Civilian Review: Investigative Model

Police Civilian Advisory Board Study Committee
July 20, 2021

Oversight Considerations

"Oversight systems can take a wide variety of forms and operate under a wide range of authorities…

It is helpful to think in terms of the goals of the community and what is being asked of the local oversight system. Specifically, what level of funding and how much authority should be given to the oversight agency in order to shoulder its identified tasks and succeed. ***The oversight agency's mission should bear some relationship to the size of the police department, the department's funding levels, and the level of trust or mistrust within the community—particularly among those segments of the community that historically have been the subjects of over-policing or bias-based policing."***

-National Association for Civilian Oversight of Law Enforcement

Four..ish Models of Civilian Review

Investigative/Quality Assurance Model: Civilian volunteers or staff receive and investigate complaints of police misconduct, reach conclusions on categories of allegations, and recommend discipline as appropriate to Chief Law Enforcement Officers and/or Municipal Executives.

- Specific focus on individual complaints
- Parallel to internal police investigations
- San Francisco OCC, NYCCRB, Cincinnati Office of Municipal Investigation, ½ of Boston Office of Police Accountability and Transparency

Appeal Model: Complainants (or Police personnel) appeal internal police department findings or recommendations to civilians, who review them and then recommend their own findings to the Chief Law Enforcement Officers and Municipal Executives.

- Specific focus on individual complaints
- After internal police investigations and disciplinary decisions
- Brookline Internal Affairs + Select Board Appeal, Omaha Citizens Complaint Review Board

Four..ish Models of Civilian Review

Review Model: Internal police units investigate allegations and develop findings; citizens review and recommend that the Chief Law Enforcement Officers and/or Municipal Executives approve or reject the findings.

- Specific focus on individual complaints
- After internal police investigations, but before disciplinary decisions
- Cambridge Police Review & Advisory Board, Kansas City Office of Community Complaints, Detroit Board of Police Commissioners

Auditor/Evaluative Performance Model: An auditor/monitor investigates the processes by which the internal investigations examine complaints, reports on the thoroughness and fairness of the process to the department and the public, and makes policy recommendations

- Broad scope
- Parallel to or after police investigations
- Denver Office of Independent Monitor, ½ of Boston Office of Police Accountability and Transparency; The Albuquerque Independent Counsel, San Jose Independent Police Auditor

What is in the Investigative Model?

The investigative model involves some or all of the below characteristics:

- Receives complaints
- Reviews and classifies complaints
- Led by a community board

  May allow or disallow appointment of current or former police officers

- Employs trained professional non-police "civilian" staff

  May allow or disallow hiring of retired and former police officers

- Performs investigations

  May be in parallel to **or** in place of Professional Standards/Internal Affairs

- Subpoenas witnesses and documents
- Holds hearings

  May be a mix of public and "executive session" hearings

- Makes findings on investigations and recommend discipline

  Findings and discipline recommendations may or may not be binding

What is <u>not</u> in the Investigative Model?

Investigative bodies are <u>not</u> typically involved in the following activities:

- Collecting/observing/examining trends in police data
- Reviewing police department policies
- Reviewing police department training
- Review of Internal Affairs investigative process
- Hearing appeals

Investigative bodies vary widely in the following respects:

- Their access to investigations completed by Internal Affairs/Professional Standards
- Their ability to mandate vs. recommend discipline
- How much they report publicly about complaints investigations and findings

https://cops.usdoj.gov/RIC/Publications/cops-w0952-pub.pdf

https://cops.usdoj.gov/RIC/Publications/cops-w0951-pub.pdf

Investigative Model Strengths and Weaknesses

Key Strengths:

- May reduce bias in investigations
- Civilian investigators may have specialized training
- May increase community trust in investigations

Potential Weaknesses:

- May lose public confidence if timelines are not met
- May lose public confidence if recommendations are not routinely adopted
- May be difficult to maintain readiness and credibility when there are few complaints
- Most expensive
- May face resistance from police personnel

https://www.nacole.org/reports_publications

https://d3n8a8pro7vhmx.cloudfront.net/nacole/pages/161/attachments/original/1481727974/NACOLE_AccessingtheEvidence_Final.pdf?1481727974

Investigative Model Case Study - Syracuse, NY

Syracuse is one of the smallest municipalities in the NACOLE database
https://directory.nacole.org/

Population	143,378
Sworn Officers	375
Established	2011
Oversight Budget	$140,077
Police Budget	$47,400,535
Board Members	11
Professional Staff	2
Complaints (2018)	83
Hearings (2018)	15

The Syracuse "Citizen Review Board" was established in 2011. The 11-member board is appointed by a combination of the mayor and city councillors and devotes an average of ten hours per month attending meetings, preparing for and participation in panel hearings, training, and community outreach.

The CRB can:

- Hire and fire the CRB Administrator
- Accept and investigate complaints
- Hold hearings and make findings on complaints
- Make police policy recommendations

The CRB has access to:

- Dispatch records
- Use of force reports
- Stop, search, and arrest records
- Body worn camera footage
- Professional Standards Investigations (open and closed)

http://www.syrgov.net/uploadedFiles/City_Hall/CRB/CRB%20Legislation%2012-11.pdf

What happens to a complaint? Syracuse, NY CRB

1. Complaints can be received by the CRB or Office of Professional Standards (OPS)
   - CRB and OPS are required to immediately share complaints with each other
   - Mediation is offered to the complainant at all stages but not required
   - The complainant may withdraw their complaint at any time
2. CRB Administrator and OPS conduct their investigations in parallel
3. OPS provides their report and recommendations to the CRB Administrator
4. CRB Administrator recommends whether to proceed to a hearing
5. Full CRB decides whether to proceed to a hearing based on reports and recommendations
   - The CRB may issue subpoenas for the hearing, including to officers

What happens at a hearing? Syracuse, NY CRB

- Board members rotate making up 3-member "panels" for hearings
- Officers and complainants have a right to obtain counsel
  - Officers and complainants may cross examine witnesses
- Hearings are closed to the public and not recorded
  - Deliberations are confined to only panel members
- Decisions, including findings and recommendations, are made by majority vote
- The panel chooses whether to sustain the finding of the CRB Administrator
- Outcomes
  - The panel may recommend restitution for the complainant
  - The panel may recommend specific disciplinary sanctions for an officer
    - The chief of police must respond in writing if the recommendation is not followed
    - In 2018, the chief followed the CRB recommendation in 1 out of 8 sustained cases
  - The CRB provides a summary of sustained cases in their annual report

    http://www.syrgov.net/uploadedFiles/City_Hall/CRB/Final%202018%20Annual%20Report%20w.%20ST%20%20Meeting%20with%20MR%20suggestions.pdf

Case Backlog and Funding - Syracuse, NY CRB

Last summer there was reporting that the Syracuse CRB had a significant backlog of cases.

89 cases were outstanding as of July 2020, dating back as far as 2017.

44 cases outside the window to impose discipline.

https://www.wrvo.org/post/44-cases-syracuse-police-complaints-are-past-18-month-window-discipline

This spring the Syracuse Common Council declined a request by the CRB Administrator to hire an investigator, two analysts, and a community engagement specialist.

https://www.syracuse.com/news/2021/05/syracuse-lawmakers-reject-proposed-funding-increase-for-civilian-police-watchdog.html