

City of Portland
Police Accountability Commission
Areas of Agreement on Best Practices, and Practices to Avoid,
from Other Jurisdictions

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Definitions List:

- Oversight Body:
- Oversight Agency:

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

Commented [PAC1]: Member comment (Dan):
Replace with: "Having conducted research in June and July, the Research Subcommittee of the Police Accountability Commission presents these possible best practices to the full Commission for consideration in designing Portland's new oversight system."
This document will never be finished for adoption if we're asking the whole PAC to agree these are all best practices.

A. Policy

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

Identified in: San Diego (City)

- 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.

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)

- 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 with the potential to improve police department operations.

Identified in: Maryland, San Diego County

- 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.
- In Maryland, the civilian Police Accountability Board identifies trends and makes policy recommendations about the complaint process.

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

Identified in: San Francisco, Oakland

- In San Francisco, This authority encompasses a direct policy-setting authority, 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.

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

Identified in: New York

- 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. The oversight body conducts a public review of [the](#) police department budget.

Identified in: Oakland

- 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. Oversight Body Jurisdiction and Authority

B1. The oversight agency fulfils an investigatory and disciplinary function, an auditing and monitoring function, and a review function, to ensure both individual and systematic police oversight, including overall agency practices and policies.

Identified in: Chicago

- Chicago combines the three civilian accountability models: an investigatory and disciplinary function (Civilian Office of Police Accountability and the Police Board); an auditing/monitoring function (Public Safety Inspector General, which reviews patterns and practices for civil rights violations and fairness and consistency of officer discipline); and a review function (Community Commission for Public Safety--which drafts policies and can hire and fire leaders of police and accountability agencies).

B2. 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)

- 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.

B3. The oversight body has defined authority over, at minimum, alleged misconduct directly affecting the public.

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

[Denver](#)

- 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.
- Denver's Independent Monitor may conduct investigations into serious offenses by uniformed personnel and citizen complaints regarding force, discrimination, retaliation, discourtesy, or in the best interest of the city. The oversight board may review closed cases where the Monitor conducted the investigation. The case may be referred back to the agency with recommendations on the outcome and/or with recommendations related to policies or procedures.

Commented [PAC2]: Proposed inclusion (Commissioner Debbie).

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

- In New York, Internal Affairs has authority over theft of money, neglect of duty, corruption, perjury, and criminal conduct committed while off duty.
- In the City of San Diego, Internal Affairs does administrative investigations of Officer-Involved Shootings, with the oversight body only conducting an administrative review of completed Internal Affairs investigations. Additionally, following this review the case is examined by a "Police Department Shootings Review Board" for policy, tactics, and training issues, with the Commission on Police Practices only able to agree or disagree with the PDSRB's determinations.
- In San Francisco, the oversight body has no authority if the officer was off-duty at the time of the alleged misconduct.

B4. The oversight board oversees the oversight agency investigating complaints and has the authority to direct Agency Director to investigate cases. The oversight board oversees both the police department and the oversight agency investigating complaints.

Identified in: Denver, San Francisco

- In Denver, the oversight board serves as “eyes and ears of the public.”
- In San Francisco, the [Police Commission](#) oversees both the Department of Police Accountability and the Police Department.

B5. Board has authority to send cases to the District Attorney, Grand Jury or other authority for criminal investigation.

Identified in: San Diego (City)

- In San Diego, the oversight body has the authority to ask for a criminal investigation. 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

A larger board membership allows for more diversity, demographic, and geographics reflected in the community. It also allows the oversight body to create smaller panels for particular tasks. and ability to have smaller panels.

- In the City of San Diego, the oversight body has 23 members.
- In New York, the oversight body has 15 members.
- In San Diego County, the board can have between 9 and 15 members. County code currently sets the number at 11.

Commented [PAC3]: Commissioner proposal (Dan) if Denver is removed:

Commented [PAC4]: Entire item proposed for deletion (Commissioner Debbie)

Commented [PAC5]: Member proposed change (Dan): Something strange happened to this item between 9/30 and 10/17 where San Francisco and Denver got pushed together. Here's the old text that should remain about San Francisco: In San Francisco, the [Police Commission](#) oversees both the Department of Police Accountability and the Police Department.

Commented [PAC6]: Proposed for removal (sub-committee co-chairs)

Commented [PAC7]: Flagged for further discussion: Is 9 “enough” or should this line be removed?

Commented [PAC 10-178R7]: Commissioner comment (Obi): Should this be per capita / based on jurisdiction population size?

Commented [PAC9R7]: Sub-committee co-chairs’ proposal to remove.

The Police Accountability Commission also identified counterexamples in Washington DC and San Francisco, which it considers practices to avoid:

- Washington DC's oversight board only has five members and is expanding to 9.
- In San Francisco, there are only seven member positions on the oversight body.

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

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

- The City of San Diego Charter requires "taking into consideration sex, race and geographical area so the membership [...] shall reflect the entire community."
- Washington, DC expanded from 5 to 9 members to increase geographic diversity.
- The New York Charter requires the "Board to reflect diversity of the City."
- In Denver, board membership must reflect the city's diversity: ethnic, racial, geographic, professional backgrounds.

C3. Selection criteria for membership includes subject matter expertise

Identified in: Oakland, Denver, Seattle

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.

