CIVILIAN OVERSIGHT OF LAW ENFORCEMENT

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Division of Criminal Justice
The autonomy of law enforcement has been addressed by the development of civilian oversight agencies/entities. These agencies aim to provide accountability of law enforcement through civilian review of police policies, independent civilian investigations of citizen complaints against the police, and through civilian review of police investigations of citizen complaints. Although civilian oversight of law enforcement has been developing since the late 1940s there has been little research on the topic. There is little research on characteristics of specific oversight agencies and even less research on measuring the performance of civilian oversight.

This exploratory study aspired to learn about the structures and functions of four specific oversight agencies, and to compare these agencies using performance
measures identified in existing literature. The sources of data for this study are qualitative interviews. The interviewees consist of five classifications of individuals associated with oversight agencies in some manner.

This study found that the varying structure and function of each oversight agency yielded both positive and negative results. The political influences on oversight agencies and the authority of the oversight agencies were found to be sources of contention that impeded their missions. The criticism in existing literature that civilians do not have the necessary training and experience to hold police departments accountable was corroborated by the interviews. Most importantly this study found that none of these oversight agencies actively employed measures to evaluate their own performance. Furthermore, when this study applied performance measures identified in existing literature, it found the oversight agencies were deficient.

_________________________, Committee Chair
David Swim, D.P.A.

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Date
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Chapter 1
INTRODUCTION

Statement of the Problem

Law enforcement, from its origin, has been a contentious necessary component of society. The occupation of law enforcement, which holds society accountable to the laws it has chosen, has traditionally been accountable for itself. This self accountability has historically led to incidents of both minor and gross police misconduct, and has been the focal point of heated debates between civil rights activists and law enforcement professionals. A headlining 1981 report on police accountability by the US Commission on Civil Rights titled “Who is Guarding the Guardians?” encompassed the wide concern regarding police accountability. Furthermore the enabling power and authority bestowed on the minority that is law enforcement in order for them to complete their duties has proved to be a catalyst for corruption. This corruption has not and does not comprise all law enforcement personnel, but its existence can not be refuted.

The autonomy of law enforcement has been addressed by the development of civilian oversight agencies/entities. The purpose of these agencies is to provide accountability to law enforcement through civilian review of police policies, independent civilian investigations of citizen complaints against the police, and through civilian review of police investigations of citizen complaints.
Although civilian oversight of law enforcement has been developing since the late 1940s there has been little research on the topic. The existing research on civilian oversight has focused on the macro and addressed general topics such as the varying types of oversight, their purposes/goals, their varying authorities, and the obstacles they face. There is even less research on measuring the performance of civilian oversight. As discussed later, a major obstacle for measuring their performance is that no oversight mechanism is like another; there are no standardized structures and authorities of civilian oversight making each one different from the other. Logically therefore, performance measures need to be identified on a case by case basis per oversight agency.

**Purpose of the Study**

The purpose of this exploratory study is to amalgamate both these issues, the lack of concentration to specific conditions of particular civilian oversight agencies and the deficiency of identifying performance measures, by conducting a comparison of varying local (California) oversight agencies. University of Nebraska professor Samuel Walker (2001) corroborates this study’s purpose by stating, “Although a number of oversight agencies have credible records of success, there is a serious lack of research on the activities and effectiveness of oversight agencies” and “…there is a lack of comparative research that would allow us to make meaningful comparisons between different types of agencies” (p. 184). Prospectively this research will identify effective
and ineffective structures, policies, and performance measures of these civilian oversight agencies through a comparison of them.

**Need for the Study**

Civilian oversight, as evidenced by its continued existence and growth, has been established as a lasting component of law enforcement. The need for further study of civilian oversight is supported by both its continued existence and the current lack of research. The importance of cross examining civilian oversight agencies with their specific activities and performance measures will help identify productive practices along with ineffective practices. The need for measuring performance and identifying successful performance measures, especially of a government agency, is also amplified by the current economic climate.

**Scope and Limitations of the Study**

The scope of this study is to conduct exploratory research on the following four civilian oversight agencies: The Berkeley Police Review Commission, The Office of Citizen Complaints for the City of San Francisco, The Police Ombudsman for the City Of Davis, and The Office of Public Safety Accountability for the City of Sacramento. The scope of this study, which is limited to these four agencies, when according to the National Association for Civilian Oversight of Law Enforcement (NACOLE) website www.nacole.org there are 137 separate civilian oversight agencies across the United States, will not offer any definitive conclusions about the best and worst practices of oversight agencies collectively. Nor will it identify conclusively effective performance
measures. The scope of this study will allow a comparative analysis of these four different agencies, which are all within California, and identify effective and ineffective aspects of each agency.

This study will primarily consist of qualitative research. The findings of this research, as with most qualitative research, will not provide statistical findings accurate of all civilian oversight agencies. Chapter three will identify more limitations of this study.

**Methodology**

This section will outline a concise methodological plan for this study which is to compare four separate civilian oversight agencies. As it will be shown in the literature review, each oversight agency is unique with its own structure, authority, policies, goals, etc. In order to compare these four agencies, qualitative interviews will be conducted on a variety of individuals associated with each oversight agency. These individuals will be a civilian oversight manager/administrator, an administrator for the police department overseen by the respective civilian oversight agency, a police officer, a citizen who has filed a complaint with the oversight agency, and a citizen who has not been involved with the oversight agency. These interviews will illuminate the varying factors of oversight agencies which will be addressed in the literature review. Chapter three will further explain the design of this study.

**Definitions**
Civilian oversight will be the terminology used to encompass the breadth of associated vocabulary used to describe civilian input into law enforcement affairs. This input includes receiving and investigating citizen complaints against the police; and issuing dispositions, recommendations, and discipline where appropriate at the conclusion of the investigations. Civilian input also includes the review of internal police investigations regarding alleged police misconduct and reviewing police policies and practices. Other terminology such as civilian review, external review, civilian monitoring, citizen oversight, and civilian review boards which reference to variances of civilian oversight will be referred to as civilian oversight in this study. This civilian input does not include unofficial, unendorsed input that comes from means such as newspapers, media outlets, or individual persons not holding an official capacity to review police affairs. An official capacity to review and input into law enforcement affairs entails an official position held by a civilian or civilians who are part time, full time, paid, volunteer, appointed, or elected and the position they occupy has a primary intent to input/review law enforcement affairs. Performance measures (performance measurement) will refer to “the processes whereby an organization establishes the parameters within which programs, investments, and acquisitions are reaching the desired results” (“Performance Measurement,” n.d.).

Organization of the Study

This study will be separated into four sections. The first section will conduct a literature review of civilian oversight and its performance measures. The second
section will address the design of the study. The third section will analyze the results of the study. The last section will summarize the study and provide conclusions and recommendations.
Chapter 2

LITERATURE REVIEW

History of Police Corruption and Oversight

The first official police force was implemented with the passing of Sir Robert Peel’s bill in Parliament. Peel’s 1829 bill created the Metropolitan Police to combat the criminal anarchy that was prevalent in England at that time (Johnson, 2003). The creation of a police force was met with opposition. Scholars and professionals like jurist Sir William Blackstone cautioned the existence of police power and questioned the coexistence of a formal police force and public liberty (Johnson, 2003). Merrick Bobb (2006) who was the first civilian police monitor of the Los Angeles County Sheriff Department states the following about the foundation of modern policing, “The idea of a highly visible, distinctive, uniformed, full-time, paid police force organized on quasi military lines was a matter of concern to those who feared that omnipresent police would curtail civil liberties and privacy” (Internal and External Police Oversight in the United States, p. 2).

Both these paradigms, the necessity for a government police force and the view of police as subjugating liberty, landed in Boston in 1838 when the first police department in the United States was implemented. America in the nineteenth century was experiencing the growing pains of a young democratic country. An influx of immigrants with varying ethnic, cultural, and religious differences contributed to growing violence and riots. According to Schneider (1980), concern about this violence
and growing civic disorder finally led many tax payers to acknowledge the necessity of police departments.

Americans borrowed many aspects of the London police model such as their crime prevention mission, the strategy of patrol, and aspects of the military model; but they diverged from the London model with regards to political control and direction of the police (Walker, 1998). This divergence stems from the core principles which America was founded on. America was created as a democracy that stands for the sovereignty of the people over the sovereignty of the government. Americans, since the arrival of the Pilgrims at Plymouth in 1620, have always been apprehensive and even mistrustful of government intrusion on personal liberties (Walker, 2001). Therefore America, unlike the London model, allowed policing to be guided democratically by the people instead of being vested into a national government. Walker (2001) states the political system was the primary mechanism for police accountability.

This democratic influence on policing resulted in an unprofessional, inefficient, and corrupt style of policing (Walker, 1998). The inadequacy of preliminary American policing was acknowledged yet it was considered a necessary consequence for having police associated with democratic municipalities instead of a national government. The Mayor of New York in 1857 publicly recognized that New York policemen were not as disciplined and efficient as London police, but this was a price of “America’s healthy social mobility and its citizens’ independent spirit” (Miller, 1975, p. 85). This
necessary consequence of involving police with democracy and politics reaped many disadvantages.

The police became a servant of the political powers. Haller (1976) states, “…the police, part of a larger political system, were a significant resource at the command of local political organizations” (p.304). Elected officials considered the police as potential opportunities for graft and patronage (Walker, 1977). Political appointments into police leadership trumped job performance. Officers were hired according to political preferences and connections despite illiteracy, poor health, alcoholism, and/or criminal records (Walker, 1998). In return, Haller (1976) states that policemen were expected to contribute a part of the salaries to the political party in power at the time.

Hiring officers with backgrounds of unprofessional and even criminal behavior contributed to police corruption. The political influence also fostered an environment where officers selectively enforced laws with bias. The police helped politicians by ignoring or protecting illegal activities partaken by politicians and by enforcing the law on illegal activities of rival politicians (Haller, 1976). In New York, when the majority of residents agreed on the prohibition of alcoholic beverages, the Democratic leadership of the city opposed the idea of the “dry law” and the police widely ignored violations of it (Johnson, 2003). This political influence however was not perceived as corrupt, but rather as the guiding principle for the street cop. Haller (1976) states “Democratic sensitivities rather than legal norms were expected to guide police
behavior and check abuses” (p.304). Bobb (2006) argues that having the mayors and/or police commissioners as the only form of civilian oversight of the police until the 20th century permitted this paradigm.

The foremost differences of the American officer compared to the London officer were that the American officer was given greater power, authority, and discretion. Miller (1975) states that the American police model, which disassociates police with an institutional power such as national government, consequently removes the institutional restraints associated with a national government. The lack of institutional restraints, which includes supervision, rules, regulations, training, etc. on American police fostered corruption.

Police corruption flourished with inadequate oversight, poor supervision, inadequate training, and poor discipline. Without accountability officers abused the entitlements that came with their positions. Officers learned to use connections with criminals for personal gain. Walker (1998) suggests veteran officers, instead of training job skills and responsibilities, taught new recruits how to avoid work and collect illicit benefits. Official training for officers was poor if not nonexistent. Chicago’s police department had no formal organized training as late as 1990 (Haller, 1976). Officers operated rackets as sources of extra income, and because they walked their beats with only minimal supervision, spent much of their time in saloons, barbershops, and other neighborhood centers (Haller, 1976). An officer’s greatest authority, their use of force, was also unbridled due to the lack of oversight and institutional restraint associated
with American police. There were no checks or balances for police in their application of force and violence. Police used their authority to apply violence for different objectives (Haller, 1976).

Police used violence as a form of punishment and coercion for criminals. With arrests difficult to make because of hindering circumstances such as transporting criminals by foot and poor availability for back-up by other officers, officers used violence to punish wrongdoers to divert from having to make an arrest (Haller, 1976). Violence was also used in interrogation. The criminal justice system did not regulate police interrogation and evidence gathering. Police evidence was readily accepted by judges with no concern on how they obtained it (Miller, 1975). According to Haller (1976) suspects would be detained for hours or days for questioning without charges or legal safeguards, and physical violence was often practiced to speed up the process of interrogation. Walker (2001) states, “Officers freely beat citizens on the street, knowing that they would rarely if ever be punished for doing so. Brutal and coercive measures were used to extract confessions from criminal suspects” (p.20).

Police also used violence to maintain their respect in the community. Furthermore this violence was not questioned by the community and was autonomous from any regulation or consequence. Haller (1976) states:

Finally, the police subculture often sanctioned violence to uphold the personal dignity of the policeman. Such violence, given the absence of civil liberties organizations to monitor police violations of individual rights, was seldom
recorded; and, when reported in newspapers, was difficult to distinguish from the random violence that some policemen occasionally visited upon citizens. (p. 320)

As police corruption increasingly became scrutinized by citizens and civil liberty groups, another form of police corruption emerged. Officers developed an internal and informal fraternity that sought the defense and success of officers faced with opposition from outsiders, be it individuals or groups, which are not classified as peace officers (Haller, 1976). William Westley (1970) states that police officers were willing to lie to protect illegal behavior by their peers. According to Haller (1976) police developed early an inner loyalty group that would rally to the defense on an officer in trouble, and many times unfriendly witnesses would be harassed, arrested, or run out of town by other officers. In 1992, six New York City police officers, led by Officer Michael Dowd, were arrested for cocaine trafficking by a neighboring police department, the Suffolk County Police (Wolff, 1994). These arrests raised a host of questions about civilian oversight and the blue code of silence because the New York Police Department had not uncovered gross misconduct over many years by Officer Dowd (Wolff, 1994). Dowd’s arrest led New York City Mayor Dinkins to implement a civilian commission led by Milton Mollen to investigate corruption in the police force (Wolff, 1994).
In the context of the police corruption, only a few radicals at the time suggested citizens should have input on the handling of complaints against police officers (Walker, 2001). In 1931 the Wickersham Commission, which was created by President Hoover, recommended the creation of a disinterested agency to assist the people with their complaints against the police (Walker, 2001). This recommendation was primarily overlooked until decades later when police corruption was associated with race and ethnicity (Walker, 2001).

As a result of continued civil unrest, political infringement in police functions, tensions between minority communities and the police, and police misconduct during the 1960s, an increased level of review into police department activities was engendered (U.S. Commission on Civil Rights, 2000). In 1968, the New York City Police Department was the center of attention because of a corruption scandal where officers were accepting bribes from merchants and builders to avoid compliance with business codes (U.S. Commission on Civil Rights, 2000). This scandal initiated a reform of New York PD’s internal affairs division led by Police Commissioner Murphy (U.S. Commission on Civil Rights, 2000). This reform instilled an environment where police misconduct would not be tolerated. According to the U.S. Commission on Civil Rights (2000) this mantra, engendered by Murphy’s reform, was new despite the fact that the internal affairs division had existed prior to the 1968 scandal. In 1970 a New York police officer named Frank Serpico contributed to a New York Times front page story on widespread corruption in the New York City Police
Department which forced the mayor at that time into action by appointing a five-member panel to investigate police corruption called the Knapp Commission ("Frank Serpico," n.d.). These examples demonstrated a superficiality of police accountability that was being tested through continuing police misconduct. Agencies already implementing accountability were finding their measures inadequate.

Changing American demographics and political scandals contributed to a rising concern for accountability of government agencies such as law enforcement. The increase of African Americans in political power at the municipal level was found to correlate with the shift in public support towards police accountability and the civil rights movement (Walker, 2001). Beattie and Weitzer (2000) state a likely reason for the expansion of police accountability is the rapid increase in the number of African American elected officials during the period in contrast with mostly white police forces. Additionally, the Watergate scandal in the early 1970s rose concern about government accountability (Walker, 2001).

In 1981 the United States Commission on Civil Rights responded to increasing violations of civil rights by police department members by compiling a report of police practices called “Who is Guarding the Guardians?” In the Commission’s letter of transmittal for the report to the president, president of the senate, and the speaker of the House of Representatives, the Commission outlines the purpose of the report. The Commission states “Who is Guarding the Guardians?” aims to discover the nature and extent of police misconduct, identify policies and procedures regarding police
misconduct and discipline, establish officials and agencies responsible for investigating and resolving police misconduct, and assess systems of internal and external accountability (U.S. Commission in Civil Rights, 1981). The report included several findings that demonstrated insufficiencies in police oversight, both internally and externally.

