

# City of Portland

## Police Accountability Commission

### Areas of Agreement on Best Practices, and Practices to Avoid, from Other Jurisdictions

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The Police Accountability Commission agrees that the following items are best practices from other jurisdictions.

## **A. Policy**

### **A1. The oversight body is empowered to take input from community members on broad policing policy issues.**

Identified in: San Diego (City)

**Spreadsheet Reference: DH-004**

In the City of San Diego, the Board is able to take input from community members on policy issues, and is not limited in the policy areas they can discuss by law, elected official limitation, or origination from a case or pattern of cases of alleged misconduct. Community involvement is vital to the success of their oversight system.

### **A2. The oversight body can assess implications of alleged misconduct cases they review, including on policy, procedure, and training, and take action after this assessment.**

Identified in: San Diego (City), New York City, San Diego (County)

**Spreadsheet Reference: DH-001, DH-002, DH-007, DH-008**

Deriving policy recommendations from real-world complaints allows for the system to improve by finding places where a policy does not explicitly define a certain type of undesirable conduct as misconduct, and taking action to rectify this by improving the policy for future cases. This also allows for assessing cases where policy or procedure prevents a certain type of conduct, but training for officers did not sufficiently convey this expectation, and creating training changes or recommendations based on the knowledge gained from assessing these cases.

- In the City of San Diego, the Board can, as part of assessing cases, make recommendations to the Chief of Police on policy changes.
- In New York, these recommendations are on policy, procedure and training and are made to both the Chief and public.
- In San Diego County, the Board can make policy or rule change recommendations along with votes on findings on individual cases.

**A3. The oversight body has authority to make recommendations regarding policy and training.**

Identified in: Denver, Seattle, Oakland, San Diego County

**Spreadsheet Reference: DA-025**

Oversight boards develop an understanding of police officer actions and their impact on community members. Recommending policy and training improvements based on that understanding has the potential to improve police department operations.

- Additionally, in San Diego County the oversight body regularly reviews policy, training, and protocols, and recommends changes to police as well as the Mayor and City Council.

**A4. The oversight body sets policy for the police department.**

Identified in: San Francisco, Oakland

**Spreadsheet Reference: Line DH-005, DA-024**

- This authority encompasses a direct policy-setting authority in San Francisco, where the Police Commission sets policy for the police department.
- In Oakland, the Police Department must seek approval from the Police Commission for changes to policy, rules, practices, customs, and General Orders. The Police Commission is the primary policy approving authority in Oakland. Should the Commission disagree with the Police Department, the

City Council has 120 days to overrule the Commission's disagreement and confirm the changes proposed by the police department, but the Council is not obligated to do so and in the absence of Council action, the Police Commission decision is final. This practice ensures that community input is incorporated into the adoption of policy for the police department.

**A5. The oversight body has a staff unit focused on policy.**

Identified in: New York

Spreadsheet Reference: Line DH-006

- In New York, the oversight body has a policy unit of paid staff members. The policy unit does data analysis, includes lawyers, and makes monthly, semi-annual and annual reports.

**A6. Oversight body conducts public review of police department budget**

Identified in: Oakland

Spreadsheet Reference: Line DA-034

- In Oakland, the oversight body (the [Oakland Police Commission](#)) is the designated place for community input on decisions related to the police and oversight, including public review of and adjustments to the police department's annual budget.

## **B. Board Jurisdiction and Case Authority**

### **B1. The oversight body has authority to receive all complaints, even about items it may not have investigative authority over.**

Identified in: Chicago, Philadelphia, Maryland (State)

Spreadsheet reference: Line AT-001, Line LL-006

- Chicago has the Civilian Office of Police Accountability (COPA), which takes all complaints and forwards the complaints not under their jurisdiction to the proper body. COPA is independent of the Police Bureau, and this type of process would show the public that the process is independent of police influence. Intake going through a non-police entity would also avoid the risk of discouraging community members from filing through police or at police buildings.
- Philadelphia's civilian oversight body receives all complaints except those related to tardiness/labor situations.
- In Maryland, the civilian Police Accountability Board touches all three layers of the process, including complaint, charging decision, and appeal. The civilian Board interacts directly with citizens making complaints, which increases both face time and credibility with the general public.

### **B2. Oversight Body has defined authority over, at least, all alleged misconduct directly affecting the public.**

Identified in: San Diego (City), New York, San Francisco, San Diego (County)

Spreadsheet Reference: Line DH-081, DH-084, DH-086, DH-087

- In the City of San Diego, the Board has authority over officer-involved shootings, deaths in custody and other specific incidents: Force resulting in bodily injury; dishonesty including perjury, false reports & concealing evidence; cases of substantial public interest; where data shows pattern of inappropriate policies; sexual misconduct; physical assaults; domestic violence.

- In San Francisco, the oversight body investigates unlawful search/arrest, biased policing, dishonesty, sexual assaults, use of force with bodily injury/death, officer shootings, misconduct, improper performance including unwarranted action, neglect of duty, use of force, conduct unbecoming (like rudeness).
- In San Diego County, the list includes excessive force; discrimination; sexual harassment; improper discharge of firearm; illegal search/seizure; false arrest; false reporting; criminal conduct; death caused by law enforcement; misconduct, improper or illegal act, omission or decision that directly affects a person or property; violation of orders; unbecoming conduct including discourtesy, harassment, intimidation, procedure, retaliation, untruthfulness; use of force with injury; force used at protests.
- New York is a partial best practice, as the list is limited; their Board has authority over Force, Abuse of authority, Discourtesy, Offensive language (FADO cases). This includes improper search/seizure, failure to identify, untruthfulness, sexual misconduct. However, in New York it does not have authority over theft of money, neglect of duty, corruption, perjury and off duty criminal conduct.