- In Denver, board membership must reflect the city's diversity of professional backgrounds and expertise.

The Police Accountability Commission also identifies a partial best practice in Seattle:

- In Seattle, the mayor, city council, and Community Police Commission each appoint seven commissioners. Two positions are designated for public defense or civil liberties lawyers. All of these are considered best practices. However, the Police Accountability Commission identifies as a practice to avoid that there is also one position reserved for a police union representative and one position for a member of the Police Management Association.

C4. Designated alternates for oversight body

Identified in: Oakland

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

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

The PAC also identified counterexamples, which it considers practices to avoid:

- In Washington, DC, only the Mayor appoints members of the oversight body.
- In San Diego County, the County Chief Administrative Officer sends nominations to the Board of Supervisors, who appoint review board members.

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

Identified in: San Diego City

- 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 membership, and applications are screened before passing them on to the appointing authority.

Identified in: San Diego County, Denver, Philadelphia

- 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.

The Police Accountability Commission also identified a partial best practice in Oakland:

- In Oakland, responsibility for selecting commission members is shared between a community-based selection committee and City Council, who must accept or reject the entire slate recommended by the selection committee. However, this system does not apply to all members of the Police Commission; three members are chosen by the Mayor subject to City Council approval.

Commented [PAC 10-1310]: Flagged for further discussion (Debbie) – possible redesignation as best practice rather than partial best practice

D4. Oversight Body members are given sufficient training to exercise their duties on behalf of the public.

Identified in: San Diego (County), San Diego (City), Los Angeles (County), Philadelphia

- In San Diego County, oversight board members are trained on government, code, rules, public meetings laws, state laws, officer rights, disciplinary

Commented [PAC11]: Member suggestion (Dan): would take this word out, we don't know that it's sufficient. That can be a recommendation later.

Commented [PAC12]: Proposal from sub-committee co-chairs.

process, police training, constitutional and civil rights law, collective bargaining agreements, diversity and inclusion, and community perspectives on law enforcement.

- In LA County, oversight board members receive mandatory six-month training and orientation.
- In Philadelphia, the system in the process of being implemented requires Civilian Review Board members to receive training on police law, investigations, criminal justice partners, the DA's office, policies and procedures, state constitutional law, community and civil rights organizations.

Commented [PAC13]: Member suggestion (Dan): Suggest moving to the bottom and saying with volunteers perhaps this is too much time to ask.

Commented [PAC14]: Propose removal (sub-committee co-chairs): Unclear what "mandatory six-month training and orientation" means – 9-5 M-F for six months, or just 2-3 evening sessions spaced out over six months? If it isn't clear if this is too much to ask or not, remove sentence and let the remainder support the header.

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

- 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

- 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

- *Attendance/Membership Activity*: Predetermined number of unexcused absences (Denver, San Diego City-two consecutive, County San Diego-three consecutive), unmet minimum participation, or workload requirement, inactivity in board activities including subcommittee work (San Diego City). Excused absences can be for unforeseen event, health reasons, out of town, conflict of interest (San Diego City).
- *Administrative*: ~~Criminally convicted~~ ~~Currently incarcerated~~ and unable to serve; financial or personal conflict of interest (San Diego City), death, resignation, no longer being a resident; failing to complete training (San Diego County)
- *Ethical and Policy Violations*: unethical conduct, misuse of position/documents; violation of confidentiality (City of San Diego).

Commented [PAC15]: Proposed rewording (sub-committee co-chairs)

Commented [PAC 10-1716]: Flagged for further discussion (Faythe)

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)

- *Vote by board members*: removal recommendations forwarded to City Council for consideration, defense allowed (San Diego City).
- *Council*: Board Chair notifies Board of Supervisors, who can remove members at any time (San Diego County).

E5. Members whose terms have expired continue to serve until their replacement is appointed.

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

- 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. Staff

F1. The oversight body hires, manages, and conducts reviews, and can choose to fire the Executive Director of the oversight agency, and in some cases can hire and fire that person.

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

- In Oakland, the oversight body can hire and fire the agency director.
- In Denver, with the assistance of a selection committee, the oversight board screens and selects three agency director candidates. A community process led by the oversight board concludes with the selection of a nominee who is confirmed by city council. The oversight board has the authority to fire the agency director.
- ~~In San Diego County, the Executive Director serves at the pleasure of the Board. The Board conducts annual performance reviews and manages the Executive Director.~~

The Police Accountability Commission also identified several partial best practices:

- In San Diego County, the Executive Director serves at the pleasure of the Board. The Board conducts annual performance reviews and manages the Executive Director, but cannot independently hire the Executive Director.
- 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 New York, the Board sets policy including personnel policy, and hires the agency director.
- In the City of San Diego, the oversight body conducts annual performance reviews of the Director. However, the City Council hires and fires the Director.

Commented [PAC17]: Member proposal (Dan):

Commented [PAC18]: Sub-committee co-chair proposal: Keep sentence as is, but move "In San Diego County" into "Partial Best Practices" as edited below.

Commented [PAC19]: Member Proposal (Dan): (this is my solution to the people who want to include both concepts even though Denver's board asks Council to hire the Director and the research I did on San Diego doesn't say what "serves at the pleasure of" means, thus keeping the heading accurate but not removing words that people felt were important.)

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

Identified in: Oakland

- 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.