Investigations into police department practices regarding police misconduct corroborated the trend of deficient existent police oversight mechanisms. According to Walker (2001), citizens who filed complaints were asked hostile and demeaning questions, witnesses were not contacted or interviewed, illogical statements by officers were accepted at face value, and police departments generally failed to punish guilty officers. The St. Clair Commission report, an investigation of the Boston’s Police Department in the 1990s, found that Boston’s Internal Affairs Division had inadequate record keeping and documentation, conducted haphazard inquiries and hearings on police misconduct allegations, and caused lengthy investigative delays (U.S. Commission on Civil Rights, 2000). In 1965 the McCone Commission, created as a result of the riots in south central Los Angeles, discovered the oversight body of LAPD was defective and existed as a mere figurehead controlled by Chief Parker (Woods, 1993). Lewis (2000) states, “…many governments ignored repeated complaints by citizens that the internal, police controlled complaints systems allowed police to engage in corrupt activities, abuse citizens’ rights and treat the rule of law and due process with contempt” (p.22). The causes of these deficiencies in police oversight
were viewed as derived from biases and political pressures that were within police agencies. Merrick Bobb (2006) states the following regarding these causes:

Those who advocate in favor of such displacement argue that self-policing will necessarily and unavoidably produce a biased result; that even reasonable, honest, and well-intentioned police investigators simply cannot overcome the pressures from all sides that come to bear on internal investigations of an officer-involved shootings, a death in the jail, or a serious use of force on the street. The pressure can come from many sources. It may come from superiors within the police organization who do not want an embarrassing incident publicly exposed, or who fear the credibility and authority of the police will be undermined if a use of force is held to be against policy. Pressure may come from the police union, which may be inclined to vigorously defend even bad officers. A mayor or city council may not want to hear bad news about the police department, and may encourage suppression of unfavorable incidents. Finally, fellow officers may not want to see one of their peers held up to withering scrutiny. (Internal and External Police Oversight in the United States, p.5)

The discovery of police oversight inadequacy contributed to the implementation of civilian oversight for additional police accountability. The 1981 “Who is Guarding the Guardians?” report found that several communities had established civilian
oversight to review complaints against police misconduct over the past thirty years. Independent civilian oversight was implemented in addition to established investigative entities existing in city, county, and federal agencies because communities perceived that these internal entities were failing to address the misconduct adequately (U.S. Commission on Civil Rights, 2000). To alleviate public scrutiny of the internal affair division’s investigations, civil right activists and police union officials in Austin Texas created a compromise to allow public access. The city hired a civilian monitor who had full access to internal affairs investigations and was notified of all civilian complaints (U.S. Commission on Civil Rights, 2000). Where no public access was allowed previously, this monitor would act as a liaison between police internal affairs and the public.

Civilian oversight applied citizen judgment to police policies and activities which helped promote effective law enforcement while protecting civil liberties (Beral & Sisk, 1964). The pioneering communities to establish formal civilian oversight included Washington, D.C. (1948), Philadelphia (1958), Minneapolis and Pennsylvania (1960), Rochester (1963), and New York City (1966) (U.S. Commission in Civil Rights, 1981). The first implemented example of civilian oversight was in 1928 when volunteer attorneys from the Los Angeles Bar Association received and investigated complaints and then referred them to the Los Angeles Police Department for official investigation (Walker, 2001).
Civilian oversight was met with opposition. Walker (2001) states, “In the 1960s, (civilian) oversight was a highly controversial idea, dismissed as radical and dangerous by virtually everyone outside the civil rights and civil liberties communities” (p. 6). From inadequate resources such as insufficient staffing to lacking disciplinary authority while filling solely an advisory role, many of these initial civilian review boards were destined for failure (U.S. Commission in Civil Rights, 1981). The outcry of law enforcement rank and file was that civilians were not trained and experienced with the duties and stresses of law enforcement and this unfamiliarity should preclude civilians from reviewing or adjudicating police affairs. Perez (1994) states, “…civilian systems are seen to be run by and for people who know nothing about police work and therefore need not be listened to” (p. 162).

This opposition was also political in nature. In 1966, after New York Mayor John Lindsay appointed a seven member civilian review board (CRB) known as the Knapp Commission, the police union protested with an advertising campaign because it maintained the CRB was too liberal and would not be supportive of police officers’ experiences and perspectives (Senkel, 1999). In the 1960s in St. Paul, Minnesota city task forces called for civilian review of police but mayors and police chiefs opposed the concept. Police administrators argued that civilian oversight would render police officers impotent of their authority and duties lawfully bestowed on them because of unqualified and unnecessary civilian input. Walker (2001) states:
…the International Association of Chiefs of Police played upon public fear of crime, warning civilian review would result in the impairment of law enforcement, including the harassment, weakening, and usurpation of the legally constituted and vested administration of law enforcement personnel, all to the great detriment of efficient police performance. (p. 26)

It was not until 1993 when the Mayor of St. Paul Jim Scheibel and the police chief Bill Finney actively supported the civilian review, that a civilian commission was approved by the city council despite continued reluctance from the Police Federation (DeFiebre, 1993). Another argument against allowing civilian oversight authority is that in doing so, the law enforcement leadership/administration would not be held culpable for police misconduct and this will result in continued corruption. Police monitor of the Los Angeles County Sheriff’s Department Merrick Bobb (2006) states: Without responsibility to adjudicate wrongdoing and impose discipline, these reformers argue, senior executives in the law enforcement agency cannot be held personally accountable for dealing with police misconduct, and will simply blame the civilian review board for its decisions. Their argument continues by stating that unless the police are held strictly accountable up and down the chain of command for actively managing the risk of police
misconduct, the self-protective habits of the police will never change. (Internal and External Police Oversight in the United States, p.6)

The civilian oversight movement faced much opposition. In the late 1960s it appeared that with the closing of the civilian oversight agencies in New York City and Philadelphia that the movement was set for failure (Walker, 2005). Despite this failure a second generation of civilian oversight was formed in the 1970s, and has continued with success. Civil rights organizations continued to advocate for civilian review and control of police misconduct, and by the 1980s the oversight movement was a recognized national movement which represented the current public attitude regarding government accountability (Walker, 2001). Kansas City implemented its Office of Civilian Complaints which has been reviewing complaints handled by the Internal Affairs division and making recommendations to the Chief of Police since 1970 (U.S. Commission in Civil Rights, 1981). In Chicago the Office of Professional Standards, which is composed of civilians, has been investigating excessive force charges since 1974 (U.S. Commission in Civil Rights, 1981). Detroit’s Board of Police Commissioners, which is composed of five civilian commissioners, has been functioning since 1974 (U.S. Commission in Civil Rights, 1981). By the mid 1980s civilian oversight had become an established part of American policing (Walker, 2005).
The progression and success of civilian oversight continues despite opposition. The founding director Merrick Bobb of the Police Assessment Resource Center (PARC), which is a nonprofit organization with the goal of advancing police oversight, states that in 2000 there were over one hundred cities in the US which had some form of external police oversight (Bobb, 2006). According to the National Association for Civilian Oversight of Law Enforcement (NACOLE) 71 of the largest 100 cities today have citizen review mechanisms, and since 1996 NACOLE has assisted more than 20 cities in establishing CRBs (“What is NACOLE,” n.d.). NACOLE’s website lists 137 separate civilian oversight agencies across the United States. By 2004 virtually all big city police departments in the United States had some form of civilian oversight (Walker, 2005). As Walker (2001) states, “The debate over oversight was no longer whether it was a good idea, but which form to adopt” (p. 40).

**An Overview of Civilian Oversight**

The US Commission on Civil Rights (2000) classified civilian oversight as an external independent mechanism to process, review, and investigate complaints of police misconduct and monitor police operations; and was created by communities that perceived city, state, and federal law enforcement agencies had failed to address police misconduct adequately. This failure by law enforcement to address their misconduct is often construed as a consequence of unwritten internal police procedures which self protect against un-sworn civilians. Barton (1970) states the police are an administrative agency with an extensive system of internal guidelines that are often unwritten; any
system of handling complaints cannot avoid being greatly influenced by this factor. This is why an ‘independent’ review or investigation of complaints is the underlying catalyst for communities seeking civilian oversight. Civilian oversight applies citizen judgment to police policies and activities which promotes effective law enforcement while protecting civil liberties (Beral & Sisk, 1964). Walker (2001) states, “Having complaints investigated by people who are not sworn police officers is intended to break down the closed and self-protective bureaucratic ethos of American police departments and ensure that investigations are fair and unbiased” (p. 53). Samuel Walker (2001) similarly argues the universal goal of civilian oversight is “to open up the historically closed complaints process, to break down the self-protective isolation of the police, and to provide an independent, citizen perspective on complaints” (p. 5).

As it will be seen, civilian oversight comes in many shapes and sizes with no particular agency identical to another. Structure, goals, policies, staffing, authority, and many other factors all vary from one agency to another. With that said, professor of law at Columbia University and member of the New York civilian oversight agency Debra Livingston outlined four principles of oversight that serve as a good platform for the purpose of civilian oversight. Livingston’s principles, which she stated at the eighth annual conference of the National Association for Civilian Oversight of Law Enforcement, are (1) holding officers accountable for misconduct, (2) keeping a record; recognizing complaints as vital sources of information about a department, (3) identifying patterns and problems related to policies or supervision rather than
misconduct, and (4) building public trust and community cohesion through patient listening to all complaint parties, and letting them know they have been heard (“What is NACOLE,” n.d.).

A critical aspect of civilian oversight, as the literature review later will discuss, is improving community/police relations. An available and fair system for processing citizen complaints is crucial to a community’s perception of the police; the absence of an avenue for an individual to complain about police discourtesy or misconduct leads to harbored resentment and mistrust of the police (Bobb, 2006). Civilian oversight agencies, which allow citizens an available means to file complaints against police, promote a perception that the police department is open and receptive to complaints. Additionally, civilian oversight improves community/police relations by having diverse community members compose its staffing which allows various groups in the community to feel that their perspectives are represented (Bobb, 2006).

Structure

There is no established or set formal structure for civilian oversight mechanisms. There are no pre-existing configurations for these oversight mechanisms, if and/or when a community decides oversight is an amenity they desire. In fact no two oversight mechanisms are identical in structure and authority. There are numerous variations in structure, responsibilities, resources, procedures, and other administrative matters (Walker, 2001). Walker and Bumphus (1991) state:
Existing civilian review procedures vary considerably in terms of their procedures and authority. Some have subpoena power, while others do not. Some conduct public hearings, while others do not. Some have the power to make recommendations about the general police policies, while most do not. There are differences in how complaints are accepted for review (at police stations only vs. other locations; in-person vs. in-writing vs. telephone). (p. 5)

Civilian oversight staffing can be several members or in some cases a single person. It can be comprised of full time or part time staff, or a combination of both (Bobb, 2006). Additionally, the staff composition can vary from being exclusively civilians to being a combination of civilians, sworn officers, and/or public officials.

Policies and procedures vary by each agency. These variances mitigate the ability to comparatively measure performance of civilian oversight agencies. For example, according to Walker (2005), there are currently no professional standards for complaint procedures. This absence inhibits evaluation of a civilian oversight agency’s complaint procedure.

There are general classifications which scholars have created to encompass most types of civilian oversight, however it should be noted no classifications encompass the breadth of civilian oversight. Sue Quinn, former board member of the National Association for Civilian Oversight of Law Enforcement (NACOLE), classifies civilian oversight boards into either investigative boards or monitoring
boards (“What is NACOLE,” n.d.). Investigative boards produce an investigation, make findings, and give a recommendation. The citizen, public, and police department is provided with this information. The strength of investigative boards according to Quinn, is that they engender a sense of participation in the complainant process for the community and allow decisions to be made outside the police department. However to maintain effectiveness and integrity the investigative boards need to have member/staff with sufficient knowledge, ability, and training to conduct competent investigations. Furthermore, these investigations will require subpoena powers and sufficient funding. Quinn states the weaknesses of these boards is the time/labor required of the volunteers, the inadequate skills/training of members/staff resulting in inadequate investigations, and the overall adversarial process of conducting an investigation of an officer while outside the police department. Walker and Bumphus (1991) classify civilian oversight agencies into the three following classes:

**Class I.** (a) Initial investigation and fact-finding by non-sworn personnel; (b) Review of investigative report and recommendation for action by non-sworn person or board consisting of a majority of non-sworn persons.

**Class II.** (a) Initial investigation and fact-finding by sworn police officers; (b) Review of investigative report and recommendation for action by a non-sworn person or board which consists of a majority of non-sworn persons.

**Class III.** (a) Initial investigation and fact-finding by sworn officers; (b) Review of investigative report and recommendation for action by sworn officers; (c)
opportunity for the citizen who is dissatisfied with the final disposition of the complaint to appeal to a board which includes non-sworn persons. (p. 3)

Walker (2001) uses the same classes as Walker and Bumphus, but adds a fourth class, “Class IV systems, which are also known as auditor systems, do not investigate individual complains, but are authorized to review, monitor, or audit the police department’s complaint process” (p. 62). Both the auditor model and complaint investigation oversight agencies will be discussed in detail later. In addition to structural differences, Walker (2001) notes that differences in political leadership, the civic culture of a community, and the quality of leadership within the oversight agency also vary and contribute to the success or failure of an oversight agency.

Authority

Authority of civilian oversight agencies, just as their structure, varies by agency. The majority of oversight agencies are created by, and get their authority from, ordinance or referendum; most auditor systems are given their authority to access this information by statute (Walker, 2001). In 1991, Walker and Bumphus completed a survey of the 50 largest United States cities (according to the 1990 census) regarding civilian oversight procedures of the police. Of the 50 cities, 30 were found to have existing formal procedures. Of the 30 cities, most (23 of the 30) were given their authority by local ordinance. Of the remaining agencies, three were created by state statute and four by executive order. Additionally none of the 30 agencies had authority
to impose discipline, but would make recommendations for disciplinary action to police officials.

Disciplinary power is a key factor for civilian oversight agencies when reviewing complaints. Typically, if a complaint is sustained, oversight agencies forward their decision to the police chief as a recommendation (Walker, 2001). The recommendation holds no authority for discipline against the officer. This lack of authority is common for most civilian oversight agencies, and it diminishes their ability to accomplish their stated objectives (Walker, 2005). Nevertheless there is a minority of civilian oversight agencies which hold disciplinary power. When the civilian oversight agency in Minneapolis sustains a complaint against an officer, the disposition of the case is binding on the police chief. The police chief can not reverse the decision of the oversight agency, but can determine the disciplinary action to be taken (Walker, 2001). The determination of disciplinary power is typically dictated by state law or local ordinance (Walker, 2001).

Subpoena power to compel officers to testify is another factor with oversight agencies. Investigators need to have sufficient powers of search and seizure in order to be able to retrieve and preserve relevant evidence, and adjudicators require sufficient powers to compel testimony and if necessary, take action against those who may act in contempt of their proceedings (Stenning, 2000). Depending on the structure of the oversight agencies, subpoena power varies from a necessity to a luxury. With regards to Walker and Bumphus’s (1991) class system for oversight agencies, class 1 agencies
rely on obtaining police officer testimony. Without subpoena power they are unable to perform their fundamental investigatory responsibility and are assured failure. The class 2 and 3 systems which do not conduct their own investigations but review police investigations do not require subpoena power. Walker’s (2001) class 4 systems (auditor) also do not conduct their own initial investigations, but they do require access to relevant police department information to fulfill their monitoring role.

For the oversight agencies that lack the needed authority to investigate and issue discipline, a dependence on the law enforcement agency is fostered. Civilian oversight agencies normally do not have an investigatory capacity with access to police records. Civilian oversight agencies typically do not have the authority to adjudicate complaints or authorize discipline of officers (Bobb, n.d.). This deficiency fosters dependence of the oversight agency on the police to conduct investigations and issue discipline. This dependence removes impartiality which is a critical component to the success of a civilian oversight agency. With mistrust in the police department to effectively regulate, adjudicate, and discipline police misconduct being the catalyst for the conception of civilian oversight, it is essential an oversight agency remain objective and independent of the law enforcement agency. Beral and Sisk (1964) state an oversight agency’s reliance on the police department to investigate complaints is a major obstacle to maintaining independence. Sue Quinn, former board member of the National Association for Civilian Oversight of Law Enforcement (NACOLE), states that a critical mistake made by civilian oversight mechanisms is their over-
identification with either the police or the community or complainant ("What is NACOLE," n.d.). This association with either party destroys an oversight agency’s credibility.

Another obstacle to civilian oversight’s authority is the resistance by police labor unions and police administrators to their authority. Police administrators resist citizen oversight and their authority because it impinges upon their authority, specifically their authority to discipline, and by the loss of their disciplinary authority they fear the rest of their authority will erode (Fyfe, 1985). Historically lawsuits between police departments and police unions against oversight agencies have been frequent (Walker, 2001; Walker, 2005; Goldsmith, 1991). Walker (2001) states that some oversight agencies are ineffectual solely because of the unrelenting hostility from the police departments they are responsible for.

Some civilian oversight agencies investigate complaints against other non-police agencies in addition to the police. According to Walker (2001) about 17 percent of oversight agencies by the mid 1990s handled complaints against other city and county departments in addition to the police. Walker (2001) states, “The principle of accountability applies to all public employees, and it is appropriate to have effective accountability mechanisms in place to deal with complaints” (p. 70).