**B3. The oversight board has authority to direct Agency Director to investigate cases.**

Identified in: Denver

**Spreadsheet reference: Line DA-016**

The oversight board serves as the eyes and ears of the public, so the more involvement they have in individual cases, the better.

**B4. Board has authority to send cases to the District Attorney, Grand Jury or other authority for criminal investigation.**

Identified in: San Diego (City)

Spreadsheet Reference: Line DH-090

- In San Diego, the oversight body has the authority to ask for a criminal investigation. This collaboration with criminal authorities, when police misconduct may rise to the level of a crime, helps to create accountability. San Diego staff believes this power has never been used in San Diego.

## C. Makeup of Oversight Board

### C1. The oversight body is large enough to be representative of the City's population.

Identified in: Washington DC, San Diego City, San Diego County, San Francisco, New York

Spreadsheet Line: JR-001, DH-009, DH-010, DH-012, DH-013

A larger board membership allows for more diversity, demographic, and geographics reflected in the community and ability to have smaller panels.

Adequate membership totals range from 9 to 23 members (New York, San Diego City).

Washington DC can have as many as 15 members.

San Francisco's board only has seven members and Washington DC can have as few as five. Membership totals range from 5 to 23 members (Washington DC: 5-15, SD City: 23, SF: 7, NY: 15. SD County: 9-15) with many allowing some flexibility in totals.

### C2. Board member makeup should reflect the demographic and geographic diversity of the community

**Commented [PAC 09-121]:** Flagged for further discussion (Sophia/Dan):  
Question over if examples given are "enough"

**Commented [PAC 09-122]:** Commissioner Comment (Dan):  
5 and 7 are not examples of "larger". We're not suggesting 5 or 7, pull them out. San Francisco/DC on separate lines as counterexamples

**Commented [PAC 09-123R2]:** Note: Separate out as with previous items into different line for each jurisdiction.

**Commented [PAC 09-124R2]:** Commissioner Suggestion (Dan): "Adequate membership totals range from 9 to 23 members.  
Washington DC can have as many as 15 members.

Final paragraph: San Francisco's board only has seven members and Washington DC can have as few as five

**Commented [PAC 09-125R2]:** (and remove low end of DC and the SFO reference from the parentheses)

**Commented [PAC 09-196R2]:** Flagged for update in next draft.

Identified in: Washington DC, San Diego City, New York

Spreadsheet Line: JR-001, DH-010, DH-014

- The City of San Diego Charter requires “taking into consideration sex, race and geographical area so the membership [...] shall reflect the entire community.”
- The New York Charter requires the “Board to reflect diversity of the City.”

### **C3. Selection criteria for membership includes subject matter expertise**

Identified in: Oakland, Denver, Seattle

Spreadsheet Line: DA-026

Considered as a makeup of board members. Examples include people with trial experience, civil rights or public defense lawyers, police accountability experience, and lived experience.

### **C4. Designated alternates for oversight body**

Identified in: Oakland

Spreadsheet Line: DA-027

Alternates are selected along with active commissioners and are available when openings occur. Alternates serve on ad hoc committees.

## **D. Selection of Oversight Board**

### **D1. The oversight body’s members are appointed by City Council.**

Identified in: San Diego, San Francisco

**Spreadsheet Lines: JR-002, DH-016, DH-018**

Investment by more people in the process helps with diversity, especially diversity of opinion. The use of a broad group of elected officials aids in diversity.

- In San Diego, the Council as a whole appoints members.
- In San Francisco, the Mayor and Board of Supervisors appoint members.

The PAC also identified counterexamples, including in Washington, DC, where the Mayor appoints members of the oversight body; The Commission considers this a practice to avoid.

**D2. Members of the oversight body have to agree to certain terms upon appointment and reappointment.**

Identified in: San Diego City

**Spreadsheet Lines: DH-017**

- In the City of San Diego, Board members take an oath and sign an affirmation upon appointment and reappointment.

**D3. Community members apply for oversight body, and applications are screened before passing them on to the appointing authority.**

Identified in: San Diego County, Denver, Philadelphia

**Spreadsheet reference: DH-022, DA-029, MA-011**

- In San Diego County, the applications are reviewed by staff, who conducts interviews and ensures the District Attorney does a background check on candidates.
- In Denver, applications are received and screened, with interviews conducted by a nominating committee.
- In Philadelphia, Applications are received and sent to the appointing authority (City Commissioners), who select the appointees.

## **E. Terms and Removal of Oversight Board Members**

### **E1. Members serve staggered, multi-year terms.**

Identified in: San Diego City, New York, San Diego County, Denver

**Spreadsheet Lines: DH-024, DH-028, DH-029, DA-030**

Membership terms ranging for two-to-three-year renewable terms.

- In the City of San Diego, members serve two-year terms, with terms staggered so 11 or 12 of the 23 members' terms expire at a time.
- In San Diego County, members serve three-year terms.
- In New York, members serve three-year terms.

### **E2. Members may apply for renewal up to a total maximum length of service. Renewal applications are evaluated and considered by appointing authority.**

Identified in: San Diego City, New York, San Diego County, Denver

**Spreadsheet Lines: DH-024, DH-028, DH-029, DA-030**

Total term limits allow renewal up a total of eight years in several jurisdictions.

