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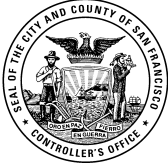
Best Practices Review

Police Complaint Investigations and Civilian Review

April 25, 2003

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Best Practices Review

Police Complaint Investigations and Civilian Review

EXECUTIVE SUMMARY

Purpose

In response to a request from Supervisor Tom Ammiano, the Controller has conducted a best practices review for civilian oversight of police departments in various jurisdictions, including recent reforms enacted in Oakland and Los Angeles, as well as reforms proposed by the ACLU.

Summary

San Francisco citizen oversight is carried out by two civilian agencies: the Police Commission and the Office of Citizen Complaints (OCC). San Francisco is cited by the U.S. Department of Justice (DOJ) study on "Examples of Promising Police Practices and Policies"¹ as providing "meaningful civilian oversight" and is used as an example of the investigative model of civilian review in the expert study "Best Practices in Police Accountability"². Also, the OCC is considered by the DOJ's National Institute of Justice³ to be a best practice model in the area of policy recommendation.

However, as a result of recent incidents involving police officers, some people have suggested the system is breaking down and have called for reforms in the City's accountability systems. Based upon comparisons to best practices in other jurisdictions, review of expert materials, interviews, and analysis of San Francisco's experience, we recommend four areas in which to enhance accountability:

- 1. The Police Commission—**The Police Commission has structural weaknesses that should be addressed by changing the criteria for appointment and the terms of service by Commissioners, strengthening the appointment and removal processes of Commissioners, and adding reporting requirements designed to clarify expectations that the Commission will work cooperatively with the OCC and take its responsibility for oversight seriously. Some of these measures require changes to the Charter. Specifically, the City should:
 - **Amend the Charter to specify criteria for the Mayor's appointments to the Police Commission such as expertise in public safety and civil rights law.**
 - **Amend the Charter to require Board of Supervisors approval of the Mayor's appointments and removals of Police Commissioners.**
 - **Amend the Charter to limit Commissioners to two terms, and to specify that a Commissioner whose term has expired is no longer a member of the Commission.**
 - **Increase the Police Commission's responsibility for, and ability to, carry out its oversight and disciplinary functions through added training and reporting requirements.**

2. **The Office of Citizen Complaints**—Our review indicates that while the OCC has some of the characteristics of strong citizen oversight bodies, the office lacks both sufficient independence and the power to compel evidence from the Police Department and from other parties that lend strength to its investigative role. Endowing the OCC with subpoena power and strengthening its administrative and reporting tools are called for. These measures can be taken through ordinance.
- **Strengthen the OCC power of independent investigation through the power of subpoena.**
 - **Increase the effectiveness of the OCC through an ordinance requiring Police cooperation upon direct request, including timelines for cooperation and citing a specific penalty for failure to cooperate.**
 - **Direct the OCC to highlight failures to cooperate in their reporting.**
3. **The Early Warning System**—The Early Warning System (EWS) is a database maintained by the OCC detailing citizen complaints and tracking their own investigative process. The system fails to monitor misconduct adequately because it is narrow in scope and cannot generate reports showing cumulative data or trends, either for individual officers or for the department as a whole. The system is also primarily manual entry and relies on inadequate technology. Basic changes to the scope and uses of the EWS including adding civil suits and other incidents, linking it to systems used for personnel tracking and training by the SFPD, and specifying new triggers for action, will increase its effectiveness for both the SFPD and the OCC. These changes are administrative and organizational.
- **Expand the Early Warning System to include a wider range of indicators such as civil suits and firearms discharge, and to move reporting of and accountability for indicators up the chain of command.**
 - **Enhance the effectiveness of the Early Warning System through expanding system triggers and specify a resulting intervention for each.**
 - **Upgrade the current technology to a more advanced system.**
4. **Departmental Accountability and Reporting**—Police Department managerial practices in general are being addressed by other respondents to Supervisor Ammiano's request, however, changes to reporting requirements of the Management Control Division, Police personnel training, and a review of the Manual of General Orders are integral to our recommendations on the Commission, OCC, and EWS.
- **Review the Manual of General Orders to assure all policies and procedures are up-to-date.**
 - **Require quarterly reports from the Management Control Division in conjunction with the reports required of the OCC.**
 - **Add a session on the City's whistleblower policies and protections, and other methods of reporting misconduct, to other mandatory trainings for police personnel**

BEST PRACTICES REPORT – Police Complaint Investigations and Civilian Review

Methodology

In order to include a wide range of opinion, we reviewed materials from varied source areas, including: best practice experts, academic research, professional associations, commission and blue ribbon reports, advocates and good government agency publications, and a variety of reports and information from other jurisdictions. (*Complete source list in Appendix G.*) In addition, we interviewed Office of Citizen Complaint management, the SFPD Management Control Division acting commander, City Attorneys, and a staff attorney from the American Civil Liberties Union.

We selected the best practice jurisdictions compared in detail from reports by the U.S. Department of Justice⁴; the Department of Criminal Justice; the University of Nebraska⁵; and from the International Association of Chiefs of Police⁶ because these jurisdictions are considered to be “examples of promising police practices and policies” and “meaningful civilian oversight.” We reviewed Albuquerque because it was the subject of in-depth study by the Department of Justice⁷, the Police Assessment Resource Center (PARC)⁸, and the highly regarded Walker/Luna Report⁹. (*For a complete list of agencies see Appendix F.*)

Detail of Recommendations

“Recommendations Regarding the Police Commission

The Police Commission holds primary authority over the Chief of Police and for the department. Ultimately they bear responsibility for failure of cooperation and timeliness of disposition of OCC recommendations.

The ACLU report “Roadmap to Reform”¹⁰ describes a lack of leadership and the undermining of accountability mechanisms. They point to the need for commitment to accountability from the Chief, the Mayor and the Police Commission.

The five members of the Police Commission are appointed by, and serve at the pleasure of the Mayor. The Chief of Police is appointed by the Mayor and may be removed by the Mayor or the Police Commission. The Mayor appoints a nominee of the Police Commission as Director of the OCC, subject to confirmation by the Board of Supervisors, and the Director serves at the pleasure of the Police Commission.

Appointments to the Police Commission are for four-year terms without limit. Following are appointment dates for each current Commissioner:

Sidney Chan, President – 1/6/97 ***expired since 1/01***
Connie Perry, Vice President – 1/30/03 (reappointment)
Wayne Friday, Commissioner – 3/9/01 (reappointment)
Angelo Quaranta, Commissioner – 3/8/00
Victor Makras, Commissioner – 8/30/01

The Board of Supervisors should consider whether accountability to the City and citizens can be increased by changes in the composition of the Police Commission such as specifying criteria for appointments and requiring Board of Supervisors approval of the Mayor's appointments to the Commission.

In addition, basic reforms in Police Commission appointments, such as specifying that Commissioners' service ends with the expiration of his/her term and adding term limits can offer the City better accountability from all Commission appointees.

The expert study "Best Practices in Police Accountability"¹¹, found that members of review boards should be selected by both executive and legislative branches of government. The report states "members should be appointed by both the mayor and the city council. This guarantees that all parts of the community will be represented and that no one person or faction will control the board."

Of the cities reviewed in our best practices research, Oakland's Police Review Board members are recommended by City Council members, appointed by the Mayor and confirmed by the Council. In Los Angeles, the Board of Police Commissioners are appointed by the Mayor and confirmed by the City Council. In Albuquerque the City Council members nominate nine candidates for the Police Oversight Commission from which the Mayor selects five and adds two of his or her own appointees, for a total of seven commissioners. The closest San Francisco equivalent model occurs with agencies like the Port, Transportation and Redevelopment oversight bodies where the Mayor appoints members subject to confirmation by the Board of Supervisors.

➤ **Revise the criteria, methods of appointment and removal, and the terms of the Police Commissioners for greater accountability and diversity of representation.**

- Amend Charter Section 4.109 to include specific criteria for future appointments to the Police Commission to address community representation, district representation, expertise in law enforcement law, civil rights law, public safety policy and procedures, and/or expertise in handling of police disciplinary matters. Policy makers may choose other important factors.
- Amend Charter Section 4.109 to require Board of Supervisors' approval of mayoral appointments to the Commission and of removals of any Police Commission member.
- Amend Charter Section 4.109 to limit Commissioners to two consecutive terms.
- Amend Charter Section 4.109 to state that reappointment must be made within 60 days of expiration or seat will be deemed vacant and seated Commissioner removed from seat.

➤ **Increase the Police Commission's responsibility for, and ability to, carry out its oversight and disciplinary functions through added training and reporting requirements.**

- By ordinance, create a requirement that Commissioners receive training within six months of their appointment by experts in the public safety disciplinary process as impacted by the Government Code, City law, and department policy.

- Specify, by ordinance, that the Commission hold hearings, and submit periodic reports to the Mayor and Board of Supervisors detailing the status of all OCC recommendations and current cases awaiting action.

“Recommendations Regarding the Office of Citizen Complaints:

Many, including the ACLU, have noted the SFPD’s failure, at times, to cooperate with OCC processes. Supervisor Ammiano in his letter of request notes “patterns of withholding by the SFPD of information requested for the OCC investigations.” In its 2001 annual report the OCC states, “The conclusion is inescapable that a serious contempt of the OCC’s investigative notification procedures was permitted to take place by and among some members of SFPD...”

¹² The OCC has complained to the Police Commission about these failures without significant result.

The power to compel external cooperation currently exists through the subpoena power of the Police Commission. The OCC has little power of its own to compel cooperation or evidence. The OCC could use subpoena power primarily to obtain civilian cooperation such as civilian witness testimony or media videotape.

Currently the power to compel internal police cooperation comes from Charter Sec. 4.127, which requires that the OCC receive “prompt and full cooperation and assistance from all departments, officers and employees of the City and County”.¹³ The Charter section also indicates the OCC director may make a request for testimony or attendance by direct order from the Chief, however no penalty for failure to cooperate is indicated in the Charter section. Under *Garrity v. New Jersey*, 385 U.S. 493 (1967) whoever is the employer of a police officer, including not only the chief but, by extension, the city manager or mayor, can order the officer to answer questions “specifically, directly, and narrowly relating to performance of his or her official duties” as part of an internal, non-criminal investigation. The *Garrity* case also specifies that failure to answer questions related to the scope of their employment may form the basis for disciplining and dismissing officers.¹⁴

Per California Government Code Section 3300, the “Public Safety Officers Procedural Bill of Rights Act”¹⁵, disciplinary action against an officer must occur within 12 months of the date the complaint is filed and that gathering of evidence, interviews, findings, recommendations, and command action must all occur within that period. To operate efficiently within these time constraints, the OCC needs some effective force of its own.

Other jurisdictions have addressed this matter by granting the right to either full or limited subpoena powers to their civilian review authorities. Among these agencies are: Portland, Berkeley, Philadelphia, New York City, New Orleans, Milwaukee, Cincinnati, Cleveland, Orange County, Miami, St. Louis, Detroit, and Washington, D.C. In some cities, officers are directly required to cooperate with oversight agencies by local ordinance. This is true in Oakland, Minneapolis, Albuquerque, and Boise. As a citizen review committee of the Santa Clara Bar Association reported, “Without subpoena power, the Board (of Civilian Review) will not have the necessary underpinnings to establish credibility and have meaningful input.”¹⁶ Expert sources indicate that having subpoena power available as a tool strengthens the independence and autonomy of the civilian review agency.