Identified in: Oakland

- 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*.

F4. The oversight body has the authority to hire independent legal counsel.

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

City attorneys are responsible for representing the interests of the municipality, which sometimes conflicts with the interests of a civilian police oversight agency.

- In Denver and Oakland, the agencies have the authority to hire Independent counsel who gives civilian oversight agency the legal advice they need to carry out its duties.
- In San Diego County, the Board has independent legal counsel.
- In San Diego City, the Board is required to retain legal counsel on contract or as an employee.

The Police Accountability Commission also identifies a partial best practice in Washington DC:

- In Washington, DC, the board has independent legal counsel, but in court is represented by the US Attorney (this is unique to the District of Columbia, which is not in a state).

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

- In New York, they have lawyers to support misconduct hearings but not legal counsel separate from the City's.

F5. The oversight agency has sufficient enough staff to support agency operations.

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

- Philadelphia's new system, being implemented currently, will in addition to an Executive Director have staffers paid by the city to support the work of the Civilian Review Board.
- In Washington, DC, there are 22 staff: a Deputy Director, 11 investigators, 3 supervisors, administrative staff, and public affairs/community engagement staff.
- In San Francisco, staff work in Divisions: Audit, Mediation, Policy, Investigation, Records and Outreach.
- In New York, they have 180 staff, including specific units on Outreach, Intra-governmental affairs, Racial Profiling and more.
- In San Diego City, there are currently 6 staff who respond to public inquiries, take complaints, prepare reports, send meeting notices and prepare minutes.
- In San Diego County, they have 8 employees including at least one investigator and legal counsel.

The Police Accountability Commission also identified a counter-example in San Francisco:

- In San Francisco, the commission Secretary, which is a staff position, is a police sergeant, which the PAC identifies as a practice to avoid.

F6. Oversight body staff are provided adequate training for their roles.

Commented [PAC20]: Member proposal for removal (Dan)

Commented [PAC21]: Sub-committee co-chair proposal

Commented [PAC22]: Flagged for further discussion: Is 6-8 "sufficient"? If not, should this be removed?

Identified in: New York

- In New York, civilian investigators are trained on policies, interviewing, evidence, patrol mandates, operations, legal issues including stops, frisks and searches.

The Police Accountability Commission also identified counter-examples in New York, which may be considered practices to avoid:

- Also in New York, investigators must spend two days at the police academy and have 8 years of prior experience; it's not certain whether the police academy requirement is appropriate nor that 8 years is needed.
- Furthermore, the NY Police Department gives administrative and legal guidance to staff; it is not clear whether this is appropriate.

F7. The oversight system may reach outside city structures to complete its work.

Identified in: Albany NY

- In Albany, NY, the review system is supported by staff at the Government Law Center at Albany Law School.

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, San Francisco

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.
- In San Francisco, meeting summaries are published after each meeting.

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

Identified in: Oakland

- 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.

Commented [PAC23]: Proposed change (sub-committee co-chairs): Still accurately reflects Oakland’s former practice, but does not imply that the practice shouldn’t hold if the officer is unidentifiable.

Commented [PAC 10-1724]: Flagged for further discussion (Co-Chair Seemab): How will this work with unidentified officers?

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)

- 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. The oversight body meets regularly with the agency director, chief of police, and other officials.

Identified in: Denver

- In Denver, 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.

The Police Accountability Commission also identifies a partial best practice in Los Angeles County:

- In Los Angeles County, the head of the law enforcement agency or their designee attends and participates, but has no vote, on the oversight body. This provides information and perspectives to the commission, but it has not yielded demonstrable buy-in from law enforcement.

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

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

- 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: Maryland, Seattle

- 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 publicly disclosed budget that includes guarantees of a minimum allocation.

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

In several cities, the budget is guaranteed at a certain level; it is not clear whether these budgets are sufficient to fund the agency in each jurisdiction.

- 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

Commented [PAC25]: Sub-committee co-chairs' suggestion: Move Philadelphia up and add this text.

Commented [PAC26]: Member suggestion (Dan): I think this fixes both the headline and the "avoid" comment which I don't think is accurate.

Commented [PAC27]: Member suggestion (Dan):

Commented [PAC28]: Member suggestion (Dan): I would cut this line

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.

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

- In Washington, DC, the office is located in a private office space.
- In the City of San Diego, the office is separate from where the Mayor and Internal Affairs are housed.
- In San Francisco, the office is separate from City Hall and the police.
- In New York, the Board has its own office space in Manhattan, and can do interviews in any of the five boroughs.
- The Oakland oversight agency is located in an office building that is part of the City Hall complex and also home to the City Permit Center, Finance Department, Housing Resource Center. The police department is located elsewhere.
- The Denver oversight agency is located in the Denver Post Building that also houses parks and public health departments, economic development office, and Civil Service Commission. The Denver city government leases space in this privately-owned office building.

The Police Accountability Commission also identified a partial best practice in San Diego County:

- In San Diego County, the office is located separate from the Sheriff's office. However, the oversight body's office may have security provided by the Sheriff's office, which is a practice to avoid.

I. Audit Functions

I1. The oversight agency reviews all misconduct investigations to ensure they are complete before findings and discipline are determined.

Identified in: Seattle

- 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.