**Staff, Resources, and Budget**

Small budgets, lack of resources, and inadequate staffing inhibit productive police oversight (Bobb, 2006). A good example of this is an oversight agency’s
publicity, and the public awareness of its services. Beral and Sisk (1964) state, “A well-organized public information campaign appears to be an essential part of a successful civilian complaint board’s program” (p.514). Barton (1970) states, “It is obvious that to be effective as an instrument of police-community relations, any agency needs extensive publicity” (p. 463). Without the resources and funding to publicize the existence of a civilian oversight mechanism, the public is unaware of the resource available to them.

However, a civilian oversight mechanism seeking publicity to increase public awareness of its services is not without consequence. According to Barton (1970) increasing civilian oversight publicity can appear as a political play against police administrators and should be used cautiously to inform the public of its results. Barton states that publicizing the low sustain rates of complaints can aide in retaining cooperation from law enforcement and mitigating police suspicions.

Today governments are questioning whether expenditures on civilian oversight agencies can be justified (Brereton, 2000). Furthermore, existing civilian oversight agencies often lack the necessary staff and budgetary resources to accomplish their stated objectives (Walker, 2005). To compensate, these agencies are usually not stand-alone entities but rather encompassed into another department (Bobb, 2006).

With budget and staff restrictions coupled with resistance from police unions and administrators, some argue civilian oversight is not worth the exertion. Fyfe (1985) argues that police accountability is ultimately the desire of civilian oversight
proponents, and with civilian oversight strongly opposed by law enforcement it makes more sense to alter or open up the existing internal complaint process instead of adding another agency to the city budget.

A lack of training and experience in police tactics, strategy, and policy restricts civilian oversight agencies from effectively overseeing the police; and this results in oversight agencies agreeing with police department findings over ninety percent of the time (Bobb, 2006). Beral and Sisk (1964) state a possible explanation of oversight agency leniency on their recommendations of punishment is their lack of experience with police discipline. This ignorance of police practice is commonly compensated for by the appointment of a police officer to the CRB.

According to Walker (2001), the standards for recruitment and training of complaint investigators have received almost no attention by professionals in either the law enforcement or citizen oversight communities. Board members of the St. Paul CRB receive 20 hours of classroom training in police policies and procedures, in addition to riding along on patrols, and this same board directs and reviews investigations of officers by the Police Department's internal affairs unit, and makes findings of fact and recommendations of discipline to the Chief of Police (DeFiebre, 1993). This training and experience is insignificant to what peace officers receive. According to the California Commission of Peace Officer Standards and Training, California peace officers must receive a minimum of 664 hours with a curriculum of 41
different topics ("POST Training," n.d.). Additionally officers continually accumulate experience by facing the daily rigors of the street.

Adequate staffing is a necessary component to review complaints. Walker (2001) states, “The ineffective performance of some oversight agencies has been the result of inadequate staffing rather than any inherent flaw in the concept of oversight” (p. 77). Despite this, there are no professional standards for proper staffing levels of oversight agencies (Walker, 2001).

Having comprehensive policies and procedures addressing operations is a necessary component of a well managed oversight agency. However only recently have the better managed citizen oversight agencies developed effective sets of policies and procedures, and furthermore no professional association has codified or adopted recommended standards regarding policies and procedures (Walker, 2005).

**Opposition**

Civilian oversight commonly faces a variety of challenges and opposition. Particularly in the initial stages of implementation and during heavily publicized investigations civilian oversight faces the most opposition. Forms of opposition may include inadequate or reduction of funding, disparagement of the board members, law enforcement attempts to convince the public that police affairs are too complicated to understand, lawsuits from police unions or police employees to stop it, attempts to fill a board with police supporters, and pressure to close processes and information
dissemination that can be open to the public (“What is NACOLE,” n.d.). Walker (2001) states there are seven arguments which opponents to civilian oversight make:

Their arguments against citizen oversight are as follows: (1) that police misconduct is not as serious a problem as people allege; (2) that police officers are capable of and do in fact conduct fair and thorough investigations; (3) that police internal affairs units sustain a higher rate of complaints than do citizen oversight agencies; (4) that police departments mete out tougher discipline than oversight agencies; (5) that internal police disciplinary procedures deter police misconduct more effectively than oversight agencies; (6) that internal police disciplinary procedures provide greater satisfaction to complaints and the greater public; and (7) that external citizen oversight agencies harm policing by deterring effective crime fighting by police officers and also by undermining the managerial authority of police chief executives. (p.12)

One argument against civilian oversight is that it inhibits the enforcement of the law by officers because of a fear of change and a fear of disciplinary action (Barton, 1970). Even some academic scholars have expressed concern that overly zealous oversight agencies may pressure police departments into introducing policies that limit police responsiveness and efficiency, and make officers reluctant to engage in lawful enforcement activities (Brereton, 2000). Perez (1994) argues civilian oversight can generate more complaints to the point where they make officers reluctant to make
arrests and deal with situations, and they can introduce policies that severely limit police efficiency. However at present there is limited evidence available to support these claims (Brereton, 2000).

There is an argument against civilian oversight that says it can impede the operations of a police organization by interfering with the authority of administrators to supervise (Perez, 1994). Walker (2001) on the other hand makes a case that police arguing civilian oversight improperly intrudes on the professional autonomy of police managers is hypocritical. First, he points out that community policing, which emphasizes partnerships between the police and community groups, has had universal support from the law enforcement community for the past fifteen years. Second, he posits that police officers have routinely appealed disciplinary actions through civil service procedures which involve appointed civilians with no law enforcement experience. Third, citizens are often asked to rule on complex legal matters through the jury system, which officers have never argued against. Finally, officers have historically opposed internal review as well.

There is an argument that civilian oversight removes responsibility of accountability for complaints and the situations that caused the complaints from police administrators (Stenning, 2000). When disciplinary authority has been granted to oversight agencies, police administrators become less accountable for their officers. Administrators no longer have to answer for police misconduct because it is not them, but rather the oversight agency issuing punitive measures. The oversight agency is now
responsible for ongoing police misconduct because they issue discipline resulting from sustained complaints.

Certain characteristics of civilian oversight and its employees have been notably controversial. The training and experience of civilian oversight staff, whose typically sole responsibility is to evaluate and judge police behavior and policy, is habitually criticized within the law enforcement cohort. Perez (1994) states, “…civilian systems are seen to be run by and for people who know nothing about police work and therefore need not be listened to” (p. 162). Beral and Sisk (1964) state, “The strongest general argument against civilian review boards is that they lack the knowledge and experience to evaluate police actions” (p. 518). Walker (2001) raises the question “Do citizens have the capacity to make judgments about the professional competence of police officers?” (p. 13). According to Fyfe (1985), police question the appropriateness of investigation and review of professional conduct by those not a part of the profession.

Some posit that governments undermine civilian oversight agencies. Lewis (2000) asserts that governments have denied oversight agencies the authority needed to fulfill their duties, have tainted oversight agencies credibility by making inappropriate appointments to their bodies, have ignored civilian oversight findings when convenient, and have crippled oversight agencies by their lack of resources and staffing.
Another argument against civilian oversight is its costs. Civilian oversight expenses can mean less money spent elsewhere on services such as law enforcement (Perez, 1994). During budget shortfalls and recessions, civilian oversight expenses might not pass cost/benefit scrutiny.

**Oversight Auditors**

Police auditors differ from complaint investigation oversight agencies in that they are not typically limited to reviewing individual complaints. Police auditors are individuals generally from outside the profession of law enforcement that analyze law enforcement agencies with regard to fairness, thoroughness, and integrity of internal police processes for self-examination, self-investigation, and self-regulation (Bobb, 2006). Brereton (2000) states this can be done “…by such means as making recommendations to police managers, using public hearings and reporting processes to draw attention to deficiencies in organizational procedures and practices, and otherwise providing feedback about systematic and procedural deficiencies, patterns in complaints, and so on” (p. 119). As of 2005 there were 12 police auditors in the United States (Walker, 2005). Most are established by ordinance, some have renewable contracts, and one was created by the terms of a consent decree (Walker, 2005).

Furthermore, with the goal of providing firm, fair, and consistent reviews and investigations, auditors/monitors must have the authority to compel evidence from the police department and adequate funding to carry out their duties (“What is NACOLE,”
n.d.). Once established, monitors can find themselves responsible to many parties. Merrick Bobb (2006) states:

Monitors are accountable to different constituencies. First, each is accountable to civic leaders to provide reports focusing on police decision-making, policy formulation, and efforts to responsibly anticipate and manage liability risk. More importantly, a monitor is accountable to the public at large to provide a thorough and fair appraisal of law enforcement, and to make the heretofore mystery-shrouded, internal processes of the police more transparent and comprehensible. (Internal and External Police Oversight in the United States, p. 13)

Walker (2005) states police monitors perform five basic functions which are auditing the complaint process, auditing police operations, policy review, community outreach, and creating transparency. Auditing the complaint process includes reviewing department procedures for receiving complaints, recording and classifying complaints, publicizing the complaint process, and reviewing complaint patterns. The community outreach aspect aims to inform the public about the complaint process, explain department policies, listen to community concerns about the police, and ensure access to the complaint process (Walker, 2001). It also involves helping those who have made contact with the oversight agency but do not file an official complaint. This can take
the form of providing an ear to those who simply want to talk about their grievances (Walker, 2001). The goals of community outreach can be obtained through the distribution of informational brochures, reaching out to special populations of the community that might be reluctant to file complaints, facilitating the intake of complaints, and holding neighborhood community meetings (Walker, 2001).

Walker and Kreisel state policy review is the process where an oversight agency examines a police department’s policies and procedures and recommends new or revised policies (as cited in Walker, 2001). This aspect includes input into police training; identifying general areas where training is needed or individual officers who need to be retrained (Walker, 2001). Some complaints against officers can be the result of poor department policies. A significant amount of police misconduct was found to involve contributing factors such as defective use of force policies, inadequate training, and tactical and strategic errors (Bobb, 2006). Fyfe (1985) argues that a civilian oversight should have the power to review counterproductive policies, in addition to reviewing officer conduct, and be able to recommend policy changes to the chief that reflect community expectations. A monitor must also compare the policies and practices of the agency they are monitoring with other police departments (Bobb, 2006). This comparison allows the monitor to find and implement the best practices to mitigate police misconduct and complaints (Bobb, 2006).

Organizational Change
A strength of auditors is that they can produce findings quicker than the investigative model, which requires time and labor of volunteers (Bobb, 2006). Another strength of a monitor is that they focus on systematic change instead of the resolution of specific complaint cases; whereas a weakness of a monitor is that they do not involve the community as much as a complaint investigation oversight agency and are viewed as not being as connected to the community interests and concerns as much as a CRB (Bobb, 2006). Walker (2005) states the following regarding the advantages of auditors promoting organizational change:

First, as full time government officials they have the authority to probe deeply into department policies and procedures with an eye toward correcting them and reducing future misconduct. Second, as permanent agencies they can follow-up on issues and determine whether or not prior recommendations for change have been implemented. The capacity for sustained follow-up addresses not only the historic limitation of blue ribbon commissions, but also one of the most serious problems in police accountability: how to ensure the implementation of recommended reforms and sustain reform over the long-term. (p. 136)

Furthermore Walker (2005) states, “Instead of focusing narrowly on the culpability of officers in particular misconduct incidents, police auditors focus on organizational problems that underline such incidents” (p. 135). He argues the
perception that complaint investigation will deter police misconduct is ‘misplaced’ because the independent review of individual complaints is unlikely to address the systematic organizational problems that are at the heart of police misconduct; whereas the behind the scenes analytical review conducted by auditors will.

Two programs which auditors can utilize are early warning systems and targeting false/misleading testimony by officers in complaint investigations. The early warning system identifies problem officers and provides intervention; and instead of investigating each complaint autonomously, monitors can examine patterns of complaints against specific officers, whether they have been sustained or not (Walker, 2001). Fyfe (1985) argues these officers shall then be monitored closely and be considered candidates for counseling, training, or for reassignment to duties that do not bring them into close contact with citizens. Investigating false and misleading testimony by officers brings the code of silence issue to the forefront and exposes corruption which fosters an environment of accountability.

**Auditing Complaint Investigations**

Monitors also improve internal police oversight by exposing the weakness and inadequacy of many internal affair investigations (Bobb, 2006). Auditing the quality of complaint investigations ensures quality investigations that are thorough and fair. All stages of the complaint process which include the intake, screening, classifying, investigating, and the timely disposition of complaints should be audited separately for quality (Walker, 2001). Auditing the quality of complaint investigations is a primary
function of monitoring oversight agencies. Sue Quinn states that if the internal investigation is found deficient a monitor may request further investigation or conduct an independent investigation (“What is NACOLE,” n.d.).

Criticism

Auditors are not without criticisms and weaknesses. One downside to auditors is that the public might want more than one person’s oversight (“What is NACOLE,” n.d.). Another weakness of auditors is that if they are not adequately trained they might not recognize inadequate internal investigations. Auditors can also be vulnerable to becoming subjective because of their association with police departments and city officials (“What is NACOLE,” n.d.). Some auditors are separate chartered city agencies that have a high degree of independence while others function as contract employees, are appointed by police chiefs, or are placed under the mayor or city manager, all of which restrict independence (Walker, 2005).

Opponents also criticize police auditors because their policy recommendations can be rejected by police departments because they are solely recommendations and have no authority (Walker, 2005). However, Walker (2005) counters this argument by stating that other forms of civilian oversight like civilian review boards typically only have the authority to recommend a disposition on complaints and cannot compel discipline. Furthermore the power of a public report regarding police misconduct by an auditor should not be underestimated.

Complaint Investigation
Civilian oversight agencies, excluding auditors, typically do not examine macro patterns of police misconduct in a law enforcement agency, but rather deal with citizen complaints on an individual basis (Bobb, 2006.). Civilian review of complaints concerning police misconduct involves consumers of police services in the regulation of officer and law enforcement agency decisions (Walker, 2001). The primary goal of civilian complaint investigation is accountability. Walker (2005) states, “A citizen complaint process is a mechanism by which a police department can make itself accountable to the people it serves: by hearing their complaints, investigating them, and, where appropriate, disciplining officer guilty of misconduct” (p. 71). In more detail Luna and Walker (2000) identify five different goals of civilian oversight:

1. Providing thorough and fair investigation of complaints;
2. Sustaining a proper percentage of complaints (although it should be noted that there is no generally agreed upon standard for what the percentage should be);
3. Deterring police misconduct;
4. Providing satisfaction to individual complainants and improving public opinion about the police; and
5. Helping to improve the overall quality of the police department, including the complaint process. (p. 91)

Walker (2001) outlines the following most pervasive arguments for and against independent review of complaints, but he also clarifies these arguments are based on assumptions which have not been verified. The first argument for independent review
is that police misconduct is widespread because police departments have consistently failed to investigate allegations of police misconduct and discipline guilty officers. Secondly, independent investigations will be more thorough and fair because investigators will not be or have been influenced by a police subculture. Third, more thorough and fair investigations will lead to a higher rate of sustained complaints. Fourth, a higher rate of sustained complaints will result in more disciplinary actions of officers as opposed to meaningless warnings. Fifth, more disciplinary actions will deter future police misconduct more effectively. Sixth, independent review will improve public attitudes towards the police via satisfaction of individuals who filed complaints and believe it was investigated fairly and thoroughly, and by public perception that the police are no longer covering up misconduct. Lastly, proponents for independent review argue the proceeding six arguments will together improve the level of professionalism in a police department.

In opposition to independent review, Walker (2001) lists the following most common arguments. First, opponents of independent review believe police misconduct is not a serious problem. Second, outside civilian investigations will be less thorough and fair than if complaints were investigated by the police because civilians do not understand the dynamics of police work and therefore cannot make judgments regarding misconduct. Furthermore, some civilian investigators are biased against the police. Thirdly, internal police investigation of complaints sustains a higher rate of complaints than civilian oversight agency investigation of complaints. Fourth,
independent review results in less disciplinary actions on officers because civilians tend to be more lenient against officers than the police. Fifth, independent review of complaints will deter officers from effective police work because they do not want to be second guessed by civilians who have no experience in law enforcement. Sixth, opponents argue a lower sustained rate by independent review will lead the public to believe they are not truly independent which will reduce public satisfaction. Lastly, independent review undermines police professionalism and disrupts police management.