Subpoena power, in this context, means the power of an oversight agency to compel the testimony of police officers or other persons and/or compel the production of other evidence.¹⁷

- **Strengthen the OCC power of independent investigation through the power of subpoena.**
 - The Board of Supervisors could grant subpoena power to the OCC by ordinance. According to the City Attorney's office, granting subpoena power to the OCC would not be subject to meet and confer.
 - The Board of Supervisors could grant a limited subpoena power extending only to external matters. This authority would not strengthen OCC's power to compel police cooperation, but would assist the OCC in gathering evidence for investigation in a more timely manner.
- **Increase the effectiveness of the OCC through an ordinance requiring Police cooperation upon direct request, including timelines for cooperation and citing a specific penalty for failure to cooperate.**
 - Strengthen the effective power for internal cooperation held by the OCC with an ordinance not only requiring cooperation upon direct request, but including timelines for cooperation and citing a specific penalty for failure to cooperate. According to the City Attorney's office, implementation of this recommendation is, as it affects the basis for disciplinary actions, likely to be subject to meet and confer.
- **Direct the OCC to highlight failures to cooperate in their reporting.**
 - The OCC's periodic reports are primarily statistical. The OCC should be directed to highlight cases, to the extent possible, where the Department or officers are delinquent in responding to OCC requests, particularly where the lack of timeliness will result in dismissal of the complaint. The OCC should also report serious violations of this type publicly to the Mayor and Board.

Recommendations Regarding the Early Warning System:

In 1981, to assist police departments in identifying patterns of inappropriate behavior, the U.S. Commission on Civil Rights recommended creation of early warning systems to identify "problem officers"—those who received frequent complaints from citizens.¹⁸ An Early Warning System is "a data-based management system for reviewing police officer performance, identifying officers with recurring problems in dealing with citizens (e.g., frequent complaints), and providing an intervention designed to correct the officers' performance."¹⁹ An accumulation of a number or type of complaints by an individual officer triggers a system recommendation for intervention.

The primary benefit of this system is that a department can intervene quickly to work with an officer before more severe discipline is required. Other benefits include the ability to track complaint trends for both individuals and groups of officers; the ability to generate data to improve training, policies and procedures; enhanced monitoring of officer performance; and early containment of issues that might become problems.

San Francisco's Early Warning System was one of the first in the country, but remains a primarily manual entry system without the ability to generate reports showing cumulative data or trends either for individual officers or for the department as a whole. The Early Warning System (EWS) as administered by the OCC identifies and evaluates the behavior of members who have received three (3) or more complaints within a six (6) month period, or four (4) or more complaints within a year.

Information from each complaint is input into the OCC's Access 2000 database. The OCC generates reports from its database that are analyzed in detail to determine if an officer's complaint history warrants the officer's inclusion in the quarterly report to the Police Commission. This report is also sent to the Commanding Officer of the Management Control Division (MCD). MCD prepares a memorandum to the Chief of Police; a copy of the memorandum is sent to the officer, his/her commanding officer, and to the commander and deputy chief of the bureau to which the officer is assigned. At this point, the OCC is assigned no further duties in the application of the EWS report. *(A more detailed explanation of the procedure is attached in Appendix A.)*

Use of OCC reports and information from the Early Warning System by the department is codified in San Francisco Police Department General Orders (DGO) 3.19. This statement of policy and procedures was last reviewed in October 1997 and covers minimal policies regarding the handling of misconduct complaints, the uses of information from the Early Warning System, and includes procedures for non-punitive counseling/performance review as required under the Early Warning System.

Warning System Triggers

The current intervention triggering system lacks sufficient scope and detail to be effective. Receipt of three sustained complaints within six months or four complaints in a year triggers non-punitive counseling intervention. This measure likely fails to capture some types of potentially problem behavior. For example, in some instances a single complaint of a severe nature should prompt intervention. Further, accumulating two serious sustained complaints, such as use-of-force, in the first half of a year and one similar complaint in the second does not prompt intervention, and that scenario could repeat for multiple years without prompting intervention.

Triggers within the system also fail to distinguish among types of complaints, with all types of complaints carrying equal weight. A complaint against a unit as a whole, or a complaint filed when an officer's partner commits the action and the officer is also named, are listed in all named officer's files and combine in the same way as complaints made for more severe actions. Finally, a broader range of indicators, such as civil suits, against an officer, are not currently included in the tracking.

The DOJ's National Institute of Justice compiled performance indicators to include as triggers in an Early Warning System from several sources in its research. They include not only numbers of complaints, but also firearm-discharge and use-of-force reports, civilian litigation, resisting-arrest incidents, and high-speed pursuits and vehicular damage.²⁰

The National Organization of Black Law Enforcement Executives (NOBLE)²¹ supports EWS that uses—at minimum—complaints and other indicators of possible high risk such as:

- High number of use of force incidents
- High number of Resisting an Officer arrests

- Large number of arrests that are not charged due to improper detentions and/or searches
- Vehicle accidents
- Sick leave abuse

NOBLE further recommends that officers whose indicators trigger the system should receive increased supervision as well as counseling or additional training.

The settlement agreement by the City of Oakland requires the Police Department to “enhance its existing complaint-tracking and select indicator systems” to include information on 20 indicators—of which citizen complaints is just one indicator—in “a fully implemented, computerized relational database for maintaining, integrating and retrieving data necessary for supervision and management of Oakland Police Department (OPD) and its personnel...to promote professional police practices; to manage the risk of police misconduct; and to evaluate and audit the performance of OPD members...”²² Indicators included in the system are:

1. All uses of force required to be reported by OPD;
2. Oleoresin Capsicum (pepper spray) spray canister check-out log
3. All police-canine deployments;
4. All officer-involved shootings and firearms discharges, both on duty and off duty;
5. All on-duty vehicle pursuits, traffic accidents and traffic violations;
6. All citizen complaints, whether made to OPD or Citizens Police Review Board;
7. All civil suits and/or tort claims related to members’ and employees’ employment at OPD, or which contain allegations which rise to the level of a *Manual of Rules* violation;
8. If the member is transferring to or serving in certain units, such as vice or narcotics, all reports of civil financial claims such as bankruptcy, tax matters, and other liens;
9. All in-custody deaths and injuries;
10. The results of adjudications of all investigations related to items (1) through (9), above, and a record of all tentative and final decisions or recommendations regarding discipline, including actual discipline imposed or non-disciplinary action;
11. Commendations and awards;
12. All criminal arrests of and charges against OPD members and employees;
13. All charges of resisting or obstructing a police officer, assault on a police officer, or assault-with-a-deadly-weapon on a police officer;
14. Assignment and rank history for each member/employee;
15. Training history for each member/employee;
16. Line-of-duty injuries;
17. Sick leave usage, particularly one-day sick leaves;
18. Report Review Notices or Case Evaluation Reports for the reporting member/employee and the approving supervisor;
19. Criminal cases dropped due to concerns with member veracity, improper searches, false arrests, etc.; and
20. Other supervisory observations or concerns.²³

Note that the settlement requires these indicators to be used in a new Personnel Information Management System, which is more than just an Early Warning System, but the indicators are almost uniformly germane to an EWS as recommended by NIJ and NOBLE above.

Technology

The current OCC EWS technology is an Access 2000 database system built by DTIS that runs on a file server and modem connection. According to the OCC it is oversized for the amount of storage space it has and slow at best. At a minimum, it should be upgraded to its own SQL server and high bandwidth connection.

The system does not currently generate sufficient information to intervene with officers who receive complaints that could indicate problems. The system does not have reports on complaint trends for individual officers or the department; nor is it possible to track the status of a pending complaint to discover where it is on the timeline of disposition by either the OCC or the department, or what actions have already been taken. The system should, but does not, automatically issue status reports regarding complaints, date received, nature of allegation, stage of review, pending hearing by the Chief, etc. It is not a useful tool for risk analysis or management because it does not contain key performance data.

The U.S. Department of Justice has incorporated a sophisticated EWS as a key requirement in all settlement agreements they have made in actions against police departments in major jurisdictions such as Los Angeles, Cincinnati, and Washington, D.C.²⁴

The DOJ lists the Los Angeles Sheriff's Department Personnel Performance Index (PPI) as an exemplar system that "promotes accountability and effective management".²⁵ This sophisticated system "permits the user to pull up each citizen's complaint, the narrative of the investigation of the complaint, and other documents generated in connection with the investigation. (It) is built on an ORACLE relational database, and (has) the power to generate reports and make queries..."²⁶ A report by the L.A. County Sheriff's Special Counsel and PARC²⁷, states that Los Angeles and Washington D.C. are implementing equally complex systems as a result of a U.S. Department of Justice mandated settlement. It goes on to speak of computerized innovations developed by the Pittsburgh, Phoenix, Miami-Dade, Tampa, and San Jose police departments. Clearly the trend across the country is to develop or improve early intervention systems to proactively address problem and high-risk behaviors by officers on the job. Software development costs can be reasonable if the system is developed on the current Access database, or off-the-shelf software is readily available.

➤ **Expand the Early Warning System to include a wider range of indicators such as civil suits and firearms discharge, and to move reporting of and accountability for indicators up the chain of command.**

- At a minimum the Department and OCC should add to the Early Warning System civil rights complaints, civil suits against individual officers, and City settlements as possible indicators of high risk, none of which appear as triggers in the Early Warning System at this time. They should also consider adding items such as use of force reports, firearms discharge, resisting an officer arrests and sick leave abuse.
- The Department and OCC should consider expanding reporting of and accountability for complaints up the chain of command. No current system exists for reviewing numbers of complaints received by officers under a senior officer's command or a Field Training Officer's supervision.

➤ **Enhance the effectiveness of the Early Warning System through expanding system triggers and specify a resulting intervention for each.**

- The Board of Supervisors could require the OCC, the Management Control Division, and an independent City agency such as the Controller or Ethics staff to come together in a working group to develop and propose changes to the system triggers and resulting interventions within a specific time period, or;
- The Police Commission could come forward with a decision on a more effective system of triggers and appropriate intervention for each and change the Department General Order.

NOTE: According to the City Attorney's office, implementation of these recommendations would, where it affects the basis for disciplinary actions, likely be subject to meet and confer.

➤ **Upgrade the current technology to a more advanced system.**

- The Board of Supervisors could direct the OCC, the Management Control Division, and the Police Commission to form a working group to work under deadline to manage an upgrade to a more sophisticated system for early warning and risk management capable of producing reports at a significant level of detail to enhance proactive intervention, discipline, and trend-spotting.

Additional Recommended Areas For Board, and Police Commission or Department Consideration

In the course of this review, other concerns surfaced that should be addressed for improvement of the complaint review system overall. We state those areas for consideration.

➤ **Review the Manual of General Orders to assure all policies and procedures are up-to-date**

The majority of the police department's Department General Orders are dated as adopted or revised in 1994. The department should review the Manual of General Orders to assure all policies and procedures agree with current practices—especially as regards interactions with the OCC and timelines for handling complaint and recommendations—and are updated appropriately.

➤ **Require quarterly reports from the Management Control Division similar to and in timing conjunction with the reports required of the OCC**

The Police Commission should consider requesting quarterly reports from the Management Control Division similar to and in timing conjunction with the reports required of the OCC. This would include general information on cases received from the OCC, length of time pending, and status (pending, under review, pending action, etc.) These reports would also be a matter of public record, and thus extend accountability for disposing of complaints in a timely manner to the MCD.