12. The oversight agency audits closed cases alleging misconduct and may recommend policy changes.

Identified in: San Francisco, New York, Oakland

- 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.

13. The oversight body may conduct Sentinel Event Reviews, and/or reviews of undesirable police-related activities.

Identified in: Seattle

[Sentinel Event Reviews](#) are in-depth, root cause analyses of significant and undesirable police-related 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

- 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.
- 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. 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.

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

The Commission identifies the definition of required contents in law as a best practice.

- 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 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

Several jurisdictions publish data on closed cases, with dates, facts of the case, officer names, 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.

The Police Accountability Commission also identified several partial best practices:

- While investigations are still proceeding, Philadelphia publishes all the information in anonymous form (with names withheld), and republishes with identifying information after investigations are complete.

Commented [PAC29]: Proposed changes (sub-committee co-chairs): This would still support complainant names not being disclosed

Commented [PAC 10-1730]: Flagged for further discussion (Co-Chair Faythe): I don't know that I agree that excluding officer names is a best practice.

- In Washington, DC, case decisions are posted online without the officer or complainant's names, but with facts of the case supporting the findings.
- In Seattle, Closed Case Summaries are posted online. The document includes a summary of the incident and alleged misconduct, as well as the agency director's response to each allegation of misconduct. If discipline is imposed, the type and severity of discipline are also included. Closed Case Summaries do not list complainant names. However, in Seattle, Closed Case summaries also do not list employee names.

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

- In New York, data on cases that went to mediation are not public.
- ~~In Seattle, Closed Case summaries do not list employee names.~~

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

Identified in: Seattle

- In Seattle, the Community Police Commission has a tracker that provides reasons for the recommendations by the commission, civilian agency, and the Inspector-General 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

- 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

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

K. Appeal Process

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

Identified in: San Diego (City), New York

- 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.
- In Seattle, the police contract gives sworn employees the right to appeal through either the Public Safety Civil Service Commission or arbitration.
- In Oakland, officers are entitled to a Skelly (Loudermill) hearing when there is a sustained finding and recommended discipline is dismissal, demotion, fine, or suspension.

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 and/or dismissal or decision not to investigate.

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

- 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.

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.

Identified in: San Diego (County)

- 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

- 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 two alternate examples which may be worth examining:

- 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.

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

- 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.

Identified in: San Diego (County)

- In San Diego County, the County Board of Supervisors can send a case back to the Board for reconsideration.

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

- In the City of San Diego, the Mayor can make a final decision if the police disagree with the Board's finding, instead of sending the dispute to the oversight body for reconsideration.

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

- 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 \$12k annual stipend; the chair is provided 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.
- In Denver, compensation is limited to \$1,200 per year and members are also reimbursed for expenses.

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)

- 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)

- 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 a counter-example in San Diego County:

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

N2. Quorum: 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)

- 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*.

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)

- 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. All may vote and join case review teams themselves.
- The City of San Diego's Parliamentarian advises the board to ensure they are properly following procedures, consulting with the chair before the chair makes a ruling.
- 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 committees or sub-committees, which address different aspects of the oversight body's work.

Identified in: San Diego (City), Oakland, Seattle

- 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. Others are Executive (functioning of Board), Education (sets up presentations for board's meetings), Outreach, Rules (bylaws and operating rules), Recruitment and training.
- The Oakland police commission has ad hoc committees that work on specific issues. Examples include: body worn camera policy, community outreach, militarized equipment.
- The Seattle police commission has (or had, based on the 2019 Annual Report) the following subcommittees or workgroups: Strategy, Behavioral Health, Governance, Community Engagement, Police Practices, State Legislative Agenda, Complainant Appeals Process.

N5. Oversight body members are encouraged to vote, with recusals in limited circumstances and/or abstentions discouraged

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

- 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. Board members can ask to be removed from a case if they have a conflict of interest.
- In San Diego County, Board members cannot serve to hear a case if they have a conflict, such as being the family or friend of a party, a witness to the event, or having a financial interest or bias.

P. Discipline and Corrective Action

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

Identified in: Oakland

- 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:

- In Washington, DC, 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.

- 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; when there is a sustained finding the oversight board can only recommend discipline.

- 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.

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

Identified in: Maryland (State)

- 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)

- 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. Hearings and Findings

Q1. The oversight body uses a standard set of four options for findings in all cases.

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

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: 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.

- 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 also found partial best practices:

- The City of 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.

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

Identified in: Seattle, San Francisco, Chicago

- 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.
- In Chicago, investigators can assess policy issues regarding how the incident could have been avoided, training could be changed, policy deficiencies, and more.

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

Identified in: San Francisco

- 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

- The “Preponderance of the evidence” standard means that a majority of evidence supports an allegation.
 - "Clear and convincing evidence": there has to be much more than 50% of evidence to prove misconduct. At IPR that standard is currently used to dismiss force allegations, so there has to be much more than 50% of evidence that the incident didn't happen or there was no misconduct.
 - "Beyond a reasonable doubt": there is almost zero evidence disproving the allegation; this is used for criminal cases.
 - The "Reasonable Person" standard that the Citizen Review Committee uses for appeals means that a theoretical reasonable person, using the same evidence as the officer's commander or whoever made the original decision, could come to the same finding even if the new reviewers disagree with that finding. In Portland this means the CRC must defer to the police unless they think that it was unreasonable that somebody who looked at the evidence could come to that conclusion.
-
- 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

- 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.