As to the first point of debate regarding the existence and degree of police misconduct and the need for independent review we can defer to the history of the police which shows patterns of police misconduct and failures of departments to investigate and discipline when appropriate. The second issue regarding the fairness and thoroughness of investigations by the police versus independent entities is difficult to assess because of the lack of a universal operational definition for thoroughness and fairness. Walker (2001) acknowledges this issue and the lack of conclusive evidence for either side of the argument, but suggests criteria such as training and supervision of investigators can be used in assessing the quality of an investigation. Regarding the argument over complaint sustain rates, Walker (2001) states complaint sustain rates are insignificant and highly controversial, and he believes sustain rates are not a valid performance measure. There is no substantial research or conclusive evidence to prove the argument for or against the use of complaint sustain rates (Walker, 2001).
Complaint investigations are multi faceted and the process cannot be standardized, to be a template applicable in all circumstances. Complaints, as we will see, vary from minor to major, from unfounded to legitimate. There are however aspects of complaint investigations that scholars have identified as important. Accessibility and approachability are valuable aspects of complaint investigations. Encouraging citizens to complain when they feel they have been wronged, and making it easy for a citizen to file a complaint demonstrates to the public the integrity of the complaint process (Fyfe, 1985). Regarding receiving complaints, Barton (1970) states:

Too formal a procedure will deter complaints and many verbal or anonymous written complaints which could be a useful source of information to someone seeking to identify problem areas will never show up. On the other hand to deter frivolous complaints, to keep all complaints visible, and to prevent deliberate or accidental loss, some formality is clearly required. (p. 455)

Locating witnesses is critical to complaint investigations. Failing to locate and interview witnesses to corroborate an incident will likely ensure a complaint will not be sustained because of a lack of evidence (Walker, 2005). With most investigations including the allegation of the citizen versus the officer’s denial of the charge, with no evidence supporting either side, the majority of complaints are unsubstantiated (Fyfe, 1985). Medical records can help substantiate a complaint. Obtaining medical records
when complainants have received medical treatment helps corroborate complaints and is a component of a thorough investigation (Walker, 2005).

Complaint investigations can uncover collateral misconduct. When this happens investigations of collateral misconduct should be conducted (Walker, 2005). The credibility of the oversight agency will fail if it is discovered that police misconduct was known but not investigated, despite the fact there was no complaint/complainant. Other aspects to improve complaint investigations include having codified policies restricting leading or hostile questions, tape recording interviews, and identifying conflict of interests between involved parties. Policies and standards on prohibiting leading or hostile questions and following up on inconsistencies in investigations should be implemented, tape recording interviews is an important technique for ensuring the quality of complaint investigations, and conflicts of interest between all involved parties in an investigation should be identified and addressed to ensure a fair investigation (Walker, 2005).

A public hearing is often the culmination of the investigation (Walker, 2001). Advocates of oversight regard public hearings as the mechanism to bring officer misconduct to light but according to Walker (2001), “Public hearings on the small percentage of complaints that reach the hearing stage shed little if any light on the practices that affect most cases” (p. 73). Procedural laws prohibit what information and evidence can be presented in the hearing, and the hearing itself is time and cost consuming on oversight board members who are usually volunteers or part-time
employees. Furthermore Walker (2001) states that hearings are not always necessary once police departments are committed to accountability and the oversight agencies have established their credibility with police officers. Citing the Minneapolis Civilian Review Authority 1997 Annual Report, Walker (2001) states the Minneapolis police officers began to admit their guilt and forego hearings; acknowledging the oversight agency’s investigations were fair and nothing would be gained by contesting their cases.

Oversight agencies have varying standards of proof to determine whether or not to sustain a complaint against an officer. The criminal standard of proof, beyond a reasonable doubt, is inappropriate because the complaint process is administrative and not criminal (Walker, 2001). The two general standards used are a preponderance of the evidence or a clear and convincing standard, with the preponderance of the evidence being the lower standard (Walker, 2001).

**Complaints and Complainants**

Many citizen complaints result from an officer not enforcing a particular criminal law, but rather controlling a situation (Barton, 1970). These situations are often highly emotional and stressful which foster physical or verbal excesses by police, and in these general situations it is difficult to apply specific rules towards the officer’s behavior (Barton, 1970). Officers justify their actions in the situation by positing the situation required their actions to obtain control.
Complaints can also be the result of misinterpretation of police action. Barton (1970) states this misinterpretation comes from the police being isolated from much of society because of both the nature of their function and the attitudes held by society towards them. This misinterpretation according to Barton is compounded by both the paradox of most people welcoming official police protection while resenting official interference and the inadequate publicity of good police action with the ardent publicity of occasional police excesses.

False complaints must also be considered when investigating complaints. Walker (2001) states most experts believe very few complainants knowingly file false allegations; and that requiring a signed waiver acknowledging possible prosecution for false accusations unnecessarily inhibits the complaint process (Walker, 2001). Several states have enacted laws making it illegal to knowingly file false complaints, but most suits from officers against their complainant are dismissed by the officers or the courts. The lack of conviction is not what most civil liberty groups are furious about. These civil liberty groups posit that these suits are used as a scare tactic to prevent future complaints from being filed. Gary Peck, the executive director of the ACLU of Nevada states the following regarding Nevada’s law requiring signed affidavits from citizens who file complaints and allows prosecution for false complaints, “We have a number of people who have signed affidavits who are reluctant to file complaints about police for fear they will be prosecuted under the law” (“ACLU to challenge Nevada law barring false complaints against cops,” 2001).
It is important to acknowledge that many complaints are not substantial in their context or intent. Few complaints are actually a result of police malpractice (Goldsmith, 1991). According to Perez (1994), complainants are often mistaken about the circumstances regarding their complaint due to their own intoxication or mental illness, can be acting vindictively towards the police or against a specific officer, or using the complaint system to harass officers to reduce future scrutiny of their own criminal activity. Barton (1970) states that two arguments against civilian oversight are that oversight favor criminals and that criminals will file complaints for improper motives. Without acknowledging this truth civilian oversight agencies can investigate and force issues that should have been screened at intake which will damage their own credibility. Perez (1994) speaks to this issue and the honesty of police officers by stating:

A police review system must take care not to toy with the intelligence and honesty of police officers. It must not give too much credence to the truly groundless complaint. To do so would invite police officers to reject the legitimacy of the system. People operating any review system must remember that the overwhelming majority of street police officers are honest, well trained, intelligent individuals who should be treated as experts of their craft. (p. 69)

Complainants vary just as much as civilian oversight agencies. As seen they can be driven by misunderstanding, mental illness, revenge, or police misconduct. The
importance of addressing the goals and expectations of complainants will be discussed later. Perez (1994) summarizes complainants by stating complainants want to complain without fear of retaliation, they want to be treated fairly without indifference, and they want an avenue to express their indignation. Furthermore, because of their indignation and view of police, which is sometimes coupled with an elite socioeconomic status, complainants believe civilian oversight mechanisms will often find police guilty of misconduct (Perez, 1994).

**Complaint Settlement/Dispositions**

Generally there are four categories for complaint dispositions: *unfounded* for when the investigation determines the alleged behavior did not occur, *exonerated* when the officer’s action were determined justified given the circumstances, *not sustained* when the evidence is not sufficient to find the officer guilty, and *sustained* when the officer is found guilty of the alleged misconduct (Walker, 2001). Dispositions should be reasonably related to the facts of the investigation. According to Walker (2005), a monitor in Pittsburg found that several investigations involving improper handcuffing and excessive force had been given an unfounded disposition because the complainants were found or pled guilty to an arrestable offense.

Decisions and rulings are incorporated in the responsibilities of most oversight agencies and are made at the completion of a complaint review. Given the varying training, education, and experience of oversight agency staff, these decisions and rulings are often vernacular. Beral and Sisk (1964) state, “Since most of the board
members are not lawyers, elaborate legal dispositions cannot be expected to accompany each decision” (p.515). This should not however preclude such decisions and rulings. These formal opinions safeguard against arbitrary judgments, provide accountability to the oversight agency’s impartiality from the police, and direct police conduct and future oversight decisions (Beral & Sisk, 1964). Some oversight agencies have developed informal procedures for complaint settlements. Beral and Sisk (1964) argue:

In many cases of minor grievances, the complainant may not care whether the officer involved is punished but seeks only an apology or the eradication of an unjustified police record entry. In such cases, informal settlements have proved workable. (p. 514)

Some mediators, employed by mediation agencies, decline to accept cases involving complaints against police officers because they realize they are favorably inclined towards officers, whereas some mediators decline because they realize they have biases against officers (Walker, 2005).

**Performance Measures**

How to measure the performance of civilian oversight agencies (including the police auditor mode) has recently become a debated topic in scholarly circles. The question has yet to be exclusively answered with many positing their own ideas with no data to support their conclusions. Walker (2001) states, “In evaluating the role and
effectiveness of citizen oversight, it is important to maintain perspective and think in terms of reasonable goals. It is a mistake to assume that citizen oversight is going to end police misconduct and solve all police problems” (p. 15). The difficulty of developing universal performance measures for civilian oversight agencies is that each agency varies in structure, authority, policies, goals, etc. A performance measure that is successful for one agency might not be applicable to another agency. Varying goals require varying performance measures (Luna & Walker, 2001). Brereton (2000) states evaluating performance across jurisdictions or comparisons between complaint systems poses many obstacles such as varying conditions, definitions, counting rules, institutional settings, structures, etc. because there is no standard civilian oversight agency. Furthermore in order to evaluate, you must know what you are evaluating. A difficulty in evaluating civilian oversight agencies is that there is little information available about what they do and how well they do it (Brereton, 2000). Nevertheless measuring performance of oversight agencies should not be ignored because of difficult applicability.

Researchers using official data such as sustain rates and the number of complaints filed to measure civilian oversight performance have had difficulty with causal interpretations because attributing observed changes in police behavior to the existence and performance of an oversight agency can not be done with out including numerous contributing factors (Walker, 2001). Walker and Bumphus (1992) state, “The interplay of complaint procedures and the volume of and rate of complaints is, in
short, highly complex and complicates any attempt at evaluation” (p.10). It is impossible to evaluate an oversight agency’s effectiveness through their statistics without independently investigating each original complaint, how the complaint was handled, and whether the decision was appropriate given the facts of the case (Walker & Bumphus, 1991). Brereton (2000) states, “…organizations are not consistent in the way in which they count complaints, and complaint outcomes, or in the criteria which they use to determine whether a complaint has been sustained” (p. 111).

**Complaint Rate**

Official complaint data is unreliable. Focusing on complaint data as a performance measure does not take into account associated problems with the data such as low rates of complaining, extreme variations in official complaint rates, the failure of police in many instances to record complaints brought to them, the absence of standardized categories for complaint data, and variations in the processing of complaints (Luna & Walker, 2000). Brereton (2000) states, “A drop in the number of complaints could indicate improved behavior, but may also reflect a decline in the willingness of citizens to complain, or a change in complaint recording and classification processes” (p. 116). Russell (1978), Wagner and Decker (1993), and deGuzman and Frank (2004) all argue a reduction of complaints can be the result of apprehension, apathy, political climate, ignorance, or because the oversight agency is effectively deterring police misconduct.
A low complaint rate can be the result of a poorly publicized or hostile complaint procedure instead of good policing and conversely a high complaint rate could suggest high levels of police misconduct or a community perspective that the complaint process is open and responsive (Walker, 2001). Additionally, non-reporting of complaints is a factor when considering official complaint data. It is difficult to measure non-reporting of complaints. Some reasons for non-reporting complaints include a fear of retaliation from the police, the belief that filing a complaint is futile, the desire for no further contact with the police, the complainant’s involvement in criminal activity or concern about their immigration status, or just wanting to be left alone (Walker, 2001).

The lack of a standard definition of a complaint also contributes to problems interpreting official complaint data. A single complaint may include several different allegations and the allegations may involve more than one officer (Walker, 2001). How an agency categorizes these differences directly influences their complaint sustain rates. Furthermore, the distinction between the types of complaints, serious complaints involving issues like use of force or less serious complaints such as discourtesy, and the volume of each should be considered (Walker, 2001).

There are many arguments why complaint rates are an inadequate performance measure. Brereton (2000) however argues that an oversight agency which increases the rate at which complaints are reported and recorded will increase the deterrence of improper police behavior. Brereton (2000) argues that increasing the number of
complaints receiving official attention will communicate to officers that there is an increased risk of inappropriate behavior being detected. There is no research however to corroborate this direct relationship.

**Sustainment Rate**

Sustainment rates, like complaint rates, are both used and dismissed as performance measures for civilian oversight agencies. Foremost there has never been a defined acceptable sustainment rate (Walker, 2001). Additionally sustainment rates are dismissed because of their causal relationship with other factors. The demographics of a jurisdiction will affect sustainment rates because some allegations such as excessive force are more difficult to prove than other allegations (Brereton, 2000). A highly populated area will have more witnesses to police misconduct compared to a rural area, and witnesses are key in complaint investigations. Sustainment rates are also affected by front end screening discretion and/or criteria (Brereton, 2000). Each oversight agency has different intake screening criteria for complaints which will affect sustainment rates. Some agencies which use alternative complaint resolution methods like mediation will have lower sustainment rates (Brereton, 2000). Furthermore all complaint review procedures yield low sustain rates and therefore evaluation should utilize other measures (Walker, 2001).

**Learning, Legitimacy, and Integrity Performance Measures**

Measuring the performance of civilian oversight on single criteria such as complaints sustained or complaints processed is an antiquated methodology.
Successful oversight agencies “take a proactive view of their role and actively seek out the underlying causes of police misconduct or problems with the complaint process” (Walker, 2001, p. 15). Therefore a performance measure needs to be multi dimensional because complaint investigation is only one aspect of civilian oversight; to focus on one part of their role as a means of evaluation and ignore other responsibilities is inappropriate (Walker, 2001). Douglas Perez, in response to the problems of using and focusing on official data like sustainment and complaint rates to measure performance of civilian oversight, introduced “learning” as a construct to measure civilian oversight performance (deGuzman & Frank, 2004). Melchor deGuzman and James Frank (2004) state the following regarding Perez’s “learning” construct:

He (Perez) conceptualized learning as the extent to which police departments and officers are influenced by the operations of the board. In other words, police "learn" what is proper behavior from decisions of the boards and this learning impacts on their actions when they interact with citizens. In addition, the mere existence of review boards may influence officers and agencies because they "learn" that their actions will be reviewed and they will be held accountable for their behavior. Learning may be manifested through changes in department policies, police officer behavior, and levels of supervision each of which may be undertaken to ensure conformity with board decisions. In addition, officer perceptions of the perceived deterrent effect of civilian review
on police misconduct may indicate a belief that the police have learned from board actions. (p. 168)

Perez’s “learning” construct relates an oversight agency’s existence and their decisions with deterred police misconduct, new/changed policies, and greater police supervision. However, as discussed, measuring these relationships using data proves difficult to establish direct correlations. Therefore to measure civilian oversight performance, according to Perez’s learning construct, perspectives of police and police policy makers regarding the respective civilian oversight agency for the jurisdiction would need to be analyzed. Police perceptions of the oversight agency measure the impact of the agency on the police.

deGuzman and Frank (2004) make the point that both the learning and deterrence theories support Perez’s learning construct. The social learning theory, established by Ronald Akers in the 1960s, posits that behavior and attitudes are absorbed into an individual through a variety of influences (Cote, 2002). The deterrence theory states that behavior is deterred by the threat of severe punishment (Miethe & Deibert, 2007). deGuzman and Frank (2004) apply both these theories to the learning construct by stating:

…if officers believe their decisions to engage in certain behaviors are influenced by the existence and prior decisions of review boards, and they think that these boards influence agency decisions to implement specific policies,
then the street-level behavior of officers is likely to be influenced. Then perception will provide a measure of learning that may be used to assess impact. (p.168)

There are weaknesses to Perez’s learning performance measure. Police perceptions might not adequately reflect the operations of an oversight agency (deGuzman & Frank, 2004). An event in the history of a civilian oversight agency could have resulted in its stigmatization within a particular police department and/or the community, which could consequently effect perception despite performance. A single highly publicized or political decision by an oversight agency could provoke an antagonistic perception by the majority of police and result in an inaccurate measurement of the agency’s performance. In addition to the learning construct, Perez laid claim to integrity and legitimacy as two other criteria for evaluation methodology of civilian oversight. Perez (1994) outlines these performance measures by the following:

1. Integrity: Is the system intimidating to the aggrieved citizen? Is it understandable to the public? Are the complaint investigations thorough and competent? Is the complaint adjudication done fairly? How appropriate is discipline in cases that find misconduct?

2. Legitimacy: Do the police consider the system fair? Does the public (including the media, political officials, and the bar) consider the system fair? Is
it seen as fair by neighborhood leaders, especially in communities in which allegations of police brutality arise? Does the system allay the need for public protest? (p.81)

Luna and Walker (2000) state the following regarding Perez’s integrity and legitimacy criteria:

Integrity involves the question of whether an agency conducts thorough and fair investigations, and otherwise fulfills its official mandate. Legitimacy involves the question of whether the agency is perceived as being legitimate in the eyes of the relevant stakeholders (e.g., complainants, police officers, elected officials, the general public). (p.92)

Other Performance Measures

In addition to complaint/sustainment rates and Perez’s learning, integrity, and legitimacy performance measures there are general performance measures suggested for complaint investigation and auditor models of civilian oversight. Other performance measures for complaint investigation agencies will be discussed first.