- **Add a session on the City's whistleblower policies and protections, and other method of reporting misconduct, to other mandatory trainings for police personnel**

The department should consider adding a session on the City's whistleblower policies and protections, and other methods whereby officers can report misconduct or wrongdoing, to other mandatory trainings for police personnel. By doing so, the department would send the message to officers and staff that they support the policies.

Overview of Models

Complaints: Three Models of Civilian Oversight

We reviewed materials from several expert agencies including the U.S. Department of Justice (DOJ); the National Association of Civilian Oversight of Law Enforcement (NACOLE); and the Department of Criminal Justice, University of Nebraska, and found that civilian oversight follows one of three principal models:

- Independent, investigative model, in which citizen oversight boards investigate allegations of police misconduct and recommend actions to the chief of police.
- Monitoring model, in which citizen boards review the findings of internal police investigations and recommend that the chief approve or reject the findings.
- Outside auditor/ombudsman model, in which an auditor investigates the process by which the police...accept or investigate complaints and reports to the department and the public on the thoroughness and fairness of the process. (*See attached Appendix C for a complete description of the three models.*)

In attempting to provide comparison information for each reviewed jurisdiction, we found that there are as many differences in practice as there are similarities. In addition to the three basic models, there are hybrid models in which an agency monitors internal affairs investigations and may have the power to investigate in certain circumstances. There are also examples of agencies whose authority is diluted by inadequate funding, training dictated by the department it oversees, or lacking power to compel evidence from the subject department. For example, Miami-Dade County's Independent Review Panel is a hybrid monitoring model that conducts only external fact-finding and dispute resolution.

Each jurisdiction reviewed in this report has been cited as a model or example in one or more of its practices by one or more expert agency. (*See Appendix F for best practice jurisdiction listing.*) This does not necessarily mean that every practice in that jurisdiction should be taken as an ideal way to conduct business. As indicated above, there does not appear to be any one best way to accomplish civilian review.

San Francisco's OCC is cited as an example of the investigative model²⁸, but our review indicates that the office lacks both sufficient independence and the power to compel evidence from the police department that lend strength to this model.

Civilian Review: Policy Direction

In addition to conducting complaint investigations, oversight agencies also make significant contributions to police practices through their reviews of police policies. Oversight entities usually are responsible for recommending additions or changes to departmental policies and procedures as deficiencies are revealed during the complaint investigation or auditing process. "Policy review looks at the underlying circumstances of a complaint to see if there is a need for the police department to have a formal policy on situations (that led to the complaint) or to revise existing policy."²⁹

In this area, the San Francisco OCC is held as an example.³⁰

Early Warning System

Some oversight bodies also develop or maintain “early warning systems” based on complaints received by individual officers; and recommend training, intervention, discipline or termination if excessive complaints are accumulated. **San Francisco was one of the first in the country to develop such a system.**

Civilian Review: Other Functions

A civilian review entity might also take an active role in community outreach to inform citizens of the complaint process—especially important in communities that are primarily non-English speaking; serve as a liaison for community concerns about police practices; examine complaint trends for the department as a whole; and arrange for formal or informal mediation between complainants and subject officers. In addition, civilian review bodies produce a wide range of reports.

Informed Studies

Many jurisdictions and agencies have commissioned or conducted in depth studies of complaint oversight. We have chosen to include below summaries from three cities commonly mentioned as best practice jurisdictions (Berkeley, Portland, and San Jose) (see *Appendix F*), one jurisdiction that used experts in the field of civilian review in planning for a new system (Albuquerque), and the two jurisdictions mentioned in Supervisor Ammiano's request (Los Angeles and Oakland).

LOS ANGELES³¹

Background:

In the wake of the 1991 Rodney King beating, Mayor Tom Bradley established the Independent Commission on the Los Angeles Police Department (LAPD). The Independent Commission, known as the "Christopher Commission" to reflect the leadership of Warren Christopher, was to examine the structure and operation of the LAPD in order to identify causes and factors contributing to police use of excessive force. The Commission's report, issued in 1991, presented the Commission's analysis of why and how often police authority is abused and to offer recommendations.

Action:

The Christopher Commission's report included findings and recommendations regarding:

- **The proper balance of power between the police commission and Chief of Police:** The Police Commission lacked the power to hold the Chief of Police accountable; real power and authority resided in the Police Chief, which caused various Police Commissions to exercise control through strategies of outright confrontation to simple acquiescence or appeasement.
- **Public complaints and discipline:** In cases involving allegations of excessive force, the system was unfairly skewed against the complainant. There were significant problems with the initiation, investigation, and classification of complaints.
- **Management, supervision and leadership:** Excessive force is a management issue. There were a significant number of officers who repeatedly misused force and persistently ignored the written policies and guidelines of the Department regarding force. The Department had never performed an overall analysis of officers with multiple complaint histories involving excessive force.
- **Training:** Field Training Officers (FTOs) have enormous influence over the development of new officers. However, flaws in the process by which FTOs are selected and trained allowed too many FTOs to pass on to new officers confrontational attitudes of hostility and disrespect for the public.
- **Officer selection – psychological testing and background investigations:** The initial psychological evaluation was an ineffective predictor of an applicant's tendencies toward violent behavior and the background investigation paid too little attention to a candidate's history of violence, which is a better predictor. (Christopher Commission report)

The report recommended the Police Commission create an Office of the Inspector General (OIG) to audit and oversee the complaint and disciplinary process. The OIG would be responsible for overseeing the receipt of citizen complaints, monitoring the progress of complaints through the department's Internal Affairs Division (Internal Affairs) investigative process, and auditing the results of Internal Affairs' investigations. The report recommended that the disciplinary system be audited annually, and the results of the audit be incorporated into the Chief's performance review (OIG report).

Five years after the Christopher Commission report, in 1996, Special Counsel to the Los Angeles Police Commission issued a report on the LAPD's implementation to date of the Commission's recommendations and directions for further work. The Special Counsel's report found that the use of force had declined in absolute numbers, although not as a percentage of arrests; the severity of force used had decreased with the deployment of chemical spray; diversity was improving overall, although far too slowly in the upper ranks; and the increased role of Internal Affairs had enhanced the quality of disciplinary investigations (Special Counsel report, p. v, Foreword).

Recommendations:

The Office of the Inspector General (OIG) submitted its first annual report in 2002, which focused on the LAPD's personnel complaint processes. Overall the report concluded that since the Christopher Commission report was issued, LAPD has streamlined the way complaints are handled and investigated, allowing investigators to focus more attention on major complaints.

Specific recommendations included:

1. The LAPD should continue to upgrade its information and database systems to provide accurate, timely and reliable data on the disciplinary system.
2. The LAPD should continue to implement the policies and procedures necessary to ensure that time and effort devoted to investigating each complaint varies according to the severity of the allegations.
3. The LAPD should be sensitive to the perception of disparity within the discipline system, disparity in both final penalties and also timeliness of complaint handling and awarding of promotions.
4. Internal Affairs should continue to work with the OIG to develop procedures to ensure timely and appropriate responses to OIG inquiries in investigations about which the OIG expresses disagreement or other concerns to Internal Affairs.
5. The LAPD should continue its efforts to expedite notifications to complainants regarding the dispositions of their complaints.
6. The LAPD, and Internal Affairs in particular, should adjust their focus when investigating complaints so that issues beyond the guilt and appropriate punishment of those involved are also examined. For example, what policies may have contributed to the conduct that led to the initial complaint, and what changes in policy could prevent similar complaints in the future.
7. The Police Commission should strengthen its oversight of the use of force review process by permitting the Inspector General to ask questions at the Use of Force Review Board.

Results:

Both the Special Counsel and the Office of the Inspector General (OIG) reports emphasize that the LAPD has made substantial progress and also has much work still ahead. The OIG noted that the LAPD lacks a customer service mentality underpinning its disciplinary procedures, and its community relations would be better served by a more flexible system of responses. In addition, the OIG said that complaints too often fail to trigger introspection that could improve the department's functioning and community relations.

OAKLAND³²

Background: The Oakland Citizens' Police Review Board (CPRB), established by Ordinance in November 2002, consists of 12 members recommended by the City Council, appointed by the Mayor and confirmed by the Council, and has jurisdiction over all citizen complaints concerning police conduct. They have a staff of civilian investigators, a policy analyst, and a non-City Attorney legal investigator. The CPRB makes recommendations regarding proposed discipline and policy changes to the City Manager who consults with the Chief but has the final authority.

In a December 2000 lawsuit in Federal Court (settled in January 2003), 119 plaintiffs claimed that four police officers had violated their civil rights, and alleged false arrest, planting evidence, excessive use of force, falsification of police reports, and assault and battery. Rookie police officers had reported the misconduct. The officers were immediately placed on administrative leave and an internal investigation begun by the department. The investigation concluded the officers had committed serious violations of department policy and the officers were fired. The investigation also led to criminal prosecution the Alameda County District Attorney's Office.

Action: In an aggressive action on the part of the City of Oakland, staff from the department and the City Attorney's office worked with the plaintiffs' attorneys for nearly two years to develop a mutually agreed-upon, court-approved settlement agreement. A panel of experts—including a former DOJ attorney, a New York Police Department Deputy Commissioner, former police chiefs from other urban cities, and a former president of the Black Police Officers' Association—was convened to develop new police accountability procedures. Best practices and procedures for supervision, training and accountability in other jurisdictions were considered. The idea was to strengthen the current system, not develop a new system.

Recommendations: The settlement between the plaintiffs and the City of Oakland was finalized in Federal Court in January 2003. The agreement included a monetary settlement and PD operational reforms. Reforms of the Oakland system will include:

- Acquisition of a sophisticated, computerized early warning system to improve detection of officers exhibiting at-risk behavior;
- Increased field supervision of patrol officers by adding more sergeants on patrol;
- Improved citizen access to the internal affairs complaint process;
- Improved internal affairs investigation;
- Improved reporting and investigation of use of force by officers; and
- Improved training and supervision of field officers.

Results: As part of the settlement, the City of Oakland, working with the attorneys for the plaintiffs, will contract an independent monitor. The monitor—acting as the agent of the court

and subject to court supervision—will oversee and audit the department's compliance with the agreement and periodically report their findings to the Federal Court over a period of five years. *(A Fact Sheet with additional information about the reforms is attached as Appendix D.)*

ALBUQUERQUE³³

Background: Faced with fatal shootings of citizens by police officers, a legacy of past controversy, extremely high payments by the city for claims involving police officers, and growing tension between segments of the community and the police department, the Albuquerque City Council commissioned an independent, in-depth study of Albuquerque's police oversight system. In 1997, Samuel Walker of the University of Arizona and Eileen Luna of the University of Nebraska published "A Report on the Oversight Mechanisms of the Albuquerque Police Department," known widely as the Walker/Luna Report.

The report evaluated Albuquerque's three-part system for complaints: an Independent Counsel, a Public Safety Advisory Board (PSAB), and the Internal Affairs Division (Internal Affairs) of the police department. The Independent Counsel provided some external oversight by directing the complaint process through Directives, Memoranda of Understanding and reviews of investigative files. The PSAB had no direct involvement in the complaint process, but provided some citizen review by conducting studies and making policy and procedure recommendations.