Q6. The oversight board may create panels to hear cases and determine violations of policy findings.

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

- In San Diego City, a three-member panel of Board members reviews evidence, and asks if the investigation is thorough, fair and impartial; they may agree with investigator-proposed findings. If they do not agree, the case is heard by the full oversight board.
- In New York, a panel of three reviews the investigation. As the full oversight body is made up of members appointed by the Mayor, Council, and Police Commissioner, the three-member panel has one member appointed by each. Panels can make findings or refer the case to the whole Board.
- In San Diego County, Investigative Hearing panels of three members may hear cases, which are then sent to the full Board. However, since its inception, the full board has held hearings with a minimum of six of 11 members.

The Police Accountability Commission also identified counter-examples in Maryland, New York, and Washington DC, which it considers practices to avoid:

- In Maryland, Trial Boards consisting of three members deliberate on the facts to determine findings. The Boards consist of three members: one officer of equal rank to the one under investigation (selected by Police Chief), one civilian chosen by the Board, and an administrative law judge selected by the Chief County Administrator. The Trial Board is the final step

before state law requires that a party be allowed to appeal to the local circuit court.

- In New York, cases can be forwarded to an administrative trial involving a signed statement from the complainant, both of which are viewed as practices to avoid due to unnecessary complexity.
- In Washington, DC, complaints that are accepted are heard by an administrative judge, hired on a case-by-case basis, who can hold additional hearings and gather information.

Q7. Information is distributed before the hearing.

Identified in: New York, San Diego County

- In San Diego County, the investigative hearing report is sent to the complainant and officer before the hearing.
- Also in San Diego County, public notice of hearings is given 10 days in advance of the hearing.

The Police Accountability Commission also identified partial best practices in San Diego County and New York:

- In New York, the officer gets notice of hearings and can request supporting documents (if there are no sustained findings) or receives documents automatically (if there are sustained findings). The PAC identifies this as a best practice only when applied equally to complainants and officers.
- Also in San Diego County, officers can access evidence unless prohibited by law. The PAC identifies this as a best practice when applied equally to complainants and officers.

Q8. The hearings process has accommodations to ensure accessibility for complainants.

Identified in: San Diego County

- In San Diego County, the complainant can appear with a representative and/or an attorney.
- Also in San Diego County, interpreters can be provided (with 7 days advance notice).

Q9. Hearings have consistent procedures.

Identified in: San Diego County

- In San Diego County, there are clearly defined hearings procedures:
 - the Board decides on findings by majority vote. Those who disagree can include their dissenting information along with the findings if they submit their opinion within five days.
 - the officer and complainant can make opening statements; the Chair/presiding member begins questions of witnesses; officers/representatives and staff can ask questions; officer or complainant can ask for panel to ask more questions; Officer and complainant can make closing statements. Complainant or officer can call witnesses, introduce exhibits, cross-examine, impeach witnesses, rebut; officers can be called for cross examination even if they did not testify.
 - Hearings can be held even if parties fail to appear.
 - hearsay is admissible; evidence is allowed if "responsible persons are accustomed" to using such information in "serious affairs."

The Police Accountability Commission also identified a counter-example in San Diego County which it considers a practice to avoid:

- San Diego County requires testimony under oath; it's not clear what happens if the oath is violated, but this poses a potential barrier.

Q10. The oversight body can take interim steps prior to findings being determined in specific cases.

Identified in: New York

- In New York, a case can be expedited if an officer is retiring or being promoted.
- Also in New York, the Board can recommend suspending an officer while administrative charges are pending.

Q11. Officers accused of misconduct can cut a “plea deal” with the oversight body under certain circumstances

Identified in: San Diego County, New York

This can expedite the process, although if it means that if the Board might have found other misconduct they would not be able to hear the case.

- In New York, officers can cut a plea deal with the Board. However, the Police Commissioner can reject the deal and order the Board to hold a hearing.
- In San Diego County, officers can plead "no contest" before a hearing, which is binding.
- ~~While this can expedite the process, it means if the Board might have found other misconduct it cuts off their ability to hear the case.~~
- San Diego County’s process may be a practice to avoid, because while this can expedite the process, it means if the Board might have found other misconduct it cuts off their ability to hear the case

Commented [PAC31]: Flagged for further discussion: This is written more as a practice to avoid (especially San Diego County) than a best practice.

Commented [PAC 10-1332R31]: Two options for further discussion

Commented [PAC33R31]: Staff note: Sub-committee co-chairs will draft a proposed solution to this language in advance of 10-17 full commission meeting.

Commented [PAC34R31]: Proposal from sub-committee co-chairs: Replace with Practice to Avoid #7 and delete here entirely.

R. Investigations

R1. The presumptive timeline to complete an investigation is 180 days or less.

Identified in: Washington DC, San Diego (City)

- In Washington, DC, investigations are required to be completed within 180 days, and most are done more quickly.
- In the City of San Diego, formal complaints have to be completed within 90 days, and informal complaints have to be completed in 30 days, or 60 if they lead to a formal investigation.

The Police Accountability Commission also identified several counter-examples, which the PAC considers practices to avoid due to the length of the timelines:

- In San Francisco, investigations must be completed in one year.
- In San Diego County, complaints must be investigated within one year.