Complaint Process

Official complaint data, as illustrated, does not reliably correlate to police misconduct. However this lack of conclusiveness does point towards needed research to discover what extent the complaint rate is a function of policing as opposed to
perceptions of the complaint process (Walker, 2001). Walker (2005) suggests the following to determine the openness and accessibility of complaint procedures; determining the existence and availability of informational material about the complaint process (includes availability in different languages), whether or not there are multiple convenient locations for filing complaints (includes electronically), conducting systematic surveys to determine community awareness and confidence of complaint process, proactively contacting people who have had contact with the police and interviewing them, and providing questionnaires to arrestees investigating their awareness of the complaint process. Furthermore, observing the complaint process, testing the process by filing a complaint, and/or requesting information about the complaint process are means to evaluate the complaint intake process (Walker, 2001). Evaluating the complaint process will help clarify the relationship between complaints and police misconduct versus complaints and the complaint process.

Stenning (2000), who states the complaint “process should be reasonably straightforward, and accessible and understandable to potential complainants, as well as to police officers to whom it applies” (p. 149), identifies five criteria for evaluating the accessibility of the complaint process. The criteria are (1) how easy is it to file a complaint, (2) what range of complaints can be dealt with through the process, (3) who may make a complaint, (4) what resources are available to complainants, and (5) what protections against abuse of the process are there?
Officers, who are dually the primary source of contact the public has with the police department and the catalyst for complaints, play an important role in increasing the public’s awareness of the complaint process. Walker (2005) suggests all officers should be required to respond in a polite, professional, and informative manner to all citizens, regardless of the circumstances of the encounter when citizens say they want to file a complaint. In Cincinnati and New Jersey, officers and state troopers are required to have and provide complaint forms and informational brochures to citizens who object to their conduct (Walker, 2005).

In addition to the accessibility, awareness, and availability of the complaint procedure is the importance of how complaints are accepted, recorded, and screened should be evaluated. Studies have found that officers felt oversight agencies accepted frivolous complaints and were biased against officers during their investigations (Walker, 2001). By accepting and recording all complaints and then screening them on clearly articulated criteria, the oversight agency is ensuring fairness to all involved parties (Walker, 2001). Therefore how a department receives a complaint can be an avenue for evaluation of the complaint process (Walker, 2001).

Complaint dispositions can also be evaluated and act as a performance measure for civilian oversight agencies. Whether complaints have received proper dispositions should be evaluated (Walker, 2001). An audit determining whether or not complete investigations have been conducted and appropriate dispositions, discipline, and recommendations have been given can reveal training deficiencies, leniencies toward
preferred officers, and/or delinquent investigators (Walker, 2001). Furthermore
complaint investigations and dispositions should be completed in a timely manner.
However undue haste or undue delay in the resolution of complaints can deny proper
justice (Stenning, 2000). Overall the complaint process is a major aspect of a complaint
investigation centered civilian oversight agency. Evaluating this process on the
mentioned criteria is a useful method to measure an agency’s performance.

Satisfaction

Satisfaction of the parties involved with the oversight agency can be used as a
performance measure. Walker (2001) states, “Satisfaction is a function of one’s goals
and expectations” (p. 157). Therefore knowing the goals and expectations of both the
complainant and the involved officer with the oversight agency and the complaint
process is important. Philip Stenning (2000), a professor at the Center of Criminology,
University of Toronto Canada, identifies founding legislation for the principles and
policy objectives of oversight agencies is key for presenting to both complainants and
officers what they might expect in the complaint process. Studies suggest most
complaint procedures do not satisfy the complainant’s and officer’s goals and
expectations because they are punitive instead of conciliatory, which is a desire of both
complainants and officers (Walker, 2001).

Studies also have consistently shown that a clear majority of complainants are
dissatisfied with the complaints investigation process (Brereton, 2000). Research
shows the complainants typically are dissatisfied with the amount of information
provided, the time taken to finalize investigations, and the routine manner in which the complaint was handled (Brereton, 2000).

Feedback

Another point of evaluation is the feedback given to complainants and officers. Since a satisfactory experience for complainants and officers is a goal of oversight it is important to provide a mechanism to allow feedback on their experience (Walker, 2001). Complainants want information about the status of the investigation, details about the disposition, and reasoning behind the disposition (Walker, 2001). Fyfe (1985) states, “At minimum, every complainant whose identity is known to the police deserves a written explanation of what occurred after he lodged his complaint, and of the criteria used in adjudicating it” (p.84). To evaluate and determine if an agency’s feedback is satisfactory, an audit into the department’s policy on feedback and whether or not the policy is being complied with can be conducted (Walker, 2001).

Training, Staffing, and Cost Effectiveness

Training, staffing and the cost effectiveness of civilian oversight agencies are not appropriately addressed by existing literature. Walker (2001) identifies training and staffing should be a point of evaluation for civilian oversight agencies, but because there is a lack of professional standards for both training and staffing of civilian oversight agencies, a basis for an evaluation is difficult to determine. For evaluation purposes considerations as to whether or not an agency has a formal set of policies on handling complaints and whether staff members are familiar with these policies and
comply with them should be made (Walker, 2001). Cost effectiveness could be another criteria for evaluation, but there are no standards or research addressing the cost effectiveness of oversight agencies. My speculation is that this absence is related to the variances of most oversight agencies.

**Auditor Performance Measures**

The following will focus on other performance measures, in addition to Perez’s learning, legitimacy, and integrity, for auditor models of civilian oversight. The auditor model, as discussed, primarily audits the complaint process and police operations, reviews police policies, conducts community outreach, and aims to create law enforcement transparency (Walker, 2005).

**Community Outreach**

Auditors can be evaluated by their involvement in providing or making available informational materials, reaching out to special populations (i.e. providing translators), holding community meetings in various locations, and providing convenient access to the complaint process (Walker, 2001). The primary method of evaluation of an auditor’s community outreach is community surveys; but factors such as cost, a limited community population that has interaction with the auditor or police department, and/or recent positive or negative publicity can distort survey results (Walker, 2001). Another aspect of community outreach is customer service. People contact civilian oversight agencies for various inquiries, questions, complaints, and issues that do not always involve a complaint about an officer’s conduct or even the
police department. Handling all citizen inquiries, no matter if they are irrelevant, is an important public service provided by civilian oversight agencies (Walker, 2005). This aspect of customer service can be evaluated by reviewing an agency’s documentation of all contacts with the public and the outcome of each contact (Walker, 2001).

**Policy Review**

Policy review provided by auditors is difficult to evaluate. Walker (2001) uses the following sub-categories of policy review to mitigate the complexity, “A process evaluation considers whether or not an agency is doing what it claims to be doing. An outcome evaluation considers the impact of the activity in question” (p. 146). According to Walker (2001), process evaluation of policy review involves determining if the auditor is engaging in policy review; how many policy recommendations each year, the scope and importance of the policies addressed, and the percentage of recommendations accepted by the department.

Outcome evaluation of policy review assesses the impact of the auditor’s policy reviews and recommendations on the quality of police services provided to the public (Walker, 2001). Brereton (2000) states, “…it is important to look not only at the numbers of recommendations which have been made by these bodies, but also at the content and impact of those recommendations” (p. 119). However evaluating an auditor’s impact through policy review on police services requires systematic longitudinal data on police officer performance, and this data is not available at this point; furthermore if the data were available, proving the causal relationship between
police behavior and the activity of the auditor would be difficult (Walker, 2001). With this absence of longitudinal data, Perez’s learning construct becomes a tool to measure an auditor’s impact on police services through policy review.

**Internal Affair Influence**

Regarding evaluating civilian oversight’s affect on police complaint investigations, Brereton (2000) states it should be more than the reviewing quantitative results such as the number of matters reviewed, the number of police investigations supervised, recommendations made, and so on. Brereton states these numbers report activity but not effectiveness. He states that in order to support claims of civilian oversight effectiveness, it is necessary to show that recommendations by the oversight agency for further actions are acted upon with a reasonable degree of frequency. The quality of police investigations should improve over time as a result of an auditor. This will be evidenced by a reduction in the number of reviewed matters which are found to require further investigation. Brereton (2000) states that with the limited information available about civilian oversight agencies and their functions, it is not possible to ascertain the extent to which they have contributed to improving the police complaint investigation process.

**Summary**

Existing literature identifies the generalities of civilian oversight. These generalities include the cause and implementation of civilian oversight, its purposes, and the arguments for and against civilian oversight. The literature also prevalently
acknowledges there is a lack of literature regarding specific aspects of civilian oversight such as authority, training, staffing particulars, goals, expectations, policies, etc. This deficiency is a result of the numerous variances between civilian oversight agencies. Furthermore several scholars have identified a lack of an established performance measure for civilian oversight, which is also a consequence of variances in agencies. This exploratory study aims to compare four civilian oversight agencies and their existing performance measures, and compare them to suggested performance measures in the literature review.
Chapter 3  
DESIGN OF THE STUDY

This is a cross-sectional, exploratory study that focused on civilian oversight agencies as the unit of analysis. This study concentrated on a population of four particular civilian oversight agencies, which are The Berkeley Police Review Commission, The Office of Citizen Complaints for the City of San Francisco, The Police Ombudsman for the City Of Davis, and The Office of Public Safety Accountability for the City of Sacramento. This population was not randomly selected. This population was selected using purposive sampling because of their locations and characteristics.

After preliminary research it was determined the Berkeley and San Francisco oversight agencies were composed of multiple staff members and the Davis and Sacramento oversight agency were composed of an individual. A contrast of oversight composition was desired due to the exploratory nature of this study. These agencies were also selected because of their geographical location. Having all agencies within northern California offered more accessibility to information for me residing in northern California. Additionally the proximity of agencies assisted in the comparative analysis. It should be noted my employer at the time of this study was The City of Sacramento Police Department, and the City of Sacramento civilian oversight agency’s (The Office of Public Safety Accountability) jurisdiction includes the Sacramento Police Department. In order to conduct research, this study was pre-approved by the
Committee for the Protection of Human Subjects at the Office of Research Administration, California State University, Sacramento (See Appendix A).

The oversight agencies were compared by using qualitative interviews. Per Strauss and Corbin (1994) qualitative interviews can be utilized as sources of data. The qualitative interviews were the only method of data collection. Qualitative analysis according to Babbie (2004) is, “The non-numerical examination and interpretation of observations, for the purpose of discovering underlying meanings and patterns of relationship” (p. 370). In order to perform qualitative analysis this study used coding, which is the classifying or categorizing of principles for analysis (Babbie, 2004). The principles used for analysis in this study were the varying responsibilities of the oversight agencies, how the oversight agencies were established and who they are accountable to, the relationship between the authority of the oversight agencies and the police departments, the citizens’ perspectives of the oversight agencies, citizen intimidation of filing a complaint, bias and political influence in the oversight agencies, the oversight agencies’ role in the police-community relationship, mediation, awareness of the oversight agencies, performance measures applied to the oversight agencies, and the staffing, education, experience, training, and competency of the oversight agencies. The performance measures used for analysis were discussed in the literature review. The performance measures used for analysis were complaint and sustainment rates, feedback, satisfaction, and Douglas Perez’s learning and legitimacy constructs.
This study was designed for twenty subjects to participate in this research. Of the twenty interviewees anticipated, sixteen willing participants were located. The study was designed to consist of four complainants, four police officers, four oversight agency managers/administrators, four community members, and four police administrators. The sixteen interviewees that participated consisted of one complainant, four police officers, three oversight agency managers/administrators, four community members, and four police administrators.

Interviews were qualitative and based on, but not restricted to, a predetermined set of topics (see Appendix B for interview classifications/questions). Per Babbie (2004), qualitative interviews are an interaction between the interviewee and interviewer, and that interaction is guided by a general plan and not a specific set of questions. The questions in Appendix B were used as the general plan for the interviews, and the interviews were not restricted to the questions in Appendix B. The interviews were conducted face to face and were primarily based on open-ended questions. Interview topics were contoured according to interviewee classifications: oversight agency manager/administrator, complainant (person who filed complaint against police and participated in complaint process), police officer, police administrator (police management position of lieutenant rank or higher held by sworn peace officer), and community member (citizen residing within the jurisdiction of the oversight agency/police department and having not participated in complaint process).
Interviewees were not selected randomly. Interviewees were selected according to their position and/or participation or non-participation with an oversight agency in its duties, and by reliance on available subjects. All selected interviewees were 18 years or older at the time of the interview and selected according to accessibility and availability. The police administrators and civilian oversight agency managers were solicited by written invitation (Appendix C) sent to their employment. Appendix C was mailed to the respective police administrators and oversight agency managers at their employments. If and when no response was obtained, a phone call to their respective agencies was made requesting their participation. The interviewees were then advised per Appendix D. If voluntary participation was declined no further contacts were made with that specific agency. Police officers were recruited via personal solicitation at roll calls. Police Officers were advised per Appendix C. If voluntary participation was declined no further contact was made with that specific agency. The community members were recruited by personal solicitation in public during daylight hours. The potential for unconscious sampling bias with this non-probability method of reliance on available subjects should be noted. No inducements for participation were offered.

Obtaining citizen complainant participation involved further steps due to the complexity of obtaining confidential information and protecting their privacy (i.e. any complainant’s contact information in order to solicit them for participation in this study). The civilian oversight agencies were requested to advise their complainants of this study. One of the four oversight agencies agreed to advise their complainants of
this study. That oversight agency provided contact information to complainants interested in participating in the study. The person interested in participating in the study then gave their contact information to the oversight agency administrator and asked that it be forwarded to me. The oversight agency administrator then provided me with the complainant’s contact information.

Interviewee participation was voluntary and a written consent form (Appendix D) was presented and signed before each interview was conducted to ensure informed consent. The written consent form explained the intent and purpose of the interview and this study, and was approved by the Committee for the Protection of Human Subjects at the Office of Research Administration, California State University, Sacramento. The identity of each interviewee remains confidential. All identifiable information of each interview participant was removed and replaced with a pseudonym such as Citizen Complainant #1, Police Officer #1, Police Administrator #1, etc. to provide confidentiality. All the interview classification pseudonyms are associated with the same civilian oversight agency pseudonym. For example the Citizen Complainant #1, Police Administrator #1, and Police Officer #1 will all be associated with Civilian Oversight Agency #1. All the pseudonyms will be abbreviated as follows Civilian Oversight Agency (COA), Law Enforcement Administrator (LEA), Police Officer (PO), Complainant (CO), and Citizen (CI). The numbers following the abbreviation represents the oversight agency the interviewee is associated with, for example LEA2 is the Law Enforcement Administrator associated with Civilian Oversight Agency #2.
A list linking the pseudonyms with the interview participants and civilian oversight agencies was kept in a secure location apart from the research data. This list and the research data was destroyed when this study was completed.

The interviews were recorded on audio tapes. The audio recordings were stored in a secure location and destroyed at the end of the study. As mentioned, the pseudonym list was kept in a secure location apart from the research data. All research data (interview audio tapes, audio tape transcriptions, and pseudonym list) were destroyed at the completion of the study.

The qualitative interviews provided a strong validity measure, but due to the lack of empirical data involved, reliability is weak. The lack of randomly selecting interviewees also diminished the reliability of information. The selection process which relied on volunteers also increased the potential for highly opinionated interviewees; which reduced reliability. The scientific goal of generalizability in this study was mitigated by this study’s reliance on non-randomly sampled volunteers.

This study, because of its non-random design, is not appropriate for generalizing to the population of oversight agencies. This study will only represent a comparison of four, not randomly sampled, oversight agencies within the State of California when there are numerous oversight agencies world wide that vary in structure and purpose. Due to a small sample size and lack of quantitative measurement, this study can not be applied to civilian oversight in general. This study makes observations based on the interviews, which were conducted at one point in
time. The sentiments of the interviewees being subject to change should be acknowledged when attributing their statements to the analysis of the oversight agencies.

This study did identify effective and ineffective structures, policies, and performance measures of these four civilian oversight agencies through a comparison. This study finds that although most oversight agencies are founded on a similar principle of accountability for law enforcement agencies, the pursuit of this principle can take varying forms and paths. Furthermore, because of the limited case studies and comparison of civilian oversight agencies, this study will be a useful tool for the involved oversight agencies and the civilian oversight community as a whole.
Chapter 4
ANALYSIS OF FINDINGS

Given that this study’s purpose is to compare four different civilian oversight agencies to identify specific conditions of particular civilian oversight agencies and to identify performance measures, the analysis will be divided into the following two subsections: a comparison of the civilian oversight agencies, and performance measures. The comparison of the civilian oversight agencies subsection will look at key components of the civilian oversight agencies and how they related to the other oversight agencies. The performance measures subsection will analyze the performance of the four agencies using the performance measures identified in the literature review.