The Walker/Luna Report concluded:

- That the Independent Counsel used his authority only minimally within a large but undefined mandate to review policies and procedures and that he was practically invisible to the community. This situation led to a lack of monitoring of Independent Counsel recommendations that concerned issues important to the public. The report also questioned whether the Independent Counsel was truly independent of the Police Department.
- That the PSAB failed its mission to provide oversight and rarely used its powers. Both public leaders and senior Police staff criticized the PSAB for failing to address concerns about Police practices. They found the PSAB had actually aggravated tensions between the community and PD, with meetings degrading into angry confrontations that allowed no significant changes.
- That Internal Affairs had failed its mission by: failing to meet required deadlines for completing investigations; failing to hold some officers responsible for misconduct; showing bias against some complainants; and failing to publicize the complaint process adequately.

Recommendations by the Walker/Luna report:

- That the city establish a formal link between the Independent Counsel and PSAB such that the Independent Counsel reports directly to the PSAB, and PSAB members may make recommendations for action by the Independent Counsel.
- That the Independent Counsel increase the use of its authority to become more visible and encourage input from the community.
- That the Police Department, the Independent Counsel and the PSAB take immediate steps to publicize the complaint process.

- That the City Attorney and Risk Management office develop a formal program to reduce claim payments involving officers.
- That the Mayor and City Council become more active in problems involving the Police Department, especially issues of great public concern.

City Task Force Recommendations:³⁴

Immediately upon issuance of the Walker/Luna report, the City Council solicited public input and made a commitment to revise Albuquerque's system of oversight. The Council established a committee to evaluate the report recommendations and obtain information from peer jurisdictions. The committee then established a Task Force on Police Oversight with broad representation to develop models for the City Council to consider. The task force delivered recommendations on five different models as well as ways to increase citizen participation.

Results:

The City Council, after consideration of the options, passed an ordinance effective January 1999 establishing the current form of oversight. The Independent Review Office (IRO), an independent agency staffed by professional, civilian investigators, receives all citizen complaints involving the Albuquerque Police Department and its employees. The complaints are assigned for investigation to either the Internal Affairs or to an IRO Investigator. Findings and recommendations are forwarded to the Chief of Police who has sole authority for discipline. Citizens may appeal the final disposition of their complaints to the Police Oversight Commission, which consists of seven members, two appointed by the Mayor, and the other five selected by the Mayor from nominations of the nine City Council members. In addition, the IRO may make recommendations regarding Police policies and procedures to the Chief of Police, the City Council and the Mayor.³⁵

BERKELEY³⁶

Background: Berkeley's system of police oversight, the Police Review Commission, was established in 1973 to provide for community participation in setting and reviewing police department policies, practices and procedures and to provide a means for prompt, impartial and fair investigation of complaints brought by individuals against the Berkeley Police Department (BPD). The Commission's mandate is to review and make recommendations to the public, the City Council and the City Manager concerning all written and unwritten policies, practices and procedures of whatever kind and without limitations, in relation to the Berkeley Police Department, other law enforcement agencies and intelligence and military agencies operating within the City of Berkeley, and law enforcement generally.

Action: The Commission consists of nine civilian members, each appointed by one City Council member. The Commission elects one of its members to serve as Chair, and one to serve as Vice-Chair for terms of one year. Commissioners receive \$3.00 per hour compensation for time spent investigating complaints, reviewing policies and procedures, and attending meetings. Meetings are to be held in a central location that is not the building in which the Police Department is located.

Staff investigators receive all complaints brought by aggrieved persons. The Commission may also initiate **investigations** or other actions with five affirmative votes by members. Reports of

investigations must be circulated and submitted within 75 calendar days after the complaint was filed. Immediately after the investigation report is issued, the investigator notifies the complainant, subject officer and Chief of Police that a Board of Inquiry will consider the complaint. Statements taken during an investigation must be tape recorded, summarized in writing by the investigator, and signed by the person who gave the statement. In complaint cases involving criminal charges against a BPD officer, the Commission may only file the complaint; no investigation may proceed until the criminal matter has been adjudicated or dropped.

Recommendations: Complainants may request an informal **mediation** process to settle any misconduct case, except one involving the death of an individual. If the complainant, the Commission, the BPD and the subject officer agree, the parties will attempt to resolve the matter through mediation. One commissioner serves as mediator for a given case, and he or she helps the complainant and subject BPD member discuss the incident thoroughly and frankly in an effort to reach a mutually agreeable resolution.

Complaints may be “**administratively closed**” upon recommendation of a Commission member or staff and majority vote of Commissioners. Administrative Closure does not constitute a judgment on the merits of the case, but is effected in situations in which:

- The complainant is unavailable, and staff have attempted to reach her or him at least three times by phone and/or mail;
- The complaint is moot because the employment of the subject officer has been terminated or the dispute was resolved through mediation; or
- The complainant fails to cooperate with the investigation such that the integrity of the investigation is compromised or significant prejudice has arisen.

Results: Cases come for hearing by **Boards of Inquiry**, consisting of three Commission members. The Commission has the discretion to consider a case on the basis of interview statements without holding a hearing. In cases involving the death of a person and such other cases as the Commissioners deem necessary, the Commission sits as a Board of the whole with a minimum of six members. Either party may challenge a Commissioner on a Board of Inquiry for conflict of interest or bias, and the challenge must follow Commission regulations governing such an action. The Board of Inquiry shall review the investigative report and the evidence gathered, hear testimony, prepare findings, and shall advise the Chief of Police and City Manager of its conclusions and recommendations.

The City Manager makes final disposition of each case.

PORTLAND, OR³⁷

Background: Historic performance, poor communication and lengthy procedures had contributed to a credibility gap in the Police Department's Internal Affairs division. To improve police accountability to the public, the Portland City Council passed an ordinance effective July 1, 2001 replacing the Police Internal Investigations Auditing Committee with the Independent Police Review Division (IPR) and the Citizen Review Committee (Citizen Committee). This

action followed the addition of five new sergeants to Internal Affairs in the fall of 2000 to handle complaint cases more quickly.

Action: Composed of seven professional staff and a committee of nine citizen volunteers, the IPR and the Citizen Committee comprise an independent office operating under the Portland City Auditor; they are not part of the Portland Police Department (PPD). The director of the IPR is selected by the City Auditor, is accountable to the City Auditor, and has office space within the City Auditor's office.

The IPR is responsible for:

- Receiving all citizen complaints regarding allegations of misconduct involving members of the PPD that cannot be resolved by a PPD member or supervisor;
- Monitoring Police Internal Affairs' investigations of complaints against the police;
- Coordinating appeals of Internal Affairs' findings to the Citizen Committee; and
- Working with the Citizen Committee to recommend policy changes to the City Council and Chief of Police.

The Citizen Committee is responsible for:

- Holding and participating in public meetings to ensure that community concerns with police services are publicly heard and addressed
- Hearing appeals of PPD investigation findings related to citizen-initiated complaints; and
- Working with the IPR to recommend policy changes to the City Council and Chief of Police.

Complaints may be addressed in a variety of ways. Certain complaints may be resolved through mediation if the complainant, the member of the Citizen Committee, and the PPD agree on this course of action. In some cases, the IPR works with Internal Affairs, with one or the other agency taking the lead in investigating the complaint. The Director of IPR may also refer the complaint to another city department for investigation or dismiss the complaint altogether if certain criteria are met.

Portland also has focused on accurate data collection as a means to improve its police practices. A 2001 review of the Portland Police Department's performance measures conducted by an outside consultant evaluated:

1. Whether the PPD's ability to process complaints had improved with the addition of the five sergeants; and
2. How performance measure data could be improved to provide timely, relevant information about the work of Internal Affairs.

In answer to the first question, the review found that the speed of Internal Affairs' investigations had improved significantly but the total-time-to-closure remained high. And the 2002 Second Quarter Report by the IPR noted that the number of complaints open at the month's end had been increasing steadily and that a small number of pending investigations had been open for more than 120 days.

Recommendations: In answer to the question of useful performance measures, the 2001 review recommended the PPD improve its measures in the following ways:

- Report on data showing both positive and negative reinforcement steps taken. Showing police officers and the public that there are consequences for particular actions can demonstrate that the department is committed to improvement;
- Implement and track efforts to reduce those complaints that are essentially unrelated to officer misbehavior;
- Track the time spent investigating complaints, including short cases, and work to reduce that time;
- Describe investigation outcomes in terms that will interest outside observers; and
- Use terminology that better communicates what the department does with complaints.

Results: In January 2002, the Chief of Police submitted a point-by-point response to the 2001 review in which he described the department's current efforts to implement each recommendation, strategies for the future, and any known budget impact.

SAN JOSE³⁸

Background: Established in 1993, San Jose utilizes the auditor model of police department oversight with the Office of the Independent Police Auditor (Police Auditor). The Police Auditor was established to audit the investigations of citizen complaints of misconduct by San Jose police officers. The Police Auditor's office is independent from all other city departments and reports directly to the Mayor and City Council.

NB: The City Council voted unanimously for an auditor rather than a civilian review board after a long and contentious hearing in November 1993. Twenty-four people were arrested, following their protest of the Council's rejection of the civilian review board option. The Mayor and Council had strengthened role of the Police Auditor from an original proposal by the City Manager, and they called the strengthened office a "compromise."

Action: The Police Auditor's **mission** is to provide an independent review of the citizen complaint process, to promote public awareness and increase greater police accountability to the public by the San Jose Police Department.

Any person who wants to make a complaint against any San Jose police or reserve officer files his or her complaint directly at the Police Auditor office, thereby initiating an investigation. Third-party witnesses to misconduct are able to file complaints, as well as persons directly involved in an incident. The complaint is then forwarded to the Professional Standards and Conduct Unit (Internal Affairs) for investigation. The Police Auditor monitors the progress of the investigation and can participate in the interviews of witnesses and police officers. The final investigation is forwarded to the Police Auditor for review. The investigation is reviewed for thoroughness,

objectivity, and to ensure that the evidence supported the finding. The Police Auditor is to provide timely updates on the progress of investigations to complainants.

In its **review of Internal Affairs' investigations** of complaints against police officers, the Police Auditor:

1. Must review all complaints which allege excessive or unnecessary force and no less than 20 percent of all other complaints;
2. May interview any civilian witnesses in the course of a review of an Internal Affairs investigation;
3. May attend the Internal Affairs interview of any witnesses, including, but not limited to, police officers. The Police Auditor may not question a witness directly but may suggest questions to the Internal Affairs interviewer;
4. Shall request, in writing, that the Police Department investigate a case further if the Police Auditor concludes that further investigation is warranted. If the Chief of Police does not provide a satisfactory written response, the Police Auditor shall request the City Manager pursue further investigation.

Recommendations: The Police Auditor prepares quarterly public reports containing a summary of issues, problems and trends. The Police Auditor will also make recommendations regarding department policy and additional officer training. In 2001, the Police Auditor reported policy recommendations, including that San Jose:

- Establish a review panel to examine officer-involved shootings;
- Designate an accepted medical location where blood specimen can be taken from uncooperative suspects without the use of excessive force; and
- Establish a mediation program to resolve complaints.

Results: San Jose's Office of the Independent Police Auditor is cited as a best practice example of the auditor model by all expert agencies.

Appendix A – San Francisco's Early Warning System

SAN FRANCISCO'S EARLY WARNING SYSTEM – POLICY AND PROCEDURES

(Synopsis from the San Francisco Office of Citizen Complaints)

Department General Order 3/19, COUNSELING OF MEMBERS/EARLY WARNING SYSTEM, I. Policy, B. EARLY WARNING SYSTEM states:

The Early Warning System (EWS) is being established to identify and evaluate the behavior of members who have received three (3) or more complaints within a six (6) month period, or four (4) or more complaints within a year. Complaints filed with the Management Control Division will also be considered if they reflect a pattern of similar behavior as alleged in the OCC complaints.