R2. The timeline to complete an investigation may be extended.

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

- In San Francisco, investigations can be extended beyond the presumptive timeline (1 year) if needed.
- In San Diego County, death investigations are both prioritized and allowed to extend beyond one year in length.
- In New York, if the complainant or their attorney wants to suspend investigation, the investigation can be halted and reopened later.

R3. Investigations must follow established guidelines.

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

- In San Diego, investigations must follow federal and state constitutions and laws, city charter, board rules and regulations, collective bargaining agreement, and NACOLE ethics code.
 - In complaints involving Officer Involved Shootings, officers receive Lybarger/Garrity warnings that they are being compelled to testify for administrative investigation, and this interview cannot be used in a criminal proceeding.
- In New York, the Board determines investigative procedures to provide more guidance to staff operations.
- In San Diego County, investigations must be ethical, independent, thorough, timely, fair, and impartial.
 - Officers receive a Lybarger warning against self-incrimination.

R4. Investigators must gather evidence, including video evidence, and conduct and record interviews.

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

- In the City of San Diego, investigations include interviews of complainant, officer(s), and witness(es), as well as gathering evidence including photos, videos, and proof of injuries. Interviews with officers are all recorded; interviews with civilians are usually recorded, with documentation justifying when civilian interviews are not recorded. Civilian interviews can take place at locations other than the oversight body's office.
- In San Francisco, investigations include interviewing complainant, officer(s), witnesses, and gathering documents and videos.
- In San Diego County, investigations include interviews of witnesses, involved officers, gathering of reports, photos, and videos.
- In New York, investigators can review video and medical records, and conduct site visits. No "off the record" comments are allowed.
- In New York, investigators have access to roll calls, logs, assignments, and stop and frisk data from the police department.

The Police Accountability Commission also identified counter-examples it considers practices to avoid:

- In New York, while investigators are allowed to interview complainant, officer, and witnesses, as well as to record interviews, they have the latitude to choose not to do so. The PAC considers this ability to choose not to conduct or record interviews a practice to avoid.
- In San Diego County, interviews are not required to be recorded.

R5. The investigative process is structured to be accessible for all involved, and supportive of complainants navigating the process.

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

- In the City of San Diego, civilians can have a support person who is not a witness to the incident. Officers are able to bring bargaining unit representatives.
- In New York, civilians can have up to two support people including counsel. Interviews are scheduled around civilians’ work schedules, and can be rescheduled. Interviews include accommodations for people with disabilities, as well as interpreters if needed.
- In San Diego County, complainants may consult with an attorney and have a representative.

R6. Complainants have access to case information online.

Identified in: New York

- In New York, civilians can check the status of their case online.

The Police Accountability Commission also identified a counter-example, which it identifies as a practice to avoid:

- In San Francisco, complainants are only told when their case is opened and closed. The PAC believes this level of communication is too minimal.

T. Complaint Process, Timeline, and Intake

T1. The oversight system includes a broad definition of who can file complaints alleging police misconduct.

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

- In Washington DC, anyone can make a complaint. Parents of minors can make a complaint on behalf of a child.
- In the City of San Diego, anyone who experiences or witnesses alleged misconduct can file a complaint.
 - Police officers with city police, or with other police agencies, can file complaints, which in San Diego are called “department initiated”.

- In San Francisco, complaints can come from those experiencing the incident or witnesses.
- In New York, the complainant pool is inclusive regardless of age, immigration status, or language used. Incarcerated people can file complaints, and investigators routinely visit jails.
- In San Diego County, the right to file a complaint is described as “absolute and unconditional.” Anyone can file regardless of age, citizenship, residence, criminal record, or other characteristics, including incarceration status.

T2. The complaint process is inclusive and offers multiple methods, as well as accommodations, to ensure access.

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

- In San Francisco, translation is offered into various languages to be inclusive of people other than English speakers.
- In San Diego County, filing is offered by mail or phone to be inclusive of people without internet access, as well as incarcerated people. Complaints can also be filed by email, online, or fax, and collect calls are accepted.
- In San Francisco, complaints can be submitted via phone, in person, or by mail, with the form available in six languages.
- In New York, complaints can be filed by phone, online, by 311, in person at the agency, and by mail.
- In San Diego, complaints can be filed online, by phone, email, mail, or in person at the review agency.

The Police Accountability Commission also identified counterexamples in New York and San Francisco, which the PAC considers practices to avoid due to the limited hours:

- In New York, phone complaints can only be filed between 8 AM-5 PM, which reduces access.
- In San Francisco, the agency office is open only from 8 AM-5 PM to take complaints.

T3. The oversight agency has provisions to accept anonymous complaints.

Identified in: New York

- In New York, the oversight body’s Chair and agency Executive Director have the discretion to accept anonymous complaints depending on nature and severity of allegations, availability of evidence, and workload.

The Police Accountability Commission also identified counter-examples it considers practices to avoid:

- In San Diego County, anonymous complaints are not accepted.
- In Los Angeles County, anonymous complaints are not referred for investigation.

T4. The allowable time after an incident in which a civilian can file a complaint is large enough to ensure access to community, and able to be extended.