- In the City of San Diego, members may serve up to eight years, and then can apply again after two years.
- In San Diego County, board members may renew one time for an additional three years.
- In Denver, members may apply for another term and are considered by the nomination committee.

### **E3. The oversight body has defined criteria for automatic member removal.**

Identified in: San Diego City, New York, San Diego County, Denver

**Spreadsheet Lines: DH-030, DA-031, DH-028, DH-238**

- *Attendance/Membership Activity*: Predetermined number of unexcused absence (Denver, San Diego City, County San Diego), unmet minimum participation, or workload requirement, inactivity in board activities (San Diego City)
- *Administrative*: Criminally convicted and unable to serve; financial or personal conflict of interest; vacancies by death, resignation, no longer being a resident; failing to complete training (San Diego City, County San Diego).
- *Ethical and Policy Violations*: unethical conduct, misuse of position/documents; violation of confidentiality (San Diego City, County San Diego).

**E4. The oversight body has defined authority and criteria for discretionary removal or referral to the appointing authority for removal.**

Identified in: San Diego (City), San Diego (County)

Spreadsheet Lines: DH-027, DH-026, 383, DH-243

- *Vote by board members*: removal recommendations forwarded to City Council for consideration, defense allowed (San Diego City).
- *Board of Supervisors*: Board Chair notifies, who can remove members at any time (County San Diego).
- Excused absences can be for unforeseen event, health reasons, out of town, conflict of interest.

**E5. Members whose term has expired continue to serve until their replacement is appointed.**

Identified in: San Diego (City), San Diego (County)

Spreadsheet Lines: DH-024, DH-029

- In San Diego City, members can serve until the next person is appointed.

- In San Diego County, members can continue in seat until replacement is appointed.

## **F. Hiring/Firing of Chief (or Staff)**

### **F1. The oversight body hires, manages, conducts reviews, and can choose to fire the Executive Director of the oversight agency.**

Identified in: Washington DC, San Diego City, New York, San Diego County, Denver, Oakland

**Spreadsheet Reference: Line JR-005, DH-051, DH-052, DH-053, DA-002, DA-013**

- In Washington DC, the oversight body hires the Executive Director and conducts annual performance reviews. Contracts are for three years and may be renewed.
- In San Diego, the oversight body conducts annual performance reviews of the Director.
- In New York, the Board sets policy including personnel policy, and hires the agency director.

### **F2. The oversight body hires, manages, and can choose to fire the top monitor or inspector-general.**

Identified in: Oakland

**Spreadsheet Reference: Line DA-003**

In Oakland, the Police Commission hires and fires the Inspector-General.

### **F3. The oversight body is directly involved in hiring and, if necessary, firing the police chief.**

**Commented [PAC7]:** Possibly move to other category (due to this category being more about oversight agency staff now).

Identified in: Oakland

Spreadsheet Reference: Line DA-002, DA-001

In Oakland, the Commission recommends four candidates for police chief to the Mayor, who chooses and hires the chief from among these candidates. It also has a key role to play in firing, and with enough votes can fire the police chief *independent of the Mayor*. This approach ensures community input is considered in police chief selection and removal.

## **G. Public Nature of Meetings / Hearings**

### **G1. The Oversight Body holds meetings which are open and accessible to the public.**

Identified in: San Diego City, New York, Oakland

Spreadsheet Reference: DH-033, DH-035, DH-041, DH-042, DA-032, DA-009

Many jurisdictions include not only open public meetings of the oversight body, but written guarantees of communication about public notice, agenda item publication, etc.

- In San Diego (City), committee meetings are public and publicly noticed 72 hours in advance.
- In New York, meetings include public input and include publicly sharing information on agency operations, complaint activity, and disposition of cases.
- In Oakland, the meetings of both the oversight body and its sub-committees are open to the public with participation throughout. Names of those expected to attend Oakland Police Commission meetings are included on their meeting agendas.

### **G2. The oversight agency holds open evidentiary hearings on misconduct complaints and public investigative reports.**

Identified in: Oakland

**Spreadsheet Reference: Line DA-033**

This is a previous practice of the oversight system in Oakland which ended in 2006. The public could follow the cases to understand exactly what the allegations of misconduct were against identified officers, how the complaints were investigated, and what the findings and recommendations for discipline were. A California court case ended this practice, but Oakland advocates point to it as a best practice even though it is no longer possible in California.

**G3. The oversight body has a set list of agenda items which are by default for meetings.**

Identified in: San Diego (City), San Diego (County)

**Spreadsheet Reference: Line DH-037, DH-044**

- In the City of San Diego, their set agenda includes: business is transacted, presentations are heard, communicate with public, hear testimony but not on particular cases, training is given, Executive Director report, Police department report, committee and chair report, City attorney report, old business, new business.
- In San Diego County, agenda items include: Roll call; Approval of minutes; Work report by staff; Chair report; training for members; public input including from complainants up to three minutes; New Business; Unfinished Business; Board Member Comments; and Sheriff liaison “query”. Additional items may be filed with the Chair by members.

**G4. Regularly scheduled Community Oversight Board public meetings with agency director, chief of police, and manager of public safety.**

Identified in: Denver

**Spreadsheet Reference: Line DH-047**

The oversight board holds open public meetings with the police chief, manager of public safety, and oversight agency director where policy issues, etc. can be discussed. Open meetings with leaders in public safety and accountability give the oversight board and public the opportunity to discuss critical issues, ask questions, and consider policy issues.