The OCC uses certain internal documents to create reports generated from its database. These reports are then analyzed to determine if the officers' complaint histories warrant the officers' inclusion in the Early Warning System.

- Source Documents:
- 1) Civilian Complaint Forms (Form 293) identify officers accused of misconduct. The officers' names are entered in the database along with the date the complaint was received by the OCC and the findings reached at the conclusion of the investigation.
 - 2) A report ("TOP" Report; see Attachment A) is generated from the database, which is based on a fifteen month period, ending with the current or reportable quarter. Officers who received complaints during this time period are listed on the report and their case numbers are listed by category, i.e., three or more complaints within six months and/or four or more complaints within one year. The dates that the complaints were received by the OCC are also listed.
 - 3) A report generated from the OCC database of an officer's complaint history (Attachment B) is analyzed to determine if any of the complaints reached findings that were solely unfounded, withdrawn, informational only, no finding reached or some combination thereof. Those complaints are then deducted from the total used to establish inclusion in the EWS. The OCC Director has recommended that complaints that produce findings that are solely "proper conduct" or proper conduct and any combination of findings listed above, should not be counted as part of the EWS. However, the Department General Order does not exclude proper conduct findings; therefore, the OCC considers the complaints with this finding in the tabulation of eligible complaints, but will indicate on its report to the Police Commission which complaints have resulted in

proper conduct findings and if the elimination of such complaints would exclude the officer from the EWS.

- Procedure:
- 1) The TOP Report is generated. [Note: the last two reports listed 131 and 117 officers.]
 - 2) An Officer's Complaint History is generated for each officer listed on the TOP Report. Findings reached for each allegation of each complaint are analyzed to determine if any complaint is solely unfounded, withdrawn, informational only, no finding reached or some combination thereof. These complaints are deducted from the officer's total. Complaints that are solely proper conduct or proper conduct and some combination of the findings listed above are bracketed but not excluded.
 - 3) The officers' complaint histories remaining on the report are then analyzed on an individual basis. At least one complaint (the "qualifying complaint") must have been received during the reportable quarter. The date that the OCC received the qualifying complaint is the date that sets the timeframe for the six month and 12 month periods.

For example, if an officer receives a complaint on October 1, 2002 and the findings on the complaint were "not sustained", then the officer will be included in the EWS if s/he has also received two or more complaints between April 1, 2002 and October 1, 2002., or has received three or more complaints between October 1, 2001 and October 1, 2002.

- 4) The amended TOP report is then recorded in a word document. This final product (Attachment C) is presented to the Police Commission and forwarded to the Commanding Officer of the Management Control Division. The latter prepares a memorandum to the Chief of Police identifying officers in the report; a copy of the memorandum is sent to the officer, his/her commanding officer, and to the commander and deputy chief of the bureau to which the officer is assigned.
- 5) The OCC is assigned no further duties in the application of the EWS report. Duties of SFPD supervisory personnel in this regard are outlined in Department General Order 3.19, COUNSELING OF MEMBERS/EARLY WARNING SYSTEM.

ATTACHMENT A

CONFIDENTIAL

EARLY WARNING SYSTEM REPORT ("TOP")

Ending June 30, 2002

THE POLICE COMMISSION
OFFICE OF CITIZEN COMPLAINTS
CITY AND COUNTY OF SAN FRANCISCO

SFPD MEMBER NAME	STAR #	CASE ID	RCVD DATE
██████████	██████		
4 OR MORE COMPLAINTS RECEIVED IN 12 MONTH PERIOD			
		0383-01	05/15/2001
		0535-01	07/09/2001
		0606-01	08/06/2001
		0674-01	08/23/2001
		0680-01	08/27/2001

██████████	██████		
3 OR MORE COMPLAINTS RECEIVED IN 6 MONTH PERIOD			
		0045-02	01/14/2002
		0151-02	03/04/2002
		0261-02	04/09/2002
		0313-02	04/29/2002
4 OR MORE COMPLAINTS RECEIVED IN 12 MONTH PERIOD			
		0045-02	01/14/2002
		0151-02	03/04/2002
		0261-02	04/09/2002
		0313-02	04/29/2002

██████████	██████		
3 OR MORE COMPLAINTS RECEIVED IN 6 MONTH PERIOD			
		0947-01	12/19/2001
		0949-01	12/20/2001
		0054-02	01/22/2002
		0087-02	01/31/2002
		0429-02	06/07/2002
4 OR MORE COMPLAINTS RECEIVED IN 12 MONTH PERIOD			
		0311-01	04/23/2001
		0947-01	12/19/2001
		0949-01	12/20/2001
		0054-02	01/22/2002
		0087-02	01/31/2002
		0429-02	06/07/2002

Friday, September 20, 2002

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THE POLICE COMMISSION
OFFICE OF CITIZEN COMPLAINTS
CITY AND COUNTY OF SAN FRANCISCO

CONFIDENTIAL
MULT CARD - OFFICER COMPLAINT HISTORY
January 1, 1986 - June 30, 2002

Officer Name: [REDACTED]
Star Number: [REDACTED] Retire Date/Code:

Case ID	Assign	Date Recd	UF	UA	CRD	ND	RS	SS	D	Date Chd	Investigator	Department Action
0363-99	31	05/04/1999	1 PC			1 PC				09/30/1999	McMahon	
0363-99	31	05/04/1999	1 NS		1 NS		1 NS			09/30/1999	McMahon	
0445-99	31	06/15/1999							1 NS	04/28/2000	Raposa	
0445-99	31	06/15/1999	3 SLS							04/28/2000	Raposa	COUNSELING AND RETRAINING
0607-99	31	07/26/1999			1 NS	1 NS				10/31/2000	Kung	
0751-99	31	09/13/1999	1 NS							12/31/1999	Wechler	
0751-99	31	09/13/1999			2 NS					12/31/1999	Wechler	
0751-99	31	09/13/1999	2 PC							12/31/1999	Wechler	
0131-00	31	02/09/2000			1 NS					03/06/2000	Balazar	
0854-00	3G	10/12/2000	1 PC							11/06/2000	Ashel	
0383-01	31	05/15/2001			1 NS	1 PC				07/31/2001	Calderon	
0383-01	31	05/15/2001			1 NS					07/31/2001	Calderon	
0335-01	31	07/09/2001	1 NS							06/26/2002	Raposa	
0535-01	31	07/09/2001	2 NS							06/26/2002	Raposa	
0606-01	31	08/06/2001	1 NS		1 NS	1 NS			1 NS	02/28/2002	Jones	
0606-01	31	08/06/2001	4 NS							02/28/2002	Jones	
0674-01		08/23/2001	2 PC							01/31/2002	Jones	
0680-01	31	08/27/2001				4 SLS				04/02/2002	Wechler	PENDING AT MGMT CONTROL DIVISION
0680-01	31	08/27/2001	2 NS							04/02/2002	Wechler	
0680-01	31	08/27/2001	1 SLS							04/02/2002	Wechler	PENDING AT MGMT CONTROL DIVISION

Total Incident(s): 11

CONFIDENTIAL
OFFICE OF CITIZEN COMPLAINTS EARLY WARNING SYSTEM REPORT
SECOND QUARTER 2001 (04/01/01 - 06/30/01)

SFPD MEMBER NAME	STAR #	3 COMPLAINTS RECEIVED IN 6 MONTH PERIOD (Case number and date received)	4 COMPLAINTS RECEIVED IN 12 MONTH PERIOD (Case number and date received)
[REDACTED]	[REDACTED]	1017-00 (12/14/00) [0055-01 (01/16/01)] 0102-01 (02/08/01)	
[REDACTED]	[REDACTED]		0681-00 (08/14/00) 0702-00 (08/22/00) 0120-01 (02/13/01) 0214-01 (03/20/01)
[REDACTED]	[REDACTED]	[0124-01 (02/14/01)] 0195-01 (03/13/01) 0311-01 (04/23/01)	0914-00 (11/13/00) 0945-00 (11/14/00)
[REDACTED]	[REDACTED]		[0198-00 (03/09/00)] 0207-00 (03/13/00) 0366-00 (05/01/00) 0474-00 (06/02/00) 0561-00 (07/05/00) 0036-01 (01/16/01) 0177-01 (03/05/01)

ATTACHMENT C

Note: Those persons who appear to be within both groups, but who have not been enumerated in both columns, have been reported in prior EWS Reports. For the information of SFPD Management Control Division and of the Police Commission.

* The names of all officers who would not appear in this OCC EWS Report (1st Quarter 2002) but for having one or more complaints that have been resolved as "Proper Conduct" are bracketed in this report. As suggested in a letter by OCC Director Dunlap submitted to the Police Commission with the OCC EWS report for Second Quarter 2000, it is recommended that DGO 3.19, which defines the Early Warning System and which governs EWS reporting and inclusion/exclusion of numbers, be amended to exclude any complaint as to which all findings by OCC are "Proper Conduct" (or are any combination of "Proper Conduct" and other excluded findings (i.e., "Unfounded" and "Information Only")). In the interim, this report is submitted consistent with the current version of DGO 3.19, which includes "Proper Conduct" complaints. (Each complaint that would be excluded under the proposed change in DGO 3.19 to omit "Proper Conduct" complaints, also is bracketed in this report.)

Appendix B – Practice Comparison in Selected Jurisdictions

PRACTICE ISSUE	Composition	Staffing & Supervision	Jurisdiction	Effective Force	Authority	Action	Reporting
SAN FRANCISCO (Office of Citizen Complaints)	<p>The OCC is a separate agency but not a separate department, staffed by civilians who have never been police officers in San Francisco.</p> <p>Mayor appoints a nominee of the Police Commission as director. The Director of the OCC reports to the Police Commission, and Commission can terminate Director. By Charter, the Police Commission holds the power to manage, organize and reorganize the OCC.</p>	<p>OCC has 29 FTEs, including 15 investigators as per Charter (1 for every 150 SFPD sworn members). Staff also includes: director, chief investigator, senior investigators, attorneys, and administrative. The OCC reports to the (civilian) Police Commission. The OCC budget is submitted within the Police Department budget, however, the PD has no control over OCC budget.</p>	<p>Shares jurisdiction over citizen complaints with the Management Control Division. OCC investigates all on-duty complaints and those in which an officer used official authority. OCC has review jurisdiction over every internal investigation of officer-involved shooting or death in custody. No jurisdiction over off-duty officers.</p>	<p>Recommends disciplinary action to Chief of Police on sustained complaints</p>	<p>OCC authority comes from Charter: "The OCC shall receive prompt and full cooperation and assistance from all departments, officers and employees of the City and County." (no penalty noted for failure to cooperate or definition of "prompt or full")</p> <p>Disciplinary authority held by Chief of Police and Police Commission.</p>	<p>OCC completes a sustained complaint report that includes complaint, summary of interviews and evidence, relevant rules, and other internal evidence, and then sends letters regarding sustained complaints to complainant and officer (without stating intervention action taken).</p> <p>Officers with sustained complaints have 10 days to contest. After 10 days, all sustained complaints reports go to the Management Control Division of SFPD, they evaluate for the chief and recommend discipline. The Chief signs off.</p>	<p>Monthly - summaries of complaints received.</p> <p>Quarterly - recommendations concerning policies or practices of the department that could be amended.</p> <p>Quarterly - report to the Board of Supervisor regarding number and outcome of complaints, review of disciplinary action taken.</p>