Of the twenty interviews planned, sixteen were conducted. One of the interviews not obtained was COA2 who declined participation. The other three interviews not obtained were part of the complainant classification. Per the design of this study, the complainants were to be obtained by requesting civilian oversight agencies advise their complainants of this study. The oversight agency would provide my contact information to complainants interested in participating in the study and then those interested in participating in the study would make contact. Since COA2 declined participation in this research, no to request this study be forwarded a complainant to obtain a CO2 interviewee. I was unable to obtain interviewees for CO3 and CO4 because both COA3 and COA 4 declined to forward my information to their complainants. A majority of the sixteen interviews lasted longer than anticipated, with
three interviews elapsing over two hours. Most of the interviewees were highly opinionated about civilian oversight. Two charts summarizing observations on the coding will be included in chapter four (See Tables 1 and 2). A summary of the interviews is found in Appendix F.

A Comparison of the Civilian Oversight Agencies

The comparison of the civilian oversight agencies subsection of chapter four will look at key components of the civilian oversight agencies and how they related to the other oversight agencies. The comparison will be based on the interviews conducted.

Each of the oversight agencies has varying authorities. COA1 has the authority to accept complaints and investigate them, but typically does not conduct its own investigations. After auditing the police department’s complaint investigations, COA1 makes recommendations regarding the discipline imposed on officers, but has no authority to discipline officers. COA2 is similar to COA1 in that COA2 has the authority to receive complaints, but forwards them to the police department for investigation. COA2 then audits police complaint investigations and makes recommendations. Both COA1 and COA2 operate under the authority of the city manager’s scope of employment.

COA3 was created by a voter approved initiative that amended the city charter. COA3, unlike COA1 and COA2, accepts all citizen complaints against the police department and investigates them; the police typically do not investigate citizen
complaints, as the investigations are done by COA3. COA3 makes recommendations regarding police discipline and forwards them to the police department and ultimately a commission, which is another civilian body with complete disciplinary authority over officers. COA3 is accountable to this commission of civilian volunteers who are appointed by the mayor and county board of supervisors.

COA4 was created by a city ordinance and is accountable to the city manager. COA4 has the authority to accept and investigate complaints against the police. However for all complaints investigated by COA4 there is a concurrent police investigation, and complaints filed at the police department are only investigated by the police department. COA4 forwards their investigations to a civilian commission (which as mentioned for the purpose of this study is part of COA4) who then holds a hearing and determines a finding. This finding is forwarded to the police department with recommendations for discipline.

When comparing the scope of authority of these oversight agencies with the perceptions of the police administrators it is easy to identify a relationship between the amount of authority given to an oversight agency and the acceptance of the police department of that agency. As mentioned in the limitations of this study, this relationship is limited to data in the interviews and might not be representative of the aggregate. Both police administrators of COA1 and COA2 were pleased with their respective civilian oversight models which have the least authority compared to COA3 and COA4. In turn, the police administrators associated with COA3 and COA4 both
spoke poorly of their respective oversight agencies; which are the two of the four oversight agencies that consistently investigate complaints against the police. LEA3’s and LEA4’s criticisms of their respective oversight agencies both identified poor complaint investigations and unreasonable sustained complaint investigations. For example, LEA3 stated that COA3 sustained a citizen complaint that was contrary to state law. The citizen had complained about the legal authority of a search warrant that had been served at the citizen’s residence, but the warrant had been signed by a judge. LEA3 advised that COA3 sustained the complaint against the officer who served the warrant by concluding they (COA3) felt the search warrant was faulty. LEA3 advised that a police investigation found the complaint unfounded. LEA4 stated when he sits on board of inquiry hearings as a command officer, he reads COA4’s investigations and sees holes. LEA4 advised that COA4 does not interview key people that are interviewed in the concurrent internal affairs investigations. LEA4 said that witnesses who prove an officer’s innocence are not contacted by COA4 investigators, where the same witness will be contacted by internal affairs investigators. LEA4 concluded that COA4 lacks experience and does not conduct thorough and impartial investigations. It is logical and can be argued that the police administrators and officers are less amicable towards oversight agencies that have power to investigate police action than the oversight agencies that only audit or monitor. Autonomy, whether admitted or not, is sought by most. However, the dissatisfaction of LEA3 and LEA4 towards their oversight agencies should not necessarily be contributed to COA3 and COA4 having
the authority to investigate officers. As stated in the interviews of LEA3, LEA4, PO3, and PO4, this dissatisfaction is not primarily due to the oversight agencies investigating complaints, but rather that COA3 and COA4 conduct inadequate and bias investigations.

The staffing and budget for each oversight agency also varied. Both COA1 and COA2 are agencies which employ a single person. COA1’s budget was $185,000 and the director thought COA1 was appropriately staffed for its functions. COA3 consists of thirty four full time employees and one part time employee. Per the individual interviewed at COA3, COA3 was understaffed. COA4’s staff consists of three full time employees and one part time employee, and COA4 had a budget of $531,000 in 2010. The individual interviewed at COA4 thought the current budget and staff were sufficient for COA4’s responsibilities. The obvious point of the staffing and budget items of the civilian oversight agencies is that as the responsibilities of the agency increases, so will the staffing and costs. It should also be noted that the two larger agencies with respect to staffing and cost, COA3 and COA4, received the greatest unsatisfactory evaluation from their police departments.

The experience and education of civilian oversight staff, as seen in the literature review and interviews, is a contentious topic. Although most of the civilian oversight employees interviewed had extensive education backgrounds and some prior investigative experience, none of the individuals with the civilian oversight agencies knew the education and experience prerequisites for the positions they held. The
director of COA1 has a college degree and six years prior law enforcement experience, but she was uncertain of the prerequisites for her position. The employee of COA2, per LEA2, has an education in law and police procedure and is an attorney. COA3 has attorneys and prior law enforcement individuals on its staff, but the person interviewed was uncertain of the education and experience prerequisites. The COA4 director has a law degree and the investigator for COA4 has a bachelors of Science degree and a masters of Science degree along with four years investigative experience; however the prerequisites for those positions were unknown. There appeared to be a lack of standardization for education prerequisites for oversight agencies. None of the agencies appeared to collaborate with each other to establish education standards for their profession. Overall, the educational backgrounds of the four oversight agencies’ staff were significant, with all the oversight agency interviewees having advanced college and/or law degrees. However by collectively establishing education standards of oversight staff, the oversight profession will gain credibility from the police department and the community.

As in harmony with the literature review, a major point of concern and critique of the civilian oversight agencies was the lack of law enforcement and investigative experience of civilian oversight staff. The police officers and police administrators of the police departments associated with each oversight agency, when asked if they thought their respective oversight agencies could adequately accept complaints, investigate complaints, and/or evaluate police policies and/or actions, they all said no
expect for LEA2 and PO2 who answered in the affirmative. Perhaps this confidence by
the LEA2 and PO2 is associated with the lack of autonomy of COA2 from its police
department. COA2 is the only oversight agency with an office within the police
department. Furthermore PO2 alluded to potential bias when he stated that the COA2
employee might operate with some bias after working closely with the police
department and establishing friendships within the police department.

The argument was collectively made by the civilian oversight administrators
that civilian oversight staff can adequately accept and investigate complaints and
review police policy and action because it is simply a fact finding process. The
argument is that oversight agency staff does not need law enforcement experience and
training in order to investigate a complaint and evaluate police action because it is
plainly a matter of determining the facts and evaluating if the officers’ actions were out
of policy or in policy. The COA1 director emphasized that investigating complaints
and evaluating police policy and action is not that difficult. She said if you educate
yourself on any business or practice it is easy to evaluate the actions of employees in
that business. The employee at COA3 stated that her job is not law enforcement, but to
investigate and examine policy and therefore she could adequately perform her
functions based on her training and experience. The employee with COA4 said he
could adequately perform his functions because the police are like anyone else that has
to follow rules and procedures, and most people can assess whether those rules or
procedures are being followed.
The typical other side of the argument was made by most of the police officers and police administrators, which is that civilian oversight staff does not have the training and experience necessary to evaluate the police. PO4 stated that for some complicated complaints, like those involving an officer involved shooting, civilians would have difficulty investigating/evaluating because so much of evaluating the officer depends on the officer’s mindset (what they were thinking/perceiving at the time of the event), their experience, and their training (what the officer has been taught regarding certain circumstances). PO3 said COA3 does not know what it is like to be surrounded by five or six people who are trying to lynch a prisoner from you; they lack training, knowledge, credibility, and experience. LEA2, who believes that COA2 can adequately accept complaints, investigate complaints, and evaluate police policies, stated he was opposed to the “Berkeley model” because lay people sometimes have an agenda and do not always have knowledge of the law. LEA2 posited that sometimes the law is what the law is and it does not always match with common sense, therefore oversight needs people who are experienced investigators and knowledgeable of the law. LEA2 stated he would not sit in judgment of what a doctor does because he is not an expert in that profession. LEA2 stated that law enforcement is a profession and that it needs people with experience in the profession to evaluate it. PO1 stated the following when asked whether he would rather have a complaint investigated by the police or by an oversight agency, “By my department, because they are subject matter experts. They are sworn employees who have been in my particular position at one
time or another. They are well aware of what our training is, the challenges that we face on a daily basis, the type of people we deal with, the things we have to take into consideration, especially in regards to officer safety. What an officer or person with law enforcement experience would consider suspicious or unusual and in need of being investigated further a civilian might not get it.” PO2, when asked the same question as PO1, stated, “With experience as officers, they know the job, mindset, training, and everything else that is important when evaluating police action.” PO2 also stated, “…civilians will base their decisions on what they have seen on television or heard, and a lot of that is not the reality of what we do.”

The sentiments of the officers and police administrators corroborated the existing literature. Beral and Sisk (1964) state, “The strongest general argument against civilian review boards is that they lack the knowledge and experience to evaluate police actions” (p. 518). Walker (2001) asks, “Do citizens have the capacity to make judgments about the professional competence of police officers?” (p. 13). A lack of experience on behalf of civilian oversight staff is creating a chasm between civilian oversight and law enforcement. Bridging this chasm is important for civilian oversight agencies to be able to effectively operate. The counter argument is that civilian oversight staff does not need law enforcement experience to perform its duties. As COA3 stated, her job is not law enforcement but to investigate and examine policy. COA3 possibly could fulfill her duties adequately with her current training and experience. Nevertheless, until civilian oversight systematically obtains law
enforcement experience through some manner it will never have credibility with law enforcement agencies.

The oversight agencies receive varying amounts of training. The sole employee of COA1 has basically received no training, including no cultural diversity training, since being employed by COA1. The employee at COA3 on the other hand has attended various trainings from credible agencies. The employee also advised that employees of COA3 receive informal “in-house” cultural diversity training. The employee at COA4 stated his training consisted of a single ride-along with an officer. The interviews showed there is a lack of a required amount of continual training for civilian oversight agencies. It appears that any training given was based on a capricious effort instead of a standardized procedure. Collectively standardizing training for civilian oversight would yield credibility. Police departments and citizens would see that civilian oversight staff has an objective standard and approach to their profession.

The civilian interviewees for each of the oversight agencies had mixed thoughts on the competency of their oversight agencies to accept complaints, investigate complaints, and evaluate police policy and action. It should be noted that none of the citizens interviewed were aware of the existence of their respective civilian oversight agencies; therefore the citizens’ thoughts on their oversight agencies’ competency was speculative. A community’s lack of awareness of the existence of their oversight agency should be a major concern for that oversight agency. As discussed in the literature review, a component of an oversight agency is community outreach to inform
citizens of the oversight agency’s existence and functions. With the limitations of this study’s design, conclusions can not be made about the community outreach of the agencies involved in this study. CI1 and CI3 were unsure of their oversight agencies competency to fulfill its duties. CI2 believed COA2 could adequately fulfill its duties if COA2 staff held a full time position where due-diligence could be performed. CI4 simply stated he liked the idea of an independent civilian oversight agency. The only consistency regarding the citizens’ perspective of the oversight agencies’ competency was the lack of affirmation in the agencies’ ability to perform. There appears to be more doubt, questions, and conditions produced before the citizens will place confidence in the civilian oversight agencies to perform adequately.

The only citizen who believed filing a complaint at their police department would be more intimidating than at the civilian oversight agency was CI3. The other citizens stated filing a complaint would be no more intimidating at a police station than at the civilian oversight agency. Furthermore all the citizens except CI3, who was unsure, felt that a complaint filed at their respective police station would be investigated fairly. This lack of intimidation of filing a complaint at the police department, and the belief that a complaint would be investigated fairly by the police, were in contradiction with the majority of existing literature.

Furthermore there was concern of bias within civilian oversight agencies. When asking the citizens whether they would rather have a complaint investigated by their police department or by the civilian oversight agency, it appeared that a major concern
was the partiality of the oversight agencies. CI1 stated he would rather have a complaint investigated by the police department instead of COA1 because he has heard that oversight agencies in general have an antagonistic and hostile approach towards the police, and oversight personnel often have a political agenda and narrative already established. CI2 stated that he would prefer COA2 investigate a complaint because he hoped they would be more objective, but added that whereas the police might lean towards protecting their own, an oversight agency might be aggressive in looking for ways to go after the police. CI2 continued by questioning what type of person wants to work for an oversight agency and he posited it was someone with a “grind” against the police.

The concern of bias within the civilian oversight agencies was also prevalent with the police administrator and officer interviewees. One could discount this concern on the basis that this belief held by the police is a given now that they are being held accountable by these civilian agencies. However there were examples given by police administrators and officers to give credibility to this concern. The structure of the civilian oversight agencies was the main catalyst for this perceived bias, whether real or not. None of the oversight agencies were ultimately accountable to the police department. Rather, they are accountable to city managers, mayor, city councils, or board of supervisors. Furthermore these oversight agencies had either their director and/or commissioners appointed by these political entities (mayor, city council, etc.). These appointments become political and the oversight agencies are no longer fact
finders, but rather vehicles to pursue a political means. LEA3 makes a striking example where a complaint investigation, which was initially found not sustained, was overturned because of political pressure made through the board of supervisors and mayor on the oversight agency. LEA3 states an officer assigned to a school found contraband in a school locker. The officer contacted the student who used the locker. The student spoke perfect English. The officer admonished the student and filed a report. The student’s parents filed a complaint stating that the student did not understand the officer because the student does not speak English. Every teacher confirmed that the student is bilingual and understands English. The student was in ESL (English second language) classes the year before but had progressed out of them. Initially COA3 found the complaint not sustained. Then an advocate on the Board of Supervisors demanded that the case be reopened after receiving pressure from community activists. COA3 reopened the case and then found the complaint sustained because the officer should have gotten an interpreter. At that time there was no department policy mandating officers to get an interpreter. To resolve the case, COA3 offered the officer mediation. The officer declined because the case was originally found not sustained. The officer is still currently fighting the case. Subsequent to this complaint ordeal, a policy requiring officers obtain an interpreter if there is any suspicion of needing one was implemented. LEA3 stated the ESL interpreter policy was an agenda of COA3, and the school officer was a pawn to push forward an agenda and a victim of politics. Another example of bias within the oversight agencies was
given by PO4. PO4 stated one of the COA commissioners is a known “cop-watch” activist that he has seen in the field on calls for service with a notebook and pencil. Cop-watch is a group focused on monitoring the police. Cop-watch videos, which are accessible on the internet, clearly demonstrate bias against law enforcement. These examples are two of others in the interviews which corroborate the concern of police officers and citizens that oversight agencies are not the neutral fact finding entities they claim to be but are rather political agents. However not all the sampled oversight agencies were thought to be operating with bias. LEA1 attributes the current successfulness of COA1 to the current director’s prior law enforcement experience and their focus on fact finding without an agenda.

The oversight agencies varied on evaluating complaint trends and conducting policy review. The two larger oversight agencies, COA3 and COA4, both conducted policy review and COA3 also looked at complaint trends. COA1 and COA2 both examined complaint trends but neither conducted policy review for the police department in an official capacity. Although all the agencies either examined complaint trends or conducted policy review it should be noted that none of the agencies had the sole authority to establish or change police policy. It could be argued that COA3, which is accountable to a civilian commission that has full authority over the police department including policy creation and modification for the police department, has the greatest potential to influence police policy.

The interviewees were asked if they thought their civilian oversight agencies
have had an impact on the police-community relationship. As one could assume the oversight administrators answered in the affirmative and gave answers like giving citizens better perceptions of the police through education of police practices and laws, acting as a liaison between the two entities, and holding the police department accountable. The police perspective was quite different. All the police officers stated either they were unsure how their oversight agencies had improved the police-community relationship or that their respective oversight agency has had a detrimental effect on the police-community relationship. PO3 stated that COA3 has had a divisive effect on the relationship because they do not educate the public about police practices or forward complaint cases to mediation where the involved parties can receive a better understanding of what happened; but rather primarily seek sustained cases as means to justify self existence.