**G5. The oversight body holds open meetings regularly and frequently.**

Identified in: San Diego (City), New York, San Diego (County)

**Spreadsheet Reference: Line DH-035, DH-036, DH-039, DH-045**

- In the City of San Diego, open meetings are generally held once per month. The oversight board held 11 open meetings in 2021.
- In New York, the oversight body holds open meetings at least once a month, with exceptions for August and December.
- In San Diego County, open meetings are held 1-2 times per month.

**G6. Hearings on individual cases are generally open to the public, with limited, specific exceptions defined in the law.**

Identified in: Seattle, Maryland

**Spreadsheet Reference: DH-038, DH-040, DH-043, DH-046, DH-049**

- In Maryland, every county has a Trial Board, and its proceedings are open to the public with limited exceptions (such as to protect the identity of a victim).
- Seattle is a partial example of this practice, as in Seattle some appeal hearings are open to the public. If the officer chooses arbitration, then they are not.

The Police Accountability Commission also identified several counter-examples, which are considered practices to avoid:

- In the City of San Diego, closed meetings are held twice a month, and are confidential to hear cases and other matters not subject to disclosure. Presentations from the Shootings Review Board and discussions of discipline occur in closed meetings.
- In New York, hearings are not open to the public.
- In San Diego County, hearings are not open to the public. In closed session, Board, staff, and legal discussion is confidential.

## **H. Budget**

### **H1. The oversight body has a guaranteed budget sufficient to fulfil its duties.**

Identified in: New York, Philadelphia, San Diego City, Washington DC

Spreadsheet Reference: JR-004, DH-271, MA-004

- In New York, the annual budget is nearly \$39 million.

The Police Accountability Commission has also identified several counter-examples, which it considers practices to avoid:

- In Philadelphia, the police oversight budget is limited to less than 1% of the police department's budget.
- In Washington, DC, the oversight budget is \$2.2 million, mostly for salaries.
- In the City of San Diego, the budget of the Citizens' Review Board on Police Practices, which existed from 1988-2016, was \$1,327,134 for three staff members. The Commission on Police Practices, which was created in 2020, has a budget of about \$2.5 million.

### **H2. The location of the office is independent and accessible to the community.**

Spreadsheet Reference: JR-002, DH-261, DH-262A, DH-262B, DH-263

Identified in: Washington DC, San Diego City, San Francisco, New York

The oversight agency's office is located in a building that promotes independence from those targeted for oversight.

- This means that the agency’s office is either in a private building, or a government building that does not house the elected official supervising the police (e.g. commissioner-in-charge or Mayor), or any part of police including Internal Affairs.
- Any security provided for the agency office is not provided by any law enforcement agency.

## **I. Audit Functions**

### **1. The oversight agency reviews all misconduct investigations to ensure they are complete before findings and discipline are determined.**

Identified in: Seattle

**Spreadsheet Reference: Line DA-005**

In Seattle, there is an Inspector-General who reviews investigations prior to findings and discipline being determined. This practice helps ensure investigators conduct thorough investigations, and inserts an added layer of oversight and review to the process.

### **2. The oversight agency audits closed cases alleging misconduct and may recommend policy changes.**

Identified in: San Francisco, New York, Oakland

**Spreadsheet Reference: Line DH-054, DH-055, DA-004**

- In San Francisco, the audit division reviews closed complaints.
- In New York, the Executive Director audits closed cases.
- In Oakland, the Inspector-General is responsible for ensuring allegations of misconduct are thoroughly investigated, and identifies systemic policies

needing improvement. This continues oversight similar to the DOJ or court monitor.

### I3. The oversight body may conduct Sentinel Event Reviews.

Identified in: Seattle

Spreadsheet Reference: Line DA-006

Sentinel Event Reviews are in-depth, root cause analyses of significant and undesirable events, with the goal of prevention rather than response. A broad review of incidents of concern to the community for the purpose of learning from past mistakes gives the community and police the opportunity to learn and develop new policies and practices that will lead to better outcomes.

- In Seattle, the Office of the Inspector-General oversees Sentinel Event Reviews, which are led by a select group of community members, police representatives, and OIG.

## J. Reporting

### J1. The oversight body and agency are required to regularly and frequently issue public reports.

Identified in: Washington DC, San Diego (City), San Francisco, Philadelphia, Seattle, Denver

Spreadsheet Reference: Line JR-006, DH-056, DH-060, DH-064, DH-067, DA-007, DH-070, DA-010

Several jurisdictions require annual reports, with many jurisdictions requiring more frequent reports in addition to an annual report.

- In Washington, DC, there is an annual report and a semi-annual review, as well as a use of force data report.
- The City of San Diego oversight body issues semi-annual reports to the Mayor and City Council.

Commented [PAC 09-198]: Commissioner comment (Dan): "Undesirable police related events".

- San Francisco’s oversight body issues annual reports.
- Philadelphia’s oversight body issues annual reports.
- In New York, the policy unit issues monthly, semi-annual, and annual reports on data (a total of 14 reports a year). The monthly statistical reports are generated before each meeting.
- In Seattle, City Code requires an annual report.
- In San Diego County, there is an annual report.
- In Denver, the oversight body issues an annual report, and has one of its meetings specifically designed for public comment on the report.