PRACTICE ISSUE	Composition	Staffing & Supervision	Jurisdiction	Effective Force	Authority	Action	Reporting
OAKLAND(Citizens' Police Review Board)	12 members of whom 3 are alternates. Members are recommended by Council members, appointed by the Mayor, confirmed by the Council. Appointments are for 2 years, and no more than two consecutive termsBoard holds regular monthly meetings.	1 investigator per 100 officers (ratio established by ordinance Nov. 2002--to be phased in as budget allows). Other personnel, including Policy Analyst, work in Office of City Manager.One non-City attorney assigned as legal advisor when Board receives testimonial evidence or evidence that could lead to a recommendation for discipline. Administrative oversight by City Council.	Has jurisdiction over all citizen complaints that are filed with the Board or with the Oakland PD. Forwards copies of complaints to PD Internal Affairs w/in 24 hours.	Recommends disciplinary action to the City Manager, who responds as to whether recommendations were implemented as recommended, implemented with modifications, or not implemented and why. Board has power of subpoena within boundaries of the complaint investigation process.	By Ordinance: "The Chief shall order all officers to fully cooperate with the Board's investigator..."All police records relating to complaints are to be made available to the Board. Non-public records are to be provided in confidence to the Board's investigators who shall release them only to the Board in closed session. City Manager has disciplinary authority.	Board tries to investigate all complaints within 180 days of filing. Board may utilize different investigatory and complaint resolution processes, including voluntary conciliation, voluntary mediation, three member panels, full Board hearing, and staff recommendations. Complainant is notified of City Manager action.	Semi-annually - Issues a detailed statistical report to the Public Safety Committee regarding complaints, complaint processing, and complaint disposition. Quarterly (optional) - Board recommends policy changes with regards to matters within its jurisdiction
LOS ANGELES (Office of the Inspector General)	Inspector General, appointed by Police Commission	32 positions, including two Assistant Inspectors General, a special investigator, two sworn members of the LAPD. Reports to the Police Commission.	Has jurisdiction over all investigations of the Police Department.	Recommends disciplinary measures to Police Commission; Commission may accept or reject recommendations.	Authority from City Charter. Has authority to initiate any investigation relating to the Police Department, subject to some direction by the Police Commission. Not permitted to refer criminal matters to outside law enforcement or prosecutorial agencies. Police Commission has disciplinary authority.		Annually - issues audit report to the Police Commission.

PRACTICE ISSUE	Composition	Staffing & Supervision	Jurisdiction	Effective Force	Authority	Action	Reporting
ALBUQUERQUE(Police Oversight Commission)	7 members: Each of 9 City Council members nominates an individual and submits their names to the Mayor, who appoints 5 members from the 9 nominations, the Mayor appoints 2 at-large members. Appointments are for 2 years. The Police Oversight Commission oversees the performance of the Independent Review Officer (an attorney with experience in criminal investigations).Holds "regularly scheduled" meetings.	The City Council and the Mayor's Office jointly provide staff assistance at all regularly scheduled meetings. The Independent Review Office (IRO) receives all complaints and claims against the PD and any of its officers and provides all other staff support for the Police Oversight Commission. Independent of supervision by elected or appointed officials.	Oversees full investigation and/or mediation of all citizen complaints, audits and monitors but does not investigate all PD Internal Affairs investigations and/or police shootings.Housed in a separate facility outside of the government center or PD stations.	The Independent Review Office (IRO) of the POC assigns complaints to either police department for internal administrative investigation or to an independent investigator. The IRO oversees, monitors and reviews all investigation and makes findings for each. Findings related to citizen complaints and police shootings are sent to the POC; findings for all other cases are sent only to the Chief of Police.	By Ordinance, the Independent Review Office has access to any Police Department information or documents relevant to a citizen's complaint, or ongoing issue. Neither the City Council nor the Mayor has power to appoint or remove any employee of the IRO. Mandatory Cooperation Agreement exists between police department and IRO; officers who fail to cooperate are subject to discipline or termination at the discretion of the Chief.	Complaints referred to the Independent Review Office for investigation within 90 days of incident. IRO investigates, holds hearings, and makes recommendations to the Police Oversight Commission, City Council, and the Mayor. Chief completes disposition of complaints, including disciplinary actions.Any citizen may appeal findings of the IRO, which may modify or expand recommendations. Any citizen may also appeal Chief's final decision to the Chief Administrative Officer who may take any action necessary to complete the disposition of the complaint.	Quarterly - issues report to the Mayor, City Council and the public regarding complaint data, issues of interest undertaken by the POC which may include suggested policy or procedural changes, POC's findings and Chief's issuance of discipline, information on public outreach initiatives, and the status of the long-term planning process identifying major problems, policy suggestions, and studies.

PRACTICE ISSUE	Composition	Staffing & Supervision	Jurisdiction	Effective Force	Authority	Action	Reporting
Berkeley, CA (Police Review Commission)	Nine civilian members appointed for two year terms by City Council members. Board elects its chair and vice chair each year	Four staff investigators. Police Review Commission is independent of supervision.	Reviews and makes recommendations to the public, the City Council and the City Manager concerning all policies, practices and procedures without limitations, in relation to the Berkeley Police Department, other law enforcement agencies and intelligence and military agencies operating within Berkeley.	Makes recommendations to Chief of Police and City Manager.	Authority comes from City Charter; Chief of Police and City Manager have disciplinary authority.	Citizens file complaints with the Police Review Commission, which are investigated by the PRC investigator. Investigation reports are sent to complainants and subject officers, and a Board of Inquiry hearing is scheduled.	Quarterly - Issues report to the City Council, City Manager and the public regarding the number, kind and status of all complaints.
CITY OF SAN JOSE (Independent Police Auditor)	Auditor	Reports to the Mayor and City Council.	Reviews Internal Affairs' investigations of complaints against police officers. May interview civilian witnesses and attend interviews conducted by Internal Affairs. May request Chief of Police investigate further if Internal Affairs investigation appears insufficient.	Recommendation only. May request further investigation through the City Manager if Chief of Police does not respond adequately to a request for further investigation.	Authority comes from City Charter; Chief of Police has disciplinary authority.	Citizens file complaints with Independent Police Auditor, which initiates an investigation by Internal Affairs. The Independent Police Auditor monitors the progress of the investigation and reviews the final investigation report.	Quarterly - Issues report to the City Council including a statistical analysis of all complaints, an analysis of trends and patterns, and recommendations.

PRACTICE ISSUE	Composition	Staffing & Supervision	Jurisdiction	Effective Force	Authority	Action	Reporting
<p>PORTLAND (Independent Police Review Division of the City Auditor)</p>	<p>Independent Police Review division of the Portland City Auditor and a committee of nine citizen volunteers. Citizen Review Committee members are appointed by City Council, based on nominations by the Director of the IPR, and serve terms of two years subject to reappointment.</p>	<p>Independent Police Review division is staffed by a Director and six staff members and reports to the Portland City Auditor.</p>	<p>Receives all citizen complaints regarding allegations of police misconduct; monitors Internal Affairs investigations; coordinates appeals of Internal Affairs findings with the Citizen Review Committee; works with Citizen Review Committee to recommend policy changes to City Council and Chief of Police.</p>	<p>Both the Independent Police Review director and the Citizen Review Committee review requests for appeals; make policy recommendations.</p>	<p>Authority comes from Municipal code. The Chief of Police has disciplinary authority, and some discipline actions, such as termination or suspension, are reviewed by the Mayor.</p>	<p>Citizens file complaints with Independent Police Review, who passes the complaint to Internal Affairs for determination of complaint handling. Complaints may be addressed through: criminal investigation, smaller-scale investigation, or mediation. IPR works with Internal Affairs, with one or the other agency taking the lead in investigating the complaint.</p>	<p>Quarterly and Annually- Track and monitor disposition of complaints to public, Internal Affairs, the Chief of Police and City Council. Monitor and report measures of activity and performance of Internal Affairs and the IPR. Issue reports identifying any policy-related issues of quality of investigations.</p>

Appendix C – Models of Civilian Oversight

Complaints: Three Models of Civilian Oversight

We reviewed materials from several expert agencies including the U.S. Department of Justice (DOJ); the National Association of Civilian Oversight of Law Enforcement (NACOLE); and the Department of Criminal Justice, University of Nebraska, and found that civilian oversight has at three principal models. According to NACOLE³⁹, the common oversight models in the U.S. are:

- The independent, investigative model:
In this model, a civilian board, commission or agency takes and investigates complaints; makes findings; and based on those findings makes recommendations to the law enforcement administration regarding discipline and/or policy and procedural changes. The civilian agency may have subpoena power to compel evidence from the police department or civilian agencies. (Examples of this model: San Francisco Office of Citizen Complaints, the Oakland Citizens' Police Review Board, the Berkeley Police Review Commission)
- The monitoring model:
In this model, a Board/Commission reviews Internal Affairs investigations of complaints; finds them adequate or not; and states whether it agrees or disagrees with the IA findings. It may recommend further investigation; it may make policy recommendations. It does not have subpoena power to compel evidence. Since the police department conducts the investigations, this model is considered less independent than the investigative model. (Examples: St. Paul; Long Beach; and Austin.)
- The outside auditor/ombudsman model:
In this model, an individual or auditing board reviews complaints and Internal Affairs (IA) investigations. If an IA investigation is found to be deficient, the auditor may ask for further investigation or may conduct an independent investigation making it a stronger model than monitoring, less independent than the investigative model. The auditor/ombudsman may have power to compel evidence from the police department or civilian agencies. (Examples: Portland Police Internal Investigations Auditing Committee, City of San Jose Independent Police Auditor) In a weaker version of this model, complaints are handled by the police department and only reviewed by the auditor/board if the citizen is not satisfied with the outcome of the investigation and asks for further review.

The U.S. Department of Justice's National Institute of Justice (NIJ), views the three models as follows: "The most active citizen oversight boards investigate allegations of police misconduct and recommend actions to the chief...Other citizen boards review the findings of internal police investigations and recommend that the chief...approve or reject the findings. In still others, an auditor investigates the process by which the police...accept or investigate complaints and reports to the department and the public on the thoroughness and fairness of the process."⁴⁰ (See following table for a more descriptive table of the three models)

In attempting to provide comparison information for each jurisdiction listed below, we found that, though there are "models", there are as many differences in practice as there are similarities. In

addition to the three basic models, there are many hybrid models—such as a model that monitors internal affairs investigations (and) may have the power to investigate in certain circumstances—and diluted models—such as an inadequately funded investigative model, a monitoring model whose training is dictated by the department it oversees, or an auditor who lacks power to compel evidence from the subject department.”⁴¹ Miami-Dade County’s Independent Review Panel is a hybrid monitoring model, for example, who conduct only external fact-finding and dispute resolution.

Three Models of Civilian Oversight Commonly Found in the U.S.