The police administrators were not as contrary to the civilian oversight agency administrators’ perspective on their effect on the police community relationship. Perhaps their response was tempered by political restraint because of the political influence described on the oversight agencies earlier. The police administrators, except for LEA4, attributed the perceived transparency which comes from the existence of their respective oversight agencies to improving the police-community relationship. LEA1 went further to explain that having COA1 audit their complaint investigations gives credibility to the police department’s investigations which ultimately contributes to the public’s perception of the police department. The police administrators could not
provide any other measure on how the oversight agencies improved the police-community relationship. LEA4 stated outright that COA4 has not improved the police-community relationship.

The citizens were not even aware of the existence of their respective oversight agencies so they had to conjecture on how the oversight agencies have improved the police community relationship. CI1 stated that even squeaky wheels make you take the car to get fixed and therefore COA1 serves some function. CI2 and CI4 were unsure if oversight agencies have had an impact on improving the relationship, and CI3 believed COA3 has improved the police-community relationship because it gives the police department more accountability. Of all the claims of improving the police-community relationship, none of the police departments or oversight agencies had a means to measure the improvements.

The only two agencies typically investigating citizen complaints against the police, COA3 and COA4, are the agencies offering mediation as means of complaint settlement. Per the civilian oversight agencies, mediation is offered when a complaint is filed. The involved parties, the complainant and officer(s), must all agree to mediation in order for it to occur. If mediation is chosen then the complaint is not investigated. All the officers and citizens were inclined towards mediation as a means of complaint settlement if it were offered. A condition that most interviewees placed on using mediation instead of a court trial as a means of complaint settlement was that the complaint not be serious in nature. Both officers and citizens requested a court trial as a
means of settlement if the complaint was serious in nature. Several interviewees stated mediation was advantageous because of the lower cost compared to a trial and also because mediation gives an opportunity for both parties to better understand each other. PO4 said he prefers mediation because at mediation he could at least explain himself. He said mediation allows face to face time with the person filing the complaint. He said mediation is a win-win situation that gives both parties a chance to come together in a civil manner to discuss the case. CI4 said he would prefer mediation over a court trial as a means of complaint settlement because mediation was low cost and quick. CI3 said she would prefer mediation over a court trial for most situations. She said mediation would save tax payer money needed for a court trial, but for some situations a complaint would need a court trial and mediation would not be sufficient. PO3 said he is a strong proponent of mediation because it gives the officer an opportunity to educate the citizen and the citizen to educate the officer about the public. PO3 said a lot of times an officer has to act on the immediacy of the moment and employ certain tools. Mediation allows the citizen to hear why the officer employed a certain technique for a specific situation. The citizen may not like it but they will have a better understanding after mediation.

Another issue discussed by various interviewee classifications was the cooperation and working relationship needed between the civilian oversight agencies and the police departments. Some of the police departments and civilian oversight agencies clearly have a good working relationship like COA1 and COA2 with their
associated police departments, while there is conflict between COA3 and COA4 and their associated police departments. LEA1 stated that COA1 has improved the operational effectiveness of the police department. The director is concerned with fixing problems and promoting training for issues that have risen with complaints. LEA1 also stated that COA1 and the police department have a good working relationship because COA1 is set on fact finding, and does not operate with an agenda. The director of COA1 stated that COA1 has a good working relationship with the police department. There is ongoing communication between COA1 and the police department’s internal affairs division. This ongoing communication consists of new complaints received, updates on current investigations, and audits of investigations to be performed. The director states ongoing communication fosters a good working relationship and mitigates opposition. LEA2 also acclaimed his oversight agency. LEA2 praised COA2 by stating the auditor is an attorney and is familiar with police procedure. LEA2 stated COA2 can make decisions and explain the law to complainants. The auditor has an education in law and police procedure and operates as an auditor for other agencies. LEA2 also noted that complainants will accept an explanation of the law pertaining to their complaint better from the auditor than they will from the police officer because of pre-existing bias.

On the other side of the spectrum is the relationship with COA3 and COA4 and their respective police departments. As we have discussed, both police departments have little respect and confidence in their oversight agencies. With both sides
illustrated, there were interviewees associated with all four agencies that stressed the need for cooperation and mutual respect between the police department and the civilian oversight agency in order for the oversight agency to be legitimate.

Obviously with the acceptance of COA1 and COA2 by their associated police departments, they obtain greater cooperation from the police departments and credibility from the public. The possible political bias/influence by COA3 has led to the lack of acceptance by its associated police department and ultimately continual political warfare between the COA3 and the police department. This warfare harms the productivity and credibility of both agencies. COA4’s perceived bias against its police department, by the police department, has led to a complete lack of credibility of COA4. The police department appears to have lost respect for COA4 which has led to the overturning and/or rejection of most of COA4’s findings.

One question is what factor or factors have led to the positive relationship between COA1 and COA2 and their police departments and the negative working relationship between COA3 and COA4. It can not be stated indefinitely what these factors are based on this limited qualitative study. It is clear that COA1 and COA2 have less authority and responsibilities than COA3 and COA4. It is also evident that COA3 and COA4 are exposed to greater political pressure than COA1 and COA2 based on their structure. The training, education, and experience of these four oversight agencies do not vary greatly so one could conclude that these factors are non-influential in the working relationship between oversight agency and police
department. However when the authority and scope of the oversight agency are increased, like COA3 and COA4 over that of COA1 and COA2, the training, education, and experience might have a greater influence. Table 1 summarizes the coding principles used to compare the oversight agencies.

<table>
<thead>
<tr>
<th>Coding</th>
<th>COA1</th>
<th>COA2</th>
<th>COA3</th>
<th>COA4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Responsibilities</td>
<td>Audit complaint investigations/police policy, typically does not investigate complaints but can, no discipline authority</td>
<td>Audit complaint investigations/police policy, no discipline authority</td>
<td>Investigate complaints/Input on police policy, discipline recommendations</td>
<td>Investigate complaints, no discipline authority</td>
</tr>
<tr>
<td>Established by</td>
<td>Office of the City Manager</td>
<td>Office of the City Manager</td>
<td>Voter initiative, amendment to City Charter</td>
<td>City ordinance</td>
</tr>
<tr>
<td>Whom Accountable To</td>
<td>City Manager</td>
<td>City Manager</td>
<td>Commission of appointed civilians</td>
<td>City Manager</td>
</tr>
<tr>
<td>Relationship Between COAs and Police Departments</td>
<td>Positive</td>
<td>Positive</td>
<td>Negative</td>
<td>Negative</td>
</tr>
<tr>
<td>Citizen Perspective of COAs</td>
<td>Serves limited function</td>
<td>Unsure</td>
<td>COA3 provides more accountability to the police department</td>
<td>Unsure</td>
</tr>
<tr>
<td>Citizen Intimidation of Complaint Process with the Police greater than the COA</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Bias and Political Influence associated with the COAs</td>
<td>Yes per CI1, no per LEA1 and PO</td>
<td>Potential for bias per CI2, no per LEA2 and PO2</td>
<td>Yes per LEA3 and PO3</td>
<td>Yes per LEA4 and PO4</td>
</tr>
<tr>
<td>COAs’ Role in Improving Police-Community Relationship</td>
<td>Help improved relationship via added transparency per LEA1, no role per PO1</td>
<td>Positive role per LEA2 and PO2, potential for improvement per CI2</td>
<td>Potential improvement via added transparency per LEA3, negative role per PO3, positive role per CI3</td>
<td>No role per LEA4, negative role per PO4, CI4 unsure of role</td>
</tr>
<tr>
<td>Offer Mediation</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Awareness of COAs</td>
<td>CI1 not aware of the existence of COA1, PO1 aware of COA3</td>
<td>CI2 not aware of the existence of COA, PO2 aware of COA2</td>
<td>CI3 not aware of the existence of COA, PO3 aware of COA3</td>
<td>CI4 not aware of the existence of COA, PO4 aware of COA4</td>
</tr>
<tr>
<td>Staffing</td>
<td>1 Employee</td>
<td>1 Employee</td>
<td>34 full time employees, 1 part time employee</td>
<td>3 full time employees, 1 part time employee</td>
</tr>
<tr>
<td>Education</td>
<td>Advanced college degree</td>
<td>Law degree</td>
<td>Advanced college degrees and law degrees</td>
<td>Advanced college degrees and law degrees</td>
</tr>
<tr>
<td>Experience</td>
<td>6 years law enforcement</td>
<td>Unknown</td>
<td>Varying law enforcement and investigative experience</td>
<td>Limited law enforcement experience. Several years of investigative experience</td>
</tr>
<tr>
<td>Training</td>
<td>Very limited</td>
<td>Unknown</td>
<td>Extensive</td>
<td>Limited</td>
</tr>
<tr>
<td>Competency</td>
<td>CI1 was unsure of competency of COA1</td>
<td>CI2 was unsure of competency of COA2</td>
<td>CI3 was unsure of competency of COA3</td>
<td>CI4 was unsure of competency of COA4</td>
</tr>
</tbody>
</table>

Table 1: Coding Analysis for Comparing the Oversight Agencies
Performance Measures

The performance measures subsection will analyze the performance of the four agencies using the performance measures identified in the literature review.

As discussed in the literature review, using a complaint rate, or generally complaint data, as a performance measure can be problematic. Official complaint data is unreliable. There is little standardization of what a complaint is, and determining the causal relationship between complaint rates and contributing factors has not been determined. COA1 stated it does not use complaint or sustainment rates as a means of evaluation. The employee interviewed with COA3 was not sure how performance was evaluated for complaints, and the employee at COA4 stated they did not believe COA4 evaluated its performance at all and referred me to the city manager’s office. The only hint of using complaint rates as a means of evaluation was made by LEA2 when he commented that complaints had decreased with the hiring of COA2. Clearly these agencies are not set on complaint data and complaint rates as a means to evaluate performance.

Another performance measure that was addressed and refuted in the literature review was sustainment rates. Difficulties defining an acceptable sustainment rate, determining the causal relationship with the sustainment rate and other factors, accounting for jurisdictional affect, and varying screening criteria for complainants all influence the sustainment rate. Although no oversight agency interviewed claimed to use sustainment rates as a means of performance evaluation, it was clear by the
thoughts of the police administrators and police officers associated with COA3 and COA4 that sustainment rates were driving these agencies. Interviewees provided examples of complaints sustained by COA3 and COA4, which gave the impression that these agencies were sustaining complaints to justify their own existence. LEA3 states that COA3 is still out to get a sustained complaint at any cost. If a complaint was for excessive force, you would get a sustained complaint because you did not check a box on the report. This activity must be carefully attended to with urgency. If these oversight agencies begin to justify their existence through sustained complaints they will lose their credibility. There are no contemporary police departments, with mandated hiring standards, that will yield a high complaint sustainment rate. Therefore the oversight agencies could begin searching for ways to sustain complaints that should not be sustained in the first place, like forgetting to check a box or make a copy on the complaint form. Once this occurs, and this activity is made public, civilian oversight agencies will lose credibility with both the public and the police department. Sentiments like that of CI1 will become more pervasive. CI1 stated that oversight agencies often use a template to their story before the facts are discovered, and this is why he does not trust them. CI1 stated that civilian oversight agencies typically operate on bias because they see controlling the police and police misconduct as their reason for existence; and if that is their reason for being they might not always control their bias. Using sustainment rates as a performance measure, as seen with COA3 and COA4, will cause the oversight agency to evolve from the fact finding agency it was
created to be into a political machine seeking to justify its existence.

Two of the highlights found with writing the literature review were the learning and integrity performance measures because of their atypical approach. The learning construct was introduced by Douglas Perez to combat the shortcoming of using complaint and sustainment rate to evaluate performance (deGuzman & Frank, 2004). The learning construct evaluates how police officers and police administrators learn their actions and police policies will be affected by the oversight agency decisions and actions, and consequently change their behavior and/or policy. Similar to the learning and deterrence theories, Perez’s learning construct simply evaluates how the oversight agency has influenced police officers’ and police policy makers’ actions. To evaluate performance using this construct, the police administrators and police officers were asked whether they are aware of the existence of their oversight agency, does the potential for their police actions to be reviewed and/or scrutinized by the civilian oversight agency affect their decisions while on duty, does the evaluation of their department’s performance include an analysis of their respective oversight agencies statistics, and do they know of any department policies that have been affected by the civilian oversight agency?

The responses showed varying results. LEA1 stated that the police department does not analyze COA1’s statistics as a means of evaluation, and COA1 had not affected any police policy. PO1 had knowledge of COA1 but said COA1 did not affect his decisions while on duty and that he was unaware of any police policy affected by
COA1. PO1 said that COA1 did not have a detrimental effect on police morale. Per Perez’s learning construct, COA1 has minimal affect on the actions of its police department. The only indicator of affect was PO1’s knowledge that COA1 existed.

LEA2 stated that the police department considers COA2’s input on the complaint investigations and police policy. Furthermore PO2 had knowledge of COA2’s existence and believed that COA2 had input on every police policy. PO2 stated that COA2 did not affect his decisions while on duty. COA2 obviously has some influence and affect on its respective police department, and according to Perez’s learning construct performs better than COA1.

LEA3 stated that the police department does analyze COA3’s statistics as a means of evaluation and COA3 has affected police policies. PO3 had knowledge of COA3 and of COA3 affecting police policies, and he stated that COA3 did affect his decisions while on duty. Per the learning construct, COA3 out performs the other oversight agencies.

LEA4 stated that the police department does not analyze COA4’s statistics as a means of evaluation. LEA4 stated that COA4 has input on police policy but the extent of that input was unknown. PO4 had knowledge of COA4 but said COA4 did not affect his decisions while on duty and that he thought COA4 could not affect police policy.

From this cursory application of Perez’s learning construct it appears COA2 and COA3 have the greatest influence over their police department’s actions. Both these agencies have input into their police departments’ policies. Both interviewed
officers knew about the existence of their oversight agencies and the agencies’ affect
on police policies. However neither officer stated their actions on duty were affected by
the oversight agencies. The performance of the oversight agencies, using Perez’s
learning construct, appears contrary to the interviews given in this study. Given that the
design of this study is limited in attributing findings to the aggregate (See Chapter 3 for
design limitations), it appears from the interviews that there are more deficiencies and
conflict associated with COA3 and COA4 than COA1 and COA2. The integrity and
competency of COA3 and COA4 are challenged by their respective police departments.
Nevertheless Perez’s learning construct was designed to evaluate how the police
department employees learn their actions and policies will be affected by the oversight
agency, and consequently change their behavior and/or policies (deGuzman & Frank,
2004).

In addition to the learning construct, Perez (1994) also identified integrity and
legitimacy as performance measures. This study was limited in evaluating the integrity
performance measure due to the lack of “complainant” interviewees. Perez’s
legitimacy performance measure identifies how legitimate the oversight agency is in
the eyes of the stakeholders such as the police officers, complainants, public, etc. Using
this measure, COA1 and COA2 surpassed COA3 and COA4. The citizens for COA1
and COA2 each addressed concerns that civilian oversight could be tainted by politics
in general; they did not suppose that their respective oversight agencies were politically
compromised. The citizens of COA3 and COA4 did not question the fairness of their
oversight agencies. What was glaring when evaluating the stakeholders’ view of the oversight agencies' legitimacy was the police administrators’ and police officers’ perspective of COA3 and COA4. They all asserted that their oversight agency was biased and bent on proving the police were corrupt, instead of striving to being fair and fact finding. PO4 stated that COA4 does not seem like the most professional organization, the investigators do not seem like the best trained investigators, and it does not seem like COA4 is the most impartial organization either. PO4 summed his view of COA4’s legitimacy by stating his understanding is that most of COA4’s sustained complaints are eventually overturned by the police department, and that COA4 does not have any standing with the police department; they are not serving a purpose. LEA4 stated he would judge COA4’s performance as lacking experience and not conducting thorough and impartial investigations. These opinions were in direct opposition of the police administrators and police officers associated with COA1 and COA2 who somewhat praised their oversight agencies. Therefore if legitimacy is evaluated by the perception of the stakeholders, then COA3 and COA4 are performing inadequately.

The satisfaction and feedback were also performance measures identified in the literature review. Walker (2001) states, “Satisfaction is a function of one’s goals and expectations” (p.157). Therefore knowing the goals and expectations of both the complainant and the involved officer with the oversight agency and the complaint process is important and can be used as a performance measure. Furthermore studies
suggest most complaint procedures do not satisfy the complainant’s and officer’s goals and expectations because they are punitive instead of conciliatory, which is a desire of both complainants and officers (Walker, 2001). Although this study was restricted by a lack of complainant interviewees and police officers who had participated in the complaint process, there was some meaningful information gleaned from the interviews that were conducted.