**J2. Annual reports of the oversight body and oversight agency have required contents which are defined by law.**

Identified in: Seattle, San Diego (City), San Francisco, Philadelphia, New York, San Diego (County)

**Spreadsheet Reference: Line DA-007, DH-056, DH-060, DH-063, DH-070**

The Commission identifies the definition of required contents in law as a best practice. By listing specific reporting requirements in the code for agency and commission reports, it ensures the same type of information will be available to the public and others over time. This facilitates year-to-year comparisons and reliable access to information.

- In Seattle, the required contents of agency and commission annual reports are defined in code.
- In the City of San Diego, the reports include duties and powers, redacted case summaries, and summaries of committee work. This is a partial best practice, as it is not required to include statistics on how the board voted on discipline (though reports often do include this information).
- In San Francisco, the annual report includes cases, allegations, and demographics, disaggregated by geographical area or district, as well as policy recommendations and their status, and a summary of outreach.

- In San Francisco, the annual report includes cases, allegations, and demographics, disaggregated by geographical area or district, as well as policy recommendations and their status, and a summary of outreach.
- In New York, reports include agency operations, complaint activity, case dispositions, and discipline.
- In San Diego County, the annual report includes Board activities, recommendations/outcomes, trends, Board mission, staff, members' biographies, messages from Chair & Executive Director; complaints by year, quarter, allegations, by unit, type and agency. Lists Board actions by case number, date and findings, lists death cases.

**J3. Reporting on closed cases includes all information, except complainant and officer names in specific situations.**

Identified in: Washington DC, San Francisco, Philadelphia, New York, Seattle

**Spreadsheet Reference: Line JR-007, DH-061, MA-001, DH-068, DA-011**

Several jurisdictions publish data on closed cases, with dates, facts of the case, and findings included. Sometimes, there are exceptions for officer and complainant names, but these are specifically defined exceptions to open reporting.

- In San Francisco, data on officer involved shootings includes names of officers and dates.
- In Philadelphia, data on officer involved shootings includes names of officers and dates. Every case reviewed is posted with detail on complaints/findings/outcomes with names (if complainant allows) as well as the names of the officers involved.
- In Washington, DC, case decisions are posted online without the officer or complainant's names, but with facts of the case supporting the findings.

The Police Accountability Commission also identified counter-examples which they consider practices to avoid:

- In New York, data on cases that went to mediation are not public.

**J4. The oversight agency maintains an online tracker of commission policy recommendations, including their responses and implementation.**

Identified in: Seattle

**Spreadsheet Reference: DA-008**

Placing a recommendation tracker on the website gives the public the opportunity to see which commission, civilian agency, and IG recommendations have been implemented.

- The [Seattle tracker](#) provides reasons for the recommendations that have not been implemented, as well as responses and progress on implementation.

**J5. Online reporting includes complaints, findings, outcomes, and discipline, as well as aggregated data.**

Identified in: New York, San Francisco, Philadelphia

**Spreadsheet Reference: Line DH-063, DH-059**

- In New York, online reporting includes sample cases, complaints, allegations, victims, and officers; data includes race, gender, age, and outcomes. In New York, discipline letters are posted online, and include officer names.
- In San Francisco, the online dashboard shows case statistics, open, closed, and sustained allegations, and findings.
- In Philadelphia, the online dashboard shows case statistics, open, closed, and sustained allegations, and findings.

**J6. The oversight body can propose the release of otherwise-confidential information.**

Identified in: New York

Spreadsheet Reference: Line DH-066

- In New York City, the [Civilian Complaint Review Board](#) can propose the release of otherwise confidential information in certain circumstances.

Commented [PAC9]: Fact-check?

**K. Appeal Process**

**K1. Police officers can appeal findings, or the dismissal of a case.**

Identified in: San Diego (City), New York

Spreadsheet Reference: DH-220, DH-223, DH-229

- In the City of San Diego, officers have 30 days to rebut findings, after which point appeals are not accepted. Supervisors cannot file on officers' behalf.
- In New York, officers may appeal findings.
- In San Diego County, officers may appeal the dismissal of a case.

The PAC also identified a partial best practice in San Diego County:

- In San Diego County, officers may file appeals within 10 days, but must include new evidence. This may be too limited a reason to appeal as well as too limited of a timeline.

**K2. The complainant may appeal findings as well as dismissal or decision not to investigate.**

Identified in: New York, San Diego (County), San Francisco

Spreadsheet Reference: DH-223, DH-225, DH-229, DH-230, DH-222, DH-225, DH-226

- In New York, complainants can appeal findings. Appeals can be made even if case is not investigated, if there is new evidence or if it will “serve justice”. These complaints must generally be filed within 30 days, but exceptions can be made.
- In San Diego County, complainants can object to the dismissal of a case.
- In San Francisco, a community member may request an investigative hearing if they disagree with findings.

Commented [PAC10]: Fact-check

The PAC also identified a partial best practice in San Diego County:

- In San Diego County, complainants may file appeals within 10 days, but must include new evidence. This may be too limited a reason to appeal as well as too limited of a timeline.

### **K3. The oversight body has independent authority to reopen cases.**

Commented [PAC11]: Flagged for further discussion (Dan)

Identified in: San Diego (County)

Spreadsheet reference: DH-231

- In San Diego County, the Board may reopen a case if it is “in the public interest” to do so.

### **K4. Appeals are heard by the oversight body.**

Identified in: New York

Spreadsheet reference: DH-227, DH-228, DH-232, DH-233, DH-235, DH-221

- In New York, the oversight body holds decision-making authority.