	Investigative Model	Monitoring Model	Auditor/Ombudsman Model (with power to compel evidence)
Description	A Board / Commission or agency which investigates complaints; makes findings; & based on them makes recommendations to the law enforcement administration regarding discipline and/or policy	A Board / Commission which reviews Internal Affairs investigations of complaints; finds them adequate or not; and states whether it agrees or disagrees with the IA findings. It may recommend further investigation; may make policy recommendations.	An individual reviews complaints and Internal Affairs investigations. The monitor may also conduct other investigations not generated by complaints. If an IA investigation is deficient, the auditor may ask for further investigation or may conduct an independent investigation
Function	Produce an Investigation; make findings & recommendation; give citizen, the public and department information. Provide firm, fair, consistent external investigations in order to help law enforcement agency better provide firm, fair, consistent law enforcement services, and better management.	Identify adequate vs inadequate Internal Affairs investigations; direct department to take corrective action. Improve quality of IA Investigations. Provide firm, fair, consistent internal reviews of IA investigations in order to help law enforcement agency better provide firm, fair, consistent law enforcement services, and better management.	Identify, monitor and in some cases investigate problems/ complaints; draw conclusions; make findings/recommendations; conduct audits. Provide firm, fair, consistent reviews and/ or investigations in order to help law enforcement agency better provide firm, fair, consistent law enforcement services, and better management.
Strengths	Model can give complainants & community a greater sense of participation and a sense the decision is made outside the PD To maintain its integrity, investigative model needs members/staff with sufficient knowledge, ability and training to conduct competent investigations. In addition, it needs -ability to compel evidence (subpoena); -funding sufficient to fully	Model can produce findings faster than investigative model, and can provide more citizens' input than auditor model. To maintain its integrity, monitoring model needs to have sufficient knowledge, ability and training to identify problems in Internal Affairs investigations.	An auditor can operate more flexibly and freely than a Board; may have a broader mission than monitoring/investigating complaints. Auditor must have the authority to compel evidence from the department, and adequate funding to carry out duties.

	investigate; -accessible, open public hearings; -due process for officers.		
Weaknesses	<p>Much time/labor required of volunteers.</p> <p>If members/ staff is inadequately skilled and/or trained, poor quality investigations result.</p> <p>Adversarial process.</p>	<p>Much time/labor required of volunteers.</p> <p>If Internal Affairs process is inadequate, and Board is inadequately skilled and/or trained to examine, then Board may not recognize problems in Investigations.</p> <p>Because it works with the IA investigations, this model is more vulnerable to being co-opted, though all models can be.</p>	<p>Depends on the skills, abilities and commitment of one person. Continuity of quality may become a problem.</p> <p>Public may want more than one person's oversight.</p>
Examples:	<p>New York City, NY San Francisco, Calif. Berkeley, Calif. Richmond, Calif. Oakland, Calif. San Diego County, Calif.</p> <p>Hybrids Denver, Co. Long Beach, Ca.</p>	<p>City of San Diego, Ca., Santa Cruz, Ca.</p> <p>Hybrids Denver, Co. Long Beach, Ca.</p>	<p>Los Angeles County, Calif. Los Angeles City, Calif. San Jose, Calif. Tucson, Az. Sacramento, Ca. Boise, Idaho</p>

Table used with permission from the National Association for Civilian Oversight of Law Enforcement (NACOLE), April 2003

Appendix D – Oakland “Riders” Case Settlement Fact Sheet

RIDERS’ PATTERN AND PRACTICE SETTLEMENT AGREEMENT

Fact Sheet

(Source: City of Oakland, City Attorney’s Office Website)

Reforms in Eight Core Areas

- ❑ Internal Affairs Investigations
- ❑ Discipline
- ❑ Field Supervision
- ❑ Management Oversight
- ❑ Use of Force Reporting
- ❑ Personnel Information Management System (PIMS)
- ❑ Training
- ❑ Auditing and Review Systems

INTERNAL AFFAIRS INVESTIGATIONS

Increases Internal Affairs Division (IAD) Staffing

- Investigators added
- Additional investigators loaned for temporary caseload increases

Improves Citizen Access to Complaint Process

- Complaint guidelines posted in key Department and municipal locations.
- New 24-hour complaint line established.
- IAD relocated to City Hall Plaza.
- Multi-lingual complaint forms and brochures widely available.
- Anonymous complaints accepted.
- Investigator will promptly contact complainant.

Expands Complaint Control System

- All complaints entered into central log.
- Timeliness standards for investigations established.
- Complaints categorized by seriousness.

Develops Comprehensive IAD Procedures Manual

- Consolidates administrative procedures in one document.
- Standardizes IAD and unit-level investigations.

Requires Reporting of Misconduct

- Complainant immediately taken to IAD or a supervisor.
- Simplified complaint procedure for jail inmates.

Prohibits Retaliation Against Witnesses

Requires Self Reporting to Department

- If personnel arrested, sued, or served with civil process.
- Reporting required within 72 hours.

DISCIPLINE

Improves Consistency of Discipline

- Command officer (Lt. or above) initiates disciplinary recommendation.
- Provides central documentation and tracking of discipline and corrective actions.
- Progressive discipline to address overall performance deficiencies.

Documents Disciplinary Recommendations

- Written recommendations sent to Chief.
- Patterns of unacceptable behavior identified.

Increases Supervisory and Managerial Accountability

- Supervisors and managers held accountable for subordinate's conduct.
- Accountable to supervise, review, and intervene as appropriate.

Adds Factors for Promotional Consideration

- Commitment to Community Policing.
- Quality of citizen contacts.
- Low incidence of citizen complaints.
- Support for Department integrity measures.
- Presumptive ineligibility for promotion for 12 months after finding of serious misconduct.

FIELD SUPERVISION

More Field Supervision

- Lower span-of-control to one (1) supervisor to eight (8) officers in Patrol.
- Supervisors have same schedule and days off as subordinates.

Strengthens Supervisory Oversight

- Supervisors approve felony, narcotics-related, and other field arrests.
- More frequent, close supervisory contacts on calls for service.

Adds Notification Procedures When Transporting Detainees and Citizens

MANAGEMENT OVERSIGHT

Improves Performance Review

- Managers coach staff on strengths and weaknesses twice yearly.
- Supervisors meet twice monthly with subordinates to review performance.
- Looking for patterns of improper behavior.

Explores the Use of Camcorders in Patrol Vehicles

Expands Reporting Practices

- Additional documentation of vehicle stops and detentions
- Fully identify witnesses to arrests and uses of force

Improves Performance Appraisal System

Creates Management-Level Liaison to DA's Office and Public Defender

USE OF FORCE REPORTING

New Use of Force Reporting

- Notify supervisor immediately after lesser uses of force than previously required.
- Adds reporting of intentional pointing of firearm.
- Supervisor required to respond to scene.
- Notify DA of use of lethal force likely to result in death.

Expands Use of Force Investigation

- Requires additional interviews, documentation, analysis, and evidence collection.
- Witness officers separated until after interviewed.
- Investigation conducted by supervisor.
- Reviewed by Watch Commander, Area Commander, and Deputy Chief.

Enhances Use of Force Review

- Review Boards meet on all Use of Force investigations.
- Recommend whether use of force was in policy or out of policy.
- Recommend policy or tactics changes and training needs to Chief.
- Issue annual report to Chief discussing patterns of use of force that may have policy or training implications.

Implements Oleoresin Capsicum (Pepper Spray) Procedures

- Keep a log of OC spray canisters checked out and used.
- Review the log to verify appropriate usage.

Improves Officer-Involved Shooting Investigation

- Homicide and Internal Affairs investigates jointly with District Attorney.
- City Attorney promptly notified.

PERSONNEL INFORMATION MANAGEMENT SYSTEM (PIMS)

Expands Automated Computer Early Warning System

- Builds on existing early warning system.
- Resource for supervisors and managers.
- Reveals patterns and series of events.
- Used to identify officers engaging in at-risk behaviors.

Develops Database

- Adding eleven (11) elements to matrix.
- Developing new reporting protocols and database.
- Interactive access for authorized supervisors and managers.

Establishes Follow-up Policy and Procedures

- Automatic triggers for follow-up actions.
- Required quarterly review by supervisors.

- Intensive review of personnel and performance history.
- Meeting with manager and supervisor for identified officers.
- Corrective action plan and follow-up meetings.

TRAINING

Field Training Officer Program

- New Field Training Coordinator position.
- Field Trainee to be interviewed regarding quality of training.
- Increased participation incentives for Field Training Officers (FTO)
- Improved FTO selection and decertification procedures.
- Anonymous FTO evaluations by Trainee Officers.
- Post-training focus groups to review curriculum.

Academy and In-Service Training

- Expanded professionalism and ethics training.
- Additional supervisory and command leadership training.
- Specified requirements for transfer to a Training assignment.

AUDITING AND REVIEW SYSTEMS

Integrity Tests

- Random or targeted tests, or “stings,” designed to identify personnel engaged in “at-risk” behavior
- Measure compliance with Department directives and orders, and the terms of the Settlement Agreement.

Independent Monitor

- Selected jointly by the City and Plaintiffs’ attorneys.
- Reports to Federal Court.
- Oversees compliance with Agreement.
- Issues quarterly public reports.

Compliance Unit

- Establishes single-point-of-contact with Independent Monitor.
- Tracks Department implementation timelines and progress.
- Facilitates the provision of documents and data to the Monitor.
- Prepares a semi-annual compliance report.

Compliance Audits

- Institute new Department audit capacity.
- Measure compliance with terms of Agreement.
- Conduct compliance audits in six (6) specific areas.

Appendix E – Sources for Best Practice Jurisdictions Reviewed in Depth in this Report

SELECTION OF BEST PRACTICE REVIEW AGENCIES

“Principles for Promoting Police Integrity”, U.S. Department of Justice, January 2001

Examples of Promising Police Practices and Policies – Meaningful Civilian Oversight

- *San Jose Independent Police Auditor
- **Minneapolis Civilian Police Review Authority
- **San Francisco Office of Citizen Complaints**
- *Portland Police Internal Investigations Auditing Committee
- *Los Angeles Sheriff’s Office, Special Counsel

“Police Accountability: The Role of Citizen Oversight”, Samuel Walker, University of Nebraska at Omaha, 2002 (Note: Mr. Walker is considered to be a leading authority on civilian oversight and several of his studies and papers were used for research for this report. He is quoted in other best practice studies and commission reports and has served as a consultant to departments setting up new civilian review bodies as well as the Department of Justice.)

- Minneapolis Civilian Review Authority
- **San Francisco Office of Citizen Complaints**
- *San Jose Independent Police Auditor
- Special Counsel to the Los Angeles County Sheriff’s Department
- *Portland (OR) Police Internal Investigations Auditing Committee
- Boise Ombudsman

“Police Accountability and Citizen Review – A Leadership Opportunity for Police Chiefs”, International Association of Chiefs of Police, November 2000

- Minneapolis Civilian Review Authority
- *Berkeley Police Review Commission
- *Portland Police Internal Investigations Auditing Committee
- *Los Angeles Police Commission
- *San Jose Independent Police Auditor

* indicates selected for review in this report

**Note: Minneapolis’ updated Civilian Review Authority was widely cited as a best practice example, but the program was virtually eliminated last year when the City Council removed its autonomy and folded it back into the PD; hence it was not selected for inclusion in this report. The Los Angeles County Sheriff’s Department was not reviewed, but the major report on that jurisdiction was used as a resource in the area of Early Warning Systems. Washington, D.C. was included as suggested by the OCC.