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

- In New York, community members have 18 months after an incident to file a complaint, and the oversight body chair and executive director are able to extend this deadline.
- In San Diego County, complaints can be filed within 1 year of an incident, with time that a prospective complainant is incarcerated or incapacitated not counting towards this time.
- In Washington DC, the oversight agency Executive Director can extend the timeline if a complainant is in jail or fears retaliation.
- In Denver, there is no deadline to file complaints, although the oversight agency encourages filing within 60 days.
- In Oakland, there is no oversight agency deadline for complaint filing.

The Police Accountability Commission also identified a counter-example in Washington DC, which the PAC considers a practice to avoid:

- In Washington DC, complainants have 90 days to file a complaint unless extended as noted above.

T5. Complainants receive a record of their complaint, including a notice of completion of investigation.

Identified in: Chicago, San Diego (County)

- In Chicago, the oversight agency is required to promptly confirm receipt of complaint, provide notice to complainant if investigation cannot be completed in their required timeframe, and deliver final report to complainant.
- In San Diego County, the oversight body sends the complainant a summarized complaint, brochure, customer survey, medical release form, and confidentiality notice.

The Police Accountability Commission also identified a counter-example in San Diego County, which the PAC considers a practice to avoid:

- In San Diego County, complainants do not automatically receive staff recommendations of findings, the oversight board's meeting notes and decision, or have their original documents returned, but must submit a request to receive this. Additionally, they cannot receive investigative files.

T6. Incomplete or unverified complaints can be investigated if the oversight body determines investigation is warranted.

Identified in: Chicago

- To address the fact that many complaints were not being investigated due to the lack of verification, Chicago created an override system that allows the oversight agency to investigate complaint and recommend an exception to the head of Internal Affairs.

The Police Accountability Commission also identified a partial best practice in Los Angeles County:

- In Los Angeles County, anonymous complaints, though not investigated, are reviewed and maintained for purposes of monitoring patterns and systems of misconduct.

V. Mediation

V1. The oversight body has the authority to conduct voluntary mediation between community members and law enforcement.

Identified in: San Francisco, New York, Chicago

San Francisco, New York, and Chicago all have mediation programs run by their oversight bodies.

- In San Francisco, there is a mediation division of the oversight body, which has 130 volunteers and whose mission includes both improving relationships with community and improving policy.

The Police Accountability Commission also identified counter-examples in the City of San Diego and San Diego County, which the PAC considers practices to avoid:

- In the City of San Diego, the mediation program used to be run by the Police Department, which may have been a factor the program did not succeed and no longer exists.
- In San Diego County, there is no authority in the County Charter to conduct mediation.

V2. Mediation is offered in more minor cases, but not in more serious cases.

Identified in: San Francisco, New York, Chicago

- In San Francisco, only complaints for conduct unbecoming an officer, unwarranted action, and neglect of duty are eligible for mediation.
- In New York, complaints are eligible for mediation unless there is a civil lawsuit or criminal case, or if the complaint alleges physical injury or property damage.

- In Chicago, all complaints where (if sustained) discipline would be a suspension of 30 days or a lesser discipline are eligible for voluntary mediation.

V3. Mediation is accessible and open to affected individuals, in some cases to people other than complainants.

Identified in: New York

- In New York, mediation includes accommodation for people with disabilities, as well as interpreters as needed. To accommodate schedules, complainants can fail to show up twice before failure is declared.
- Also in New York, mediation is open to complainants, as well as to family members of victims even if complainants do not themselves participate.

V4. Mediation for minor cases, when successful, can be an alternative to investigation.

Identified in: San Francisco, New York

- In San Francisco, mediation (for minor cases in which mediation is allowable) is an alternative to investigation.
- In New York, successful mediation results in the complaint not being investigated. Either party to the mediation can determine that mediation is not successful, and ask for an investigation if mediation fails. Additionally, if either party rejects mediation, the case is sent to investigation.

W. Oversight Agency Community Engagement

W1. The oversight body conducts public education on the role of the oversight system and community members' rights.

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

- In Washington DC, oversight agency public affairs staff does outreach to youth and community partners, including “know your rights” talks
- In San Diego City, the oversight body must keep community informed of activities and receive input, including how to file a complaint without fear of retaliation.
- In San Francisco, the oversight body conducts “Know your rights” trainings.
- In New York, oversight agency outreach unit teaches about the oversight board, civilians’ rights, de-escalation, and filing complaints. Outreach is conducted at schools, libraries, community organizations, neighborhood meetings, housing authority.

W2. The oversight body engages with the community on how to improve police practices and policy.

Identified in: Chicago, Los Angeles County

- In Chicago and in Los Angeles County, the oversight commission solicits community input and conducts engagement on use-of-force incidents and civil rights issues, and functions as a bridge between community and law enforcement.

W3. The oversight body conducts education on their activities for new law enforcement personnel and bargaining unit representatives.

Identified in: Washington DC

- In Washington DC, oversight agency public affairs staff conducts a training for new officers, as well as presentations for bargaining unit representatives.

X. Collective Bargaining

X1. The oversight agency has representation in the room during collective bargaining.

Identified in: Seattle

- In Seattle, a representative from the police commission has a seat at the bargaining table during negotiations with the police collective bargaining units.

Y. Access to Information

Y1. The oversight body has the ability to subpoena evidence.