The PAC identified partial best practices:

- In New York, the appeal is heard by the same panel that heard the original case, as the appeal must include new information. Exceptions are made if

an oversight body member from the original panel has left the oversight board, in which case another member can be assigned to the appeal.

The PAC also identified several counter-examples, which it considers practices to avoid:

- In San Diego County, officer appeals are heard by the Civil Service Commission. The findings of the Civil Service Commission are final. The oversight body's involvement is limited to receiving a copy of the appeal and the ability to file a statement about misconduct and supporting evidence 15 days before the Civil Service hearing; the oversight body is able to attend the hearing, subpoena witnesses, present evidence, and cross-examine.
- In the City of San Diego, appeals are to the civil service commission, as defined in the city's Collective Bargaining Agreement.

Commented [PAC12]: Fact-check

#### **K5. The preponderance of the evidence standard is used on appeals.**

Identified in: [San Diego \(County\)](#)

Spreadsheet reference: [DH-270](#)

- [In San Diego County, the Civil Service Commission, when hearing appeals, uses the preponderance of the evidence standard to adjudicate the appeal.](#)

#### **L. City Council Involvement**

##### **L1. The City Council can send a case back to the oversight body for reconsideration.**

Spreadsheet Reference: [374,375; DH-237, DH-239, DH-236](#)

Identified in: San Diego (County)

- In San Diego County, the County Board of Supervisors can send a case back to the Board for reconsideration.
- In the City of San Diego, the Mayor conducts reviews of process, trends in complaints, investigation, and discipline.

The PAC also identified a counterexample in the City of San Diego:

- The Mayor can make a final decision if the police disagree with the Board's finding.

## **M.** Board Compensation

**M1.** Community members serving on the oversight board are compensated for their time and work.

Identified in: New York, Chicago, Los Angeles (County). Philadelphia

Spreadsheet Reference: JR-020, DH-241, MA-002, KM-008C

- In New York, members of the oversight body are compensated per term. Some members decide to decline compensation and work *pro bono*.
- In Chicago, oversight board members are provided with a \$15k annual stipend.
- In Los Angeles County, oversight board members receive a \$5k annual stipend.
- In Philadelphia, the Citizen Review Board which has been authorized, but has yet to be convened for the first time, will have members who receive a small stipend for their work.

The Police Accountability Commission also identified a counterexample in Washington DC:

- In Washington, DC, oversight body members are not compensated.

**M2. Community members serving on the oversight board are reimbursed for any expenses they incur as part of their public service.**

Identified in: San Diego (City), San Diego (County)

**Spreadsheet Reference: DH-240, DH-242**

- In the City of San Diego, the Board is reimbursed for “authorized, reasonable, and necessary expenses.”
- In San Diego County, the Board is also reimbursed for expenses incurred as part of public service.

## **N. Internal Structure**

**N1. The oversight body is able to set both its Bylaws and its other internal processes, within broad parameters established in law.**

Identified in: San Diego (City), San Diego (County)

**Spreadsheet Reference: DH-277, DH-260**

- In the City of San Diego, the Commission on Police Practices is able to set its own internal processes. The CPP can amend Bylaws with support from a two-thirds majority of its membership, and other internal processes such as rules of order, administrative rules, and operational and standing rules by majority. Commissioners can submit proposals 10 days before a meeting to modify the rules.
- In San Diego County, the Board may adopt its working rules by majority vote, and must review them every four years.

The PAC also identified counter-examples to these best practices:

- In San Diego County, the County Board of Supervisors must approve the oversight body’s working rules.

**N2. The oversight body may meet and make decisions when a majority of seated members are present, subject to a minimum threshold defined by law.**

Identified in: San Diego (City), San Diego (County)

Spreadsheet reference: DH-031, DH-032, JR-003

- In the City of San Diego, there are 23 positions on the oversight body, but quorum is a majority of the seats which are filled. However, quorum can never fall below 7, meaning that even if there are fewer than 13 positions filled, 7 members must be present for the oversight body to meet.
- In San Diego County, quorum is set to a majority of seated members. To ensure enough participation in each decision, votes require the support of a majority of seated members *regardless of how many attend a particular meeting*.
- In Washington, DC, the quorum is a majority of the oversight body's five-person panels (three members).

**N3. The oversight body may establish and define its own officer positions from among its voting membership.**

Identified in: San Diego (County), San Diego (City)

Spreadsheet reference: DH-258, DH-252, DH-248, DH-247

- In the City of San Diego, the oversight body determines its own leadership. There is a Chair of the oversight board who generally acts as the spokesperson, runs meetings, coordinates communications, appoints committee members, coordinates case review teams; a Vice Chair who leads in the absence of the Chair and trains new members, and a Second Vice Chair who leads in the absence of both other officers and acts as the parliamentarian (consulting with the chair before the chair makes a ruling). All may vote and join case review teams themselves.

- In San Diego County, the oversight body determines its officers. There is a Chair who presides, serves as a spokesperson, signs documents, designates subcommittees, and ensures lawful operation. There is a Vice Chair who serves as Chair in the Chair's absence; a Chair Pro Tempore who serves if both the Chair and Vice Chair are absent; and a Secretary who keeps records of proceedings, is the custodian of records, and keeps attendance and membership.

