention. CRC meetings also provide police departments with an opportunity to share resources and educate the general public about crime prevention. CRCs do not provide direction to or have authority over police departments.

Table A: Police Oversight Models

Model	Investigative Agencies		Auditing/Monitoring Agencies	Review Boards and Commissions		
	San Francisco Department of Police Accountability	San Francisco Police Commission	San Jose Office of the Independent Police Auditor	Tulare Citizen Complaint Review Board	Palo Alto Community Advisory Panel	Melbourne (Florida) Community Relations Council
Sample City						
City Population	881,549	881,549	1,021,795	65,496	65,364	83,029
Works with or Reports to	Civilian Police Commission	City Council	City Council	Police Chief	Police Chief	Police Chief
Has Paid Staff	X	X	X	—	X	—
Trained Expert Members	X	—	X	—	—	—
Police Dept. Influence/Involvement	Medium	Low	Low	High	High	High
Public Meetings	—	X	—	—	—	X
Membership Selected by	N/A	Mayor/ Board of Supervisors	N/A	City Council	City Council or Police Chief	Community
Receive Public Input	—	X	—	—	X	X
Receive Complaints	X	X	X	X	—	—
Review Complaint Investigations	X	X	X	X	—	—
Review PD Policies and Practices	—	X	—	—	X	—
Collaborate with PD on Strategies and Programs	—	—	—	—	X	X
Make PD Budget Recommendation	—	X	—	—	—	—
Suggest Transparency and Accountability Improvements	—	X	X	—	X	X
Educate the Public About Crime Prevention	—	—	—	—	X	X
Oversee Personnel Decisions	X	X	X	—	—	—

Community Task Forces

In light of national events and strained community-police relations in their localities, some communities have launched task forces to review their police department policies and practices and make recommendations. Two such communities include Aurora, Colorado, and Stockton, California.

For example, after hosting a community listening session in response to several high-profile cases involving their police department, including the in custody death of 23-year-old resident Elijah McClain and subsequent firing of officers who mocked his death, the Aurora, Colorado, City Council recently appointed a Community Police Task Force.

The 13 members appointed to the Task Force include both representatives from local organizations (including the police union, a police reform organization, the public school system, and the faith-based community) and individual representatives with diverse backgrounds (including a mental health professional, an individual with direct experience in the criminal justice system, and criminal justice lawyers). After receiving training from the city and police department, members are tasked with evaluating policies and providing recommendations to the City Council that would improve police transparency and accountability, potentially including an ongoing regular police oversight body.

Another example is the City of Stockton, California, which recently announced the creation of a new City Manager's Review Board to improve community-police relations. Stockton Police Department has implemented various initiatives to improve community-police relations since 2012; however, community members called for further changes due to several officer-involved shootings and alleged officer misconduct. The Board will include up to 25 members with a wide range of backgrounds and expertise, including someone from the police department, someone working in behavioral health, someone from the human services community, a leader in the faith community, and other community leaders/activists. The members will receive orientation, meet to review police policies and practices using qualitative and quantitative data, and make recommendations. Creation of the Review Board is still under way.

Table B: Community Police Task Forces

Model	Task Forces	
	Aurora (Colorado) Community Task Force	Stockton City Manager's Review Board
Sample City		
City Population	379,289	312,697
Works With or Reports To	City Council	City Manager
Police Dept. Influence/Involvement	Medium	Medium
Has Paid Staff	X	X
Trained Expert Members	—	—
Public Meetings	X	X
Membership Selected by	City Council	TBD
Receive Public Input	—	—
Receive Complaints	—	—
Review Complaint Investigations	—	—
Review PD Policies and Practices	X	X
Collaborate with PD on Strategies and Programs	—	—
Make PD Budget Recommendation	—	—
Suggest Transparency and Accountability Improvements	x	x
Educate the Public About Crime Prevention	—	—
Oversee Personnel Decisions	—	—

NEXT STEPS

Staff will continue to gather information, analyze policing data, and engage community members to assess the areas where public trust and police accountability could improve in order to determine the type of community-involved oversight model that could work best in Mountain View. As previously noted, upcoming community listening sessions will provide opportunities for further stakeholder engagement and will help staff identify community interests. Staff will return to the REI Subcommittee with additional information and a recommendation on oversight models in November for subsequent consideration and approval by the full Council in December.

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