Appendix F – Source Materials

SOURCE AREA	SOURCE
San Francisco Practices	
	Office of Citizen Complaints, Various Information and Reports from SFGOV Website
Best Practices	
	"Citizen Review of Police - Approaches & Implementation", U.S. Department of Justice, National Institute of Justice (NIJ), March 2001
	"Principles for Promoting Police Integrity", U. S. Department of Justice, January 2001
	"Models of Citizen Oversight", Best Practices in Police Accountability Website, A project of the Police Professionalism Initiative, Department of Criminal Justice, University of Nebraska at Omaha
	"Best Practices Review" Monthly Newsletters and Archive Information, PARC
Ordinances & Other Law	
	San Francisco Charter Article IV, Sec. 4.127 "Office of Citizen Complaints"
	Ordinance No. 12454 - Provisions for the Citizens' Police Review Board, City of Oakland, California, November 2002
	Ordinance No. 24422 - New Chapter to Establish The Independent Police Auditor and Setting Forth the Duties of the Independent Police Auditor, San Jose, June 1993
	Municipal Code Chapter 172 - "Civilian Police Review Authority", Minneapolis, January 1990
	Albuquerque Code of Ordinances Chapter 9, Article 4, Part 1, "Police Oversight Commission", January 2001
	Boise Municipal Code, Chapter 2-22, "Community Ombudsman", July 1999
	Miami Ordinance No. 12188, "Civilian Complaint Investigation and Review", February 2002
	Seattle Ordinance 120728, "Office of Professional Accountability, Office of Professional Accountability Auditor, Office of Professional Accountability Review Board", February 2002
	California Government Code Section 3300, "Public Safety Officers Procedural Bill of Rights Act", June 2001

Academic Research	
	"A Report on the Oversight Mechanisms of the Albuquerque Police Department", Prepared for the Albuquerque City Council by Eileen Luna & Samuel Walker, University of Arizona & University of Nebraska at Omaha, February 1997
Professional Associations	
	"Ethics Toolkit - Police Accountability and Citizen Review, A Leadership Opportunity for Plice Chiefs", Prepared by The International Association of Chiefs of Police (IACP), November 2000
Commission & Blue Ribbon Reports for Specific Cities	
	"Report of the Independent Commission on the Los Angeles Police Department" (Christopher Commission Report), 1991
	"Five Years Later: A Report to the Los Angeles Police Commission on the Los Angeles Police Department's Implementation of Independent Commission Recommendations", Special Counsel, May 1996
	"Report of the Blue Ribbon Committee on Selected Police Practices", Office of Police Accountability, City of Sacramento, September 1998
	"Commission Report: Commission to Investigate Allegations of Police Corruption and the Anti-Corruption Procedures of the Police Department", City of New York, July 1994
	"Police Oversight Project - City of Albuquerque", Prepared by Richard Jerome and the Police Assessment Resource Center (PARC), May 2002
	"Police Oversight Task Force Report to the Albuquerque City Council", May 1998
Advocates & Good Government Agencies	
	Letter from ACLU to Supervisor Tom Ammiano (from Supervisor Ammiano's Office), March 12, 2003 including ACLU Report "Roadmap to Reform", March 2003
	Police Assessment Resource Center (PARC) List of Links including Organizations/Associations, Information, Government, Public Interest Groups, and Civilian Review Boards for specific jurisdictions
	Vera Institute of Justice Publications List, 2002
	"Citizen Review of Police Complaints: Four Critical Dimensions of Value", NACOLE Conference Presentation, December 2002
	National Association for Civilian Oversight of Law Enforcement (NACOLE), "Resources for Civilian Oversight List", October 2002
	"Roster of Civilian Oversight Agencies in the U.S.", National Association for Civilian Oversight of Law Enforcement (NACOLE), October 2002
	"Models of Civilian Oversight: Similarities, Differences and Expectations", NACOLE Presentation, September 2000

	"Investigation, Monitoring and Review of Complaints: a Practitioner's Case Study Guidelines, NACOLE Conference Presentation, October 1999
	"Shielded from Justice: Police Brutality and Accountability in the United States", Human Rights Watch Report, June 1998
	"Proposal for a Civilian Investigative Panel (CIP) City of Miami, Florida", ACLU of Florida, June 2001
	"MCLU Urges Portland Police Department Citizen Oversight Board to Strengthen Oversight Procedures, Hold Open Meetings and Provide for Citizen Participation", letter from Executive Director Maine Civil Liberties Union (MCLU), September 20, 2002
Other Resources	
	"2001 Annual Report", Los Angeles Police Department Office of the Inspector General, April 2002
	"Civilian Review Authority Redesign Action Group Recommendations", Prepared by Minneapolis City Coordinator's Office and Finance Department for the Minneapolis City Council, July 2002
	Portland Police Bureau - Website Information
	"Assessment of Performance Measures: Internal Affairs Division (IAD), Campbell DeLong Resources, Inc. for the City of Portland, Bureau of Police, December 2001
	Response to above report, January 2002
	"City of Oakland Settles 'Riders' Civil Rights Suits", Press Release, City of Oakland Office of the City Attorney, February 19, 2003
	"Rider's Pattern and Practice Settlement Agreement - Fact Sheet", from Oakland City Attorney's website, April 2003
	"Settlement Agreement", Text of Settlement Agreement from Oakland City Attorney's website, January 2003
	City of Oakland Citizen's Police Review Board - Website Information
	City of Oakland Citizen's Police Review Board - 2001 Semi-Annual Report, June 2002
	County of Los Angeles Special Counsel to Board of Supervisors - Website Information
	Minneapolis Civilian Review Authority - Website Information
	City of Albuquerque Independent Review Office of the Police Oversight Commission - Website Information
	"Watchdog panel says police, D.A. unhelpful", Article, SFGate.com (website of the San Francisco Chronicle), March 27, 2003
	"Watchdog group opens inquiry of copy - Office of Citizen Complaints says SFPD defies its probes", Article, SFGate.com (website of the San Francisco Chronicle), March 16, 2003
	"SFPD must have the will to change", Editorial, SFGate.com (website of the San Francisco Chronicle), March 6, 2003

Endnotes

ENDNOTES

- ¹ “Principles for Promoting Police Integrity”, U.S. Department of Justice, January 2001
- ² “Best Practices in Police Accountability—Models of Citizen Oversight”, from the Department of Criminal Justice, University of Nebraska, December 2002
- ³ “Citizen Review of Police – Approaches & Implementation”, U.S. DOJ, National Institute of Justice (NIJ), March 2001
- ⁴ *ibid* “Principles for Promoting Police Integrity”, U.S. Department of Justice, January 2001
- ⁵ *ibid* “Best Practices in Police Accountability—Models of Citizen Oversight”, from the Department of Criminal Justice, University of Nebraska, December 2002
- ⁶ “Police Accountability and Citizen Review – A Leadership Opportunity for Police Chiefs”, International Association of Chiefs of Police, November 2000
- ⁷ *ibid* “Citizen Review of Police – Approaches & Implementation”, U.S. DOJ, National Institute of Justice (NIJ), March 2001
- ⁸ “Police Oversight Project – City of Albuquerque”, Richard Jerome, Police Assessment Resource Center (PARC), May 2002
- ⁹ “A Report on the Oversight Mechanisms of the Albuquerque Police Department”, Samuel Walker, Eileen Luna, University of Arizona & University of Nebraska, February 1997
- ¹⁰ “Roadmap to Reform – Strengthening the Accountability Mechanisms of the San Francisco Police Department”, Mark Schlosberg, March 2003
- ¹¹ “Best Practices In Police Accountability – Citizen Oversight of Police”, a project of the Police Professionalism Initiative, Department of Criminal Justice, University of Nebraska, December 2002
- ¹² *Ibid* “Best Practices in Police Accountability—Models of Citizen Oversight”, from the Department of Criminal Justice, University of Nebraska, December 2002
- ¹³ San Francisco Charter Section 4.127 “Office of Citizen Complaints”
- ¹⁴ *ibid* “Citizen Review of Police – Approaches & Implementation”, U.S. DOJ, National Institute of Justice (NIJ), March 2001
- ¹⁵ California Government Code Section 3300, “Public Safety Officers Procedural Bill of Rights Act”, June 2001
- ¹⁶ Citizen Review Ad Hoc Committee, Santa Clara Bar Association, “Citizen Review of Police Conduct Task Force Report”, April 28, 1992, p. 18
- ¹⁷ *ibid* “Best Practices In Police Accountability – Citizen Oversight of Police”, a project of the Police Professionalism Initiative, Department of Criminal Justice, University of Nebraska, December 2002
- ¹⁸ “Who is Guarding the Guardians?”, U.S. Commission on Civil Rights, 1981
- ¹⁹ *ibid* “Best Practices In Police Accountability – Citizen Oversight of Police”, a project of the Police Professionalism Initiative, Department of Criminal Justice, University of Nebraska, December 2002
- ²⁰ “Early Warning Systems: Responding to the Problem Police Officer”, Samuel Walker, et al for the National Institute of Justice, July 2001
- ²¹ “A NOBLE Perspective: Racial Profiling – A Symptom Of Bias-Based Policing – Bias-Based Policing”, National Organization of Black Law Enforcement Executives (NOBLE), May 2001
- ²² “Settlement Agreement Re: Pattern and Practice Claims”, U.S. District Court, Northern District of California, Master Case No. C00-4599 THE (JL), January 2003
- ²³ *ibid* “Settlement Agreement Re: Pattern and Practice Claims”, U.S. District Court, Northern District of California, Master Case No. C00-4599 THE (JL), January 2003
- ²⁴ “16th Semiannual Report”, Merrick J. Bobb and staff and Police Assessment Resource Center (PARC) for The Los Angeles County Sheriff’s Department”
- ²⁵ *ibid* “Principles for Promoting Police Integrity”, U.S. Department of Justice, January 2001
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- ²⁹ *ibid* “Best Practices In Police Accountability – Citizen Oversight of Police”, a project of the Police Professionalism Initiative, Department of Criminal Justice, University of Nebraska, December 2002
- ³⁰ *ibid* “Models of Civilian Oversight”, National Association for Civilian Oversight of Law Enforcement (NACOLE), Sept. 2000
- ³¹ refs this section: "Report of the Independent Commission on the Los Angeles Police Department" (Christopher Commission Report), 1991; "Five Years Later: A Report to the Los Angeles Police Commission on the Los Angeles Police Department's Implementation of Independent Commission Recommendations", Special Counsel, May 1996; "2001 Annual Report", Los Angeles Police Department Office of the Inspector General, April 2002
- ³² Oakland Office of the City Attorney, Communications Director, February 19, 2003
- ³³ “A Report on the Oversight Mechanisms of the Albuquerque Police Department”, Eileen Luna & Samuel Walker, February 1997
- ³⁴ “Police Oversight Task Force Report to the Albuquerque City Council”, Task Force on Police Oversight, May 1998
- ³⁵ Information from Albuquerque Independent Review Office website at <http://www.cabq.gov/iro>
- ³⁶ refs this section: Berkeley City Ordinance No. 4644-N.S.; Police Review Commission Regulations, II. Processing Complaints, & III. Boards of Inquiry and Hearings
- ³⁷ refs this section: Independent Police Review Division, Second Quarter Report 2002; Assessment of Performance Measures: Internal Affairs Division; Portland municipal codes
- ³⁸ refs this section: San Jose city government web site, SJ Mercury News, 11/18/92, p. 1A
- ³⁹ National Association for Civilian Oversight of Law Enforcement (NACOLE), used by permission – see expanded explanation of models in Appendix A
- ⁴⁰ “Citizen Review of Police – Approaches & Implementation”, U.S. DOJ, National Institute of Justice (NIJ), March 2001
- ⁴¹ “Models of Civilian Oversight”, National Association for Civilian Oversight of Law Enforcement (NACOLE), Sept. 2000