Identified in: New York, Washington DC, San Diego (City), San Diego (County), Philadelphia, Oakland, Chicago

- In Washington DC, investigators have subpoena power.
- In the City of San Diego, the oversight board can subpoena witnesses and documents.
- In San Diego County, the oversight board can subpoena evidence and reports. The Charter allows the Board to require witness attendance.
- Philadelphia's Citizen Review Board has subpoena powers and access to all files and evidence, and is allowed to go to the crime scene and gather information independently.
- Oakland's oversight system has subpoena power.
- Chicago's oversight body has broad subpoena power.

The Police Accountability Commission also identified counter-examples in Washington DC and New York, which the PAC considers practices to avoid:

- In Washington DC, despite having subpoena power, investigators rarely use it. Additionally, they do not have access to police records and must request them from the police.
- In New York, the oversight body does not have direct access to body camera footage, although the manufacturer (AXON) allows for this access to be given to the oversight body.

Y2. The oversight body has the ability to compel officer participation and testimony.

Identified in: San Francisco, New York, Philadelphia

- In San Francisco, officers are issued a notice and order to appear before the oversight body; failure to appear itself grounds for discipline.
- In New York, officers are notified of their constitutional right against self-incrimination, but are also notified that failure to answer questions can result in termination.
- In Philadelphia, officers are required to be present at hearings, proceedings, and participate in investigations if requested.

The Police Accountability Commission also partial best practices in San Diego County:

- In San Diego County, the Charter's text allows the oversight body to require officers to respond to written questions and appear at interviews and hearings, but staff state that 99% of officers refuse to give written statements. The PAC considers the Charter authority to be a best practice, but the failure to receive statements from 99% of officers to be a practice to avoid.

The Police Accountability Commission also identified counter-examples in Washington DC and Maryland, which the PAC considers practices to avoid:

- In Washington DC, compelling police testimony requires a police order. Additionally, the oversight body must use the court notification system to request and schedule police appearances.
- In Maryland, the subject officer may not be compelled to testify in the Trial Board system.

Z. Continuous Improvement

Z1. The oversight body is required to self-evaluate and recommend changes to its structure on an ongoing basis and through regularly-scheduled self-evaluations.

Identified in: Los Angeles County, San Diego (City), Seattle

- In Los Angeles County, the oversight commission is required to conduct a self-evaluation every three years and recommend changes or continuations or practice, including of structure. This allows for the agency to evolved in response to changing circumstances.
 - Also in Los Angeles County, if the commission’s charter is changed, it is required to report on that change after one year.
- In Seattle, the oversight agency conducts periodic complainant experience surveys, [reports on the results](#), and develops recommendations for improving the system based on the information gathered.

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

- In San Diego, the Mayor reviews procedures, surveys complainants and witnesses, reviews statistics and interviews staff. The Commission considers these activities to be best practices, and the fact that the responsibility rests with the Mayor rather than the oversight agency a practice to avoid.

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

1. Statute of limitations on completing investigation processes

Identified in: California (State Law), San Diego (County)

- 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.
- In San Diego County, if investigations are not completed by the presumptive timeline of one year, they are closed.

2. Civilian board and internal affairs running parallel investigations

Identified in: Oakland

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

3. Officers are provided with the names of investigators, complainants, and witnesses.

Identified in: New York

- During active investigations in New York by its oversight body, officers are provided with information including the names of the lead investigator, other investigators, complainants, and witnesses. Because they are also told the nature of the allegations and if they are a subject of the investigation or a witness, the disclosure of names creates a concern for retaliation against civilians.

4. The same agency that accepts complaints also accepts officer commendations.

Identified in: San Diego (City)

- In San Diego, community members can file commendations at the same civilian oversight agency that accepts and investigates complaints, as opposed to a system that has commendations filed directly with the police.

5. The process of filing a complaint about the police involves an interaction with the police.

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

- In the City of San Diego, complaints may be filed directly with the police. It is unknown if there are any provisions to ensure the police turn cases over to the civilian agency tasked with investigation, or to ensure that they do not discourage complaints.
- Also in the City of San Diego, after a complaint is filed the officer's supervisor calls the complainant to "explain policy", and only if the complainant is not satisfied with the explanation does the complaint move to an investigation. This both prevents an investigation from potentially revealing other issues worth addressing beyond the initial complaint, and forces an interaction with the police for the complainant.
- In Maryland, civilians may file complaints at the law enforcement agency (although they may also file them at the civilian oversight agency).
- In New York, complaints may be filed at police stations.

6. Complaints must be signed under penalty of perjury.

Identified in: San Diego (County), New York

- In San Diego County, complaints have to be written and signed under penalty of perjury, creating a hurdle for complainants. Although San Diego County has not ever prosecuted someone for allegedly filing a false report, the potential penalty of perjury exists nonetheless.

- In New York, if the Board refers a case to a hearing, the complainant has to sign a statement; this could be a barrier to participation.

7. Officers accused of misconduct can cut a plea deal with the oversight body

Commented [PAC35]: Proposed replacement for Q11.

Identified in: San Diego County

- In San Diego County, officers can plead "no contest" before a hearing, which is binding. This prevents investigations from proceeding that may find other misconduct beyond that alleged in the complaint.

The Police Accountability Commission also identified a partial practice to avoid in New York:

- In New York, officers can cut a plea deal with the Board. However, the Police Commissioner can reject the deal and order the Board to hold a hearing.