**N4. The oversight body may establish and define its own (sub-)committees, which address different aspects of the oversight body's work.**

Identified in: San Diego (City)

Spreadsheet reference: DH-003, DH-244, DH-245. DH-250, DH-246

- In the City of San Diego, the oversight body determines its own committees.
  - Committees can be standing or ad hoc; sub-committee chairs remain for one year or for the duration of the ad hoc committee. Meetings are held at least quarterly.
  - Committees may have no more than roughly thirty percent of the overall oversight body's membership (seven members maximum, with San Diego having 23-25 total members on its oversight board).
  - There is a defined list of standing committees which the oversight board may change over time and which address the various roles of the oversight body. For example, San Diego has a standing policy committee to evaluate police policy changes and present to the full oversight board for approval.

**N5. Oversight body members are discouraged from abstentions and must explain their votes**

Identified in: San Diego (City), New York

Spreadsheet reference: DH-251, DH-256

- In New York, members of the oversight body cannot abstain from votes, and can only recuse themselves for conflicts of interest.
- In the City of San Diego, votes are taken by roll call, with members obligated to explain if they abstain.

## P. Discipline and Corrective Action

### P1. The oversight body has the final say on the minimum level of discipline.

Identified in: Oakland

Spreadsheet Reference: DA-020, MA-007, JR-022, DH-265, DH-266, DH-267, DH-121, DH-124.

- In Oakland, the police commission has a discipline committee which makes the final decision when the oversight agency and the chief of police disagree on either findings or discipline.

The PAC identified a partial best practice in Washington, DC and in San Francisco:

- The Chief of Police is obligated to impose the discipline determination from the oversight body, but may appeal the ruling to three legally-trained complaint examiners. Additionally, discipline must be imposed based on findings by an administrative judge.
- In San Francisco, oversight agency staff makes a recommendation for discipline. The oversight board determines discipline only if the recommendation is greater than a 10-day unpaid suspension, with lesser disciplinary recommendations received and acted upon by the police chief.

The Police Accountability Commission identified several counter-examples, which are considered practices to avoid.

Commented [PAC13]: Fact-check

- In Philadelphia, the Citizen Review Board makes recommendations for discipline or corrective action, but they do not have the power to execute it; it is up to the Police Department to follow the recommendations. Although the police must say why they would deviate, this nonetheless removes final authority from the community oversight system.
- In New York, the police commissioner can accept, modify, or reject findings made by the panel that reviews cases, and can also refer the case to the full oversight board. Ultimately, the commissioner has final say on discipline. Additionally, the police commissioner can reduce recommended discipline, and decide not to pursue discipline if an officer has no disciplinary history or has criminal charges pending.
- In San Diego County, the oversight board's determinations on discipline are non-binding recommendations, and the oversight board can only recommend discipline when there is a sustained finding.
- In the City of San Diego, the commanding officer of the officer found to have committed misconduct notifies the oversight body of proposed discipline, and the oversight body's role is limited to determining if this discipline is consistent with the discipline matrix.

**Commented [PAC14]:** Flagged for further discussion: Are there particular other findings in which the Board might impose discipline? If not, remove second half of this item.

## **P2. Police leadership may deviate upward from the discipline chosen by the oversight agency, but not downwards.**

Identified in: Maryland (State)

**Spreadsheet Reference: LL-004, DH-129**

- In Maryland, the Chief of Police is bound by the charging decisions made by the civilian charging committee. The civilian oversight process sets a "floor" below which discipline cannot fall, which can serve as a check on the disciplinary matrix, if the discipline required by the matrix is insufficient to the particular case. The Chief may impose greater discipline than that chosen by the oversight body.

The Police Accountability Commission also identified a counter-example in New York, which it considers a practice to avoid:

- In New York, the police commissioner can reduce recommended discipline, and decide not to pursue discipline if an officer has no disciplinary history or has criminal charges pending.

**P3. There is a defined discipline matrix, including defined options for discipline or corrective action and applicable to the same jurisdiction as the oversight body, with limited flexibility for application to individual cases.**

Identified in: New York, San Diego (County)

Spreadsheet Reference: DH-125, DH-127, DH-131

- In New York, there is a defined structure for discipline and corrective action, including options for: Instruction, training, unpaid leave for up to 10 days, warning and admonition, loss of vacation, suspension, dismissal probation, and termination. Additionally, giving false testimony to investigators as part of the original investigation can result in the officer being terminated even if the original complaint and findings would not have necessarily resulted in termination.
- In San Diego County, the Board's recommended discipline can note trends and take into account the officer's individual history.

## **Q. Findings**

**Q1. The oversight body uses a standard set of four options for findings in all cases, which include an option if the complaint is sustained, if the complaint is not sustained due to lack of information or evidence, if the complaint is not sustained due to the alleged events not occurring, and if the complaint is not sustained due to the officer's actions being within law and policy.**

Identified in: Washington DC, Seattle, San Diego (City), San Francisco

Spreadsheet Reference: JR-018, DA-023, DH-210, DH-211, DH-213

The PAC finds this standard set of four options to be a broad best practice, with several examples of identical or near-identical usage differing only in scope of application or terminology used.

- In Washington, DC, these options are labeled Sustained (out of policy), Exonerated (in policy), Unfounded (did not happen as alleged), and Insufficient Facts.
- In Seattle, these options are labeled Sustained and Not Sustained, with Not Sustained including Unfounded, Lawful and Proper, and Inconclusive.
- In the City of San Diego, all cases not involving Officer Involved Shootings can have one of the four findings, labeled Sustained (violation), Not Sustained (insufficient evidence), Unfounded (Act did not occur), and Exonerated (action justified, legal, and proper).
- In San Francisco, findings include Improper Conduct (sustained), Proper Conduct (in policy), Unfounded, and Insufficient Evidence.
- In New York, findings include Substantiated (out of policy), Within Guidelines (in policy), Unfounded (did not happen as alleged), and Unable to Determine (insufficient evidence).
- In San Diego County, findings include Sustained, Not Sustained (insufficient evidence), Unfounded (not true or did not occur), and Action Justified (lawful, justified, and proper).

The Police Accountability Commission found partial best practices in the City of San Diego:

- San Diego's oversight body, when assessing Officer Involved Shootings (OIS), can only find whether the officer was in or out of policy; the oversight body cannot use other options available to them in non-officer involved shooting complaints.

- In San Diego’s non-OIS cases, the use of the term “not sustained” is confusing, as it applies to only one of the three findings which are not a “sustained” finding.
- In San Diego County, the use of the term “not sustained” is confusing, as it applies to only one of the three findings which are not a “sustained” finding.

**Q2. The oversight body may add to the standard set of four individual-level findings options with additional findings regarding the police department.**

Identified in: Seattle, San Francisco

**Spreadsheet Reference: DA-023, DH-211**

- In Seattle, there are two additional findings that may be applied to a complaint: Training Referral, and Management Action. Training Referral directs the department to issue corrective action other than discipline, usually training and counseling. Management Action is used when the Office of Police Accountability recommends that the police department should revise its policy or training.
- In San Francisco, the oversight body may also apply findings of Policy Failure, Supervisory Failure, and/or Training Failure.

**Q3. The oversight body may dismiss cases in limited situations defined by law.**

Identified in: San Francisco

**Spreadsheet Reference: DH-211**

- In San Francisco, cases can be dismissed if the action is outside of the jurisdiction (e.g. an officer from another city is alleged to have committed misconduct), or if the complainant chooses to withdraw the complaint.

The PAC also identified a counterexample as a practice to avoid, also in San Francisco:

- In San Francisco, cases can be dismissed if the officer is no longer employed or cannot be identified.

#### **Q4. Findings are determined using the “Preponderance of the evidence” standard**

Identified in: San Diego (County), New York

Spreadsheet Reference: DH-268, DH-269, DH-270

- In San Diego County, the preponderance of the evidence standard is used for Board findings based on evidence at a hearing, or the investigative record.
- In New York, the preponderance of the evidence standard is used for Board findings.

#### **Q5. The oversight body communicates the findings to the complainant.**

Identified in: San Diego (City), San Diego (County), San Francisco

Spreadsheet Reference: DH-208, DH-212, DH-214

- In the City of San Diego, formal and informal investigations lead to letters written to the complainant.
- In San Francisco, once a case is closed a letter goes to the complainant with the outcome.
- In San Diego County, the disposition of the complaint must be shared with the complainant.

### **R. Investigative Process**

#### **R1. The**

Identified in:

Spreadsheet Reference: J

**Commented [PAC 09-2215]:** Commissioner comment (Monica): Include more information to make it easier for the reader to understand “preponderance of the evidence”

**Commented [PAC 09-2216R15]:** List some of the others to contrast this standard of review with (e.g. “reasonable person”, “beyond a reasonable doubt”)

Commissioner Dan will draft text.

- In Washington

T. Complaint Process, Timeline, and Intake

V. Mediation

W. Oversight Agency Community Engagement

X. Collective Bargaining

Y. Subpoena Power and Compelling Testimony / Access to Information

Z. Continuous Improvement

**84** A standing civilian Police Accountability Board (PAB) appoints civilians to a civilian Charging Committee and to any necessary Trial Boards, and reviews all data regarding complaints and submits an annual report each year to the local Council. The civilian PAB identifies trends and makes policy recommendations about the complaint process.

Identified in: Maryland (State)

Spreadsheet reference: Line LL-006

The civilian Police Accountability Board has significant power to influence all stages of the complaint and disciplinary process. The civilian Board touches all three layers of the process, including complaint, charging decision, and appeal.

**Commented [PAC 09-0117]:** Previously flagged for further discussion in spreadsheet discussion 08-29. Portions may be split and moved to other locations (e.g. policy -> policy section, trial board -> hearings section)

**Commented [PAC 09-1218R17]:** Commissioner Comment (Dan): Support separating reporting to report section, policy to policy section, keep only "receives complaints" function in this section.

Commissioner Comment (Lovisa): If there's a part of this I think is a good practice, the civilian board making policy recommendations. Some of this is situational.

**Commented [PAC 09-1219R17]:** Flagged for change prior to next draft.

**Commented [PAC 09-1920R17]:** Flagged (again) for change prior to next draft

**Commented [PAC 09-2221R17]:** Change made between drafts ("complaints" function added to item B2 and removed from this item.

The civilian Board appoints members to the civilian charging committee which reviews investigations and decides charges and discipline, ensuring civilians appoint civilians to a critical internal process. The civilian Board appoints a civilian to any Trial Boards which must be stood up during internal appeals, again ensuring that civilians appoint civilians at another critical point in the process.

The Police Accountability Commission agrees that the following items are practices to avoid from other jurisdictions.

### **1. Statute of limitations on completing complaint process**

Identified in: California (State Law)

- According to sources in Oakland, there is a California state law that places a statute of limitations on completing complaint disciplinary processes within one year. If this deadline is not met, the complaint investigation and disciplinary process is terminated.

### **2. Civilian board and internal affairs running parallel investigations**

Identified in: Oakland

- The civilian board and the police internal affairs will conduct investigations at the same time, then decide on discipline together. This process appears to be very ineffective.