The director of COA1 stated that complainant satisfaction is not considered in the performance of COA1. The employee with COA3 stated that complainant satisfaction is considered but it is not a benchmark because civilian oversight is much more complicated than complainant satisfaction. The employee with COA3 also stated, “Customer satisfaction is not going to be the touchstone for us.” The employee with COA4 said that complainant satisfaction was only informally considered in COA4’s activities. PO4, who was the sole officer interviewee who had participated in the complaint process, stated that he was not satisfied with the complaint process. He felt like he was interrogated during a two hour interview by COA4, and he was not offered mediation like he should have been. PO4 added that if he was initially offered mediation the complaint would have been resolved immediately like it was once he was finally offered mediation. Overall there was a dismissal of complainant satisfaction as an important part of their job by the oversight agencies. It appeared to be only an ancillary consideration which can support the idea that the oversight agencies are politically influenced and are using other performance measures such as
sustainment rates to justify their existences. If they were not, would not complainant satisfaction, and even officer satisfaction, be a top priority since they are the customers of the oversight agency?

As a means to evaluate complainant satisfaction, feedback can be requested by the oversight agency. Walker (2001) states that since a satisfactory experience for complainants and officers are a goal of oversight it is important to provide a mechanism to allow feedback on their experience. None of the oversight agencies regularly administer a feedback mechanism for complainants and officers involved in the complaint process. The director of COA1 stated that if complainants were not satisfied with the process then they would complain and make it known. The employee with COA3 said that surveys on satisfaction had been administered in the past but were not a systematic procedure. The employee with COA4 simply said that COA4 did not administer a feedback mechanism. After collectively reviewing the interviews it appeared that complainant and officer satisfaction were not a priority and took a backseat to the goals of sustained cases, cases audited, and police policies modified. The following table summarizes the coding analysis for the performance measures.
<table>
<thead>
<tr>
<th>Coding</th>
<th>COA1</th>
<th>COA2</th>
<th>COA3</th>
<th>COA4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Using Complaint Rate</td>
<td>No</td>
<td>Informally mentioned by LEA2</td>
<td>Unknown if used per COA3</td>
<td>No</td>
</tr>
<tr>
<td>Using Sustainment Rate</td>
<td>No</td>
<td>Unknown</td>
<td>Implied per LEA3 and PO3, no per COA3</td>
<td>Implied per LEA4 and PO4, unknown per COA4</td>
</tr>
<tr>
<td>Feedback formally requested</td>
<td>No</td>
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<td>No</td>
<td>No</td>
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<tr>
<td>Satisfaction of involved parties formally considered</td>
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<td>No</td>
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<tr>
<td>Performance per Learning Construct</td>
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<td>Great</td>
<td>Limited</td>
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Table 2: Coding Analysis for Performance Measures
Chapter 5

SUMMARY, CONCLUSIONS, AND RECOMMENDATIONS

The authority and self accountability of law enforcement has historically led to incidents of police misconduct. Civilian oversight agencies have been developed to mitigate this misconduct. These oversight agencies provide accountability through review of police policies, independent civilian investigations of citizen complaints against the police, and through civilian review of police investigations of citizen complaints. These oversight agencies have been increasingly utilized and given authority since the 1940s but there has been little research on them. The need for further study of civilian oversight is supported by both its continued existence and the current lack of research. Most of the research of civilian oversight agencies has focused on the macro application of civilian oversight as a concept and has neglected research on specific structures, qualities and deficiencies of specific oversight agencies.

The purpose of this exploratory study was to address the lack of concentration to specific conditions of particular civilian oversight agencies and analyze their performance through performance measures identified in previous research. This purpose was sought through a qualitative study that consisted of interviews with five classifications of individuals associated with four specific civilian oversight agencies. The five classifications of individuals consisted of a civilian oversight director or appointed staff, a police administrator, a police officer, a citizen living within the community of the specific oversight agency, and a complainant who had filed a
complaint with the oversight agency. The four civilian oversight agencies examined in this study were The Berkeley Police Review Commission, The Office of Citizen Complaints for the City of San Francisco, The Police Ombudsman for the City Of Davis, and The Office of Public Safety Accountability for the City of Sacramento. The interviews were used to compare the civilian oversight agencies to identify effective and ineffective structures, policies, and performance measures of these civilian oversight agencies.

One of the major findings of this study, given that this study used a small non-random sample, was political influence upon civilian oversight agencies. This study revealed that the will of those who the oversight agencies were accountable sometimes dictated the level of response and even the findings of the oversight agencies. This is a poor outcome for agencies that were created to be fact finders in complaint investigations and provide neutral accountability for police departments. Not all four agencies examined faced apparent political influence. It appeared the greater the authority and scope granted to the oversight agencies resulted in a greater influence by those the oversight agencies were accountable to.

This development of political influence is disturbing when we consider the origins of policing and why oversight agencies began to be implemented. Walker (1998) speaks of how the democratic influence on policing resulted in an unprofessional, inefficient, and corrupt style of policing. Historically, police officers took bribes and exercised their authority according to the political leaders of the time,
who in many instances appointed the police. Haller (1976) states, “...the police, part of a larger political system, were a significant resource at the command of local political organizations” (p. 304). This study reveals an indication of history repeating itself, except this time it is the oversight agencies that are operating to appease their political leaders who appointed them instead of searching for truth in a fact finding process. Civilian oversight staff has, and is, becoming political constituents for those who have appointed them such as city managers, mayors, board of supervisors, and city councils.

For the oversight agencies who occupy a position of review or audit, and do not have a great deal of authority granted to them, it seemed they were used to provide political cover and/or a false symbol of accountability for their police department. These oversight agencies, limited in power and scope of responsibility, are used only as a token of transparency to the public by those in charge or by the police department. The mere impression of having the oversight agency is enough to appease the public and bolster the police department’s image of transparency. However these agencies have little influence on their police departments. Therefore it is easy to question the cost-benefit of these agencies. If the public knew that their tax dollars were being spent on an oversight agency that does not conduct its own complaint investigations, had no input on police policies, and has limited effect on police actions would they believe the existence of that oversight agency was worth its cost? Hopefully these oversight agencies are not simply a tool for those in higher political positions to advertise greater police accountability in political campaigns.
This study corroborated the concept addressed by Walker and Bumphus (1991) that there is no standardization for civilian oversight agencies. There are no pre-existing configurations for oversight agencies; there are numerous variations in structure, responsibilities, resources, procedures, and other administrative matters (Walker, 2001). It could be easily assumed that the four oversight agencies in this study would vary in specifics such as structure, authority, staffing, etc. What was surprising was the lack of desire for standardization. None of the oversight agencies appeared to desire standardization. The oversight agencies were focused on their own agency’s actions, but a desire for standardization with other oversight agencies was absent. If the oversight agencies strove for standardization it would engender greater credibility from its involved parties and mitigate political influence.

This study also found a deficiency in the oversight agencies evaluating their own performance. Two of the three oversight agency administrators that were interviewed directly stated that they did not have any measures to evaluate their performance. The third agency employee was uncertain of how their oversight agency performance was evaluated beyond how many policy recommendations were accepted by the police department. How to measure the performance of civilian oversight agencies is a debated topic in scholarly circles. The question how to evaluate performance has yet to be exclusively answered with many positing their own ideas with no data to support their conclusions. This study highlighted the need for not only indentifying civilian oversight performance measures, but also applying them.
None of the oversight agencies stated they systematically used feedback mechanisms or measured the satisfaction of the complaint process for involved parties, which are both suggested performance measures by scholar Samuel Walker (2001). It appeared that complainant satisfaction with the complaint process is discarded as an ancillary ignored function of the oversight agencies. Two of the three oversight agencies interviewed stated part of their goal was to promptly, fairly, and impartially investigate citizen complaints, and the other oversight agency stated its mission was to accept, monitor, and investigate complaints of misconduct. If the goals of these agencies are fundamentally set on the manner in which they receive and investigate a complaint, why are the complainants, the individuals who feel they have been wronged enough by their police departments to file a complaint, being neglected by the oversight agencies?

This study applied Douglas Perez’s learning and legitimacy performance measures to the oversight agencies and found varying results. The learning construct measures the amount of influence the oversight agency has over the police department as a means of evaluating performance. Regarding the learning measure, one of the oversight agencies, COA1, had no effect on its police department and its actions. The second oversight, COA2 agency had influence over the police department’s policies, but had no effect on daily police activity. COA3 affected both police department policies and daily police decisions, and COA4 had limited influence on its police department’s policies and no effect on daily police activities.
This learning construct is founded in both the social learning and deterrence theories (deGuzman & Frank, 2004). The social learning theory, established by Ronald Akers in the 1960s, posits that behavior and attitudes are absorbed into an individual through a variety of influences (Cote, 2002). The deterrence theory states that behavior is deterred by the threat of severe punishment (Miethe and Deibert, 2007). deGuzman and Frank (2004) apply both these theories to the learning construct by stating:

…if officers believe their decisions to engage in certain behaviors are influenced by the existence and prior decisions of review boards, and they think that these boards influence agency decisions to implement specific policies, then the street-level behavior of officers is likely to be influenced. Then perception will provide a measure of learning that may be used to assess impact. (p. 168)

This study established COA3 as having the greatest outcome for Perez’s learning construct and COA1 having the least outcome. It would be beneficial to quantify both the misconduct of the police departments associated with the oversight agencies and the effect of Perez’s learning construct to determine the relationship between the two in that in that the results could bolster both Perez’s learning construct and the deterrence theory. The pursuit of this relationship was not within the parameters of this study because the amount of misconduct of each involved police department was not measured.
This exploratory study has several implications for future research. There were strong assertions that sustainment rates are a primary focus of the oversight agencies. While the oversight agencies themselves denied using sustainment rates as a means of performance evaluation, interviewees stressed that oversight agencies were even compromising the integrity of complaint investigations for the pursuit of a sustained complaint. However this must be considered in light of this study consisting of a small, non-random sample. Research identifying and comparing sustainment rates of oversight agencies with police departments would show conflicting findings. Further comprehensive research on a complaint case by case basis, where the complaint dispositions vary between oversight agency and police department, would then identify fabrications or incomplete investigations on behalf of either or both the oversight agency or police department.

There is also a need for more research on the casual relationship between the structure of the oversight agencies and the political influence they face. This exploratory study revealed suspicions that the oversight agencies are not operating as fact finders but rather political tools. Furthermore all the oversight agency directors or heads are either hired or appointed and accountable to individuals in political positions like city managers, mayors, city councils, or board of supervisors.

This study also discovered the lack of accountability the oversight agencies have. When an agency is uncertain about how their performance is measured, or directly states their performance is not measured, it shows that they are not being held
accountable. There is a need for research to identify the manner in which the oversight agencies are held accountable.

This study, although exploratory, also has implications on the practices of civilian oversight agencies. There needs to be an evaluation of oversight agencies; perhaps this evaluation should come from outside the political lines which the directors of the oversight agencies were appointed. It appears these agencies were created and left alone without any accountability or supervision. The 1981 United States Commission on Civil Rights report called “Who is Guarding the Guardians?” responded to increasing violations of civil rights by police department members and contributed to the creation of civilian oversight agencies. I would forward the sentiment and ask who is guarding the guardians’ guardians?

There also needs to be a greater focus on the complainant by the oversight agencies. For the complaint, not the constituent, is one of the principle reasons why the oversight agencies were created. Feedback mechanisms need to be instituted to discover complainants’ expectations and ways to improve the complaint process. Oversight agencies can also address financial, transportation, language, cultural, and other hardships and restrictions faced by the complainant during the complaint process. None of this appeared to be a goal of the oversight agencies in this study.

Mediation as a means of complaint settlement appeared to be positively received by the interviewees. With its acceptance by officers and complainants along with cost savings, mediation will potentially be utilized more in the future. With that
said, there are few police departments which solely conduct their own complaint
investigations that offer mediation as a means of complaint settlement.

It was also discovered that some oversight agencies had little influence on their
respective police departments. This opposes another principle on which oversight
agencies were created; to apply citizen judgment to police policies and activities, which
helps promote effective law enforcement while protecting civil liberties (Beral & Sisk,
1964). If the oversight agency has no influence over the police department then the
police department is either a professional department and there is no need for the
oversight agency in the first place or the oversight model employed is useless.

The criticism that civilians involved with oversight of law enforcement lack the
necessary training and experience to perform their job adequately is heavily covered in
existing literature. Perez (1994) states, “…civilian systems are seen to be run by and
for people who know nothing about police work and therefore need not be listened to”
(p.162). Beral and Sisk (1964) stated, “The strongest general argument against civilian
review boards is that they lack the knowledge and experience to evaluate police
actions” (p. 518). There was support of this criticism in the interviews. Although the
employees with the civilian oversight agencies had significant educational
backgrounds, their specific training and experience with law enforcement was held in
contempt. Furthermore there was no standardized training given to employees of the
oversight agencies in this study. Since the successful functioning of the oversight
agencies relies heavily on the cooperation from their police departments, and one of the
greatest concerns of the police department is the civilian oversight staffs’ training and experience, the need for standardization of training for civilian oversight agencies is apparent. With varying structures and authorities of civilian oversight agencies it is going to be difficult to establish standardized training. However do not police departments all vary in size and mission in some manner and yet police officers all receive at minimum standardized training? A highway patrol officer working for a state agency is going to be serving a different function than that of a municipal police officer but they both must receive the same standardized training. If this concept of a standardized minimum of training is applied to civilian oversight agencies there will be great benefit. The benefit will be yielded through a greater understanding of laws, procedures, and functions of law enforcement which will lead to greater complaint investigations, customer service, and agency efficiency. Furthermore this training will mitigate the criticism made by law enforcement that civilian oversight agencies lack training and experience. There would hopefully be an improved working relationship between police departments and oversight agencies as a result of the training.

To address the difficulty with providing standardized training to oversight agencies that vary in structure and authority, the oversight agencies can be categorized into two categories and then provide specific training to each category as necessary. From the literature review it appears that all oversight agencies fit into either a committee or board model that is comprised of more than a single person or an auditor/monitor model like an ombudsman that consists of a single individual.
Separating oversight into these two categories will help with standardizing and administering the training.

The burden of implementing this standardized training falls on the oversight agencies. The police department or the cities and counties the oversight agencies belong to are not going to make standardization of oversight agencies a priority. The police departments and cities do not have concern outside their jurisdictions which is expected during this economic climate. The oversight agencies themselves must collaborate together for this standardization of training for their own professionalization and benefit. As an advantage to meet this end, civilian oversight already have national and local organizations that can politically represent a collective push for standardized training.

This study’s qualitative look at the specific conditions of four civilian oversight agencies was unprecedented in published literature. It is my aspiration that the interviews along with my analysis contribute to the knowledge and practice of civilian oversight agencies.
APPENDIX A

Application to the Committee for the Protection of Human Subjects

Application Form (Revised 07/2008)
Request for Review by the Sacramento State Committee for the Protection of Human Subjects

(Submit 11 copies of this form and any attachments to the Office of Research Administration, Hornet Bookstore, Suite 3400, mail code 6111. Please type your responses or use a word processor.)

Project Title:
Civilian Oversight of Law Enforcement

Funding Agency (if any):
None

Name(s) and affiliation(s) of Researchers:
Mark Callaghan, Sacramento Police Department

Mailing address (or Department and campus mail code):
6000 J Street, Sac, CA 95819-6085, Attention at Criminal Justice Division

Telephone and e-mail address for researcher:
530-297-6770, markcallaghan2003@yahoo.com

Anticipated starting date:
01/01/09

Name of faculty sponsor and e-mail address:
1. Who will participate in this research as subjects (e.g., how many people, from what source, using what criteria for inclusion or exclusion)? How will their participation be recruited (e.g., what inducements, if any, will be offered)?

Twenty subjects will participate in this research. These subjects will consist of 4 civilian oversight agency managers, 4 citizen complainants (person who has filed complaint against police and participated in complaint process), 4 police officers or sheriff deputies, 4 police administrators (police management position held by sworn peace officer), and 4 community members (citizen within jurisdiction of oversight agency/police department and having not participated in complaint process).

The police administrators and civilian oversight agency managers will be solicited by written invitation (Article D) sent to their employment. I will mail Article D to the respective police administrators and oversight agency managers at their employments. If no response is obtained I will telephone their respective agencies and advise them per Article D and request their participation. If voluntary participation is declined no further contacts will be made with that specific agency. Police officers and/or deputies will be recruited via personal solicitation at roll calls. I will request to attend the agency roll call while in contact with the police administrator. At the roll call I will advise the officers or deputies of Article D. If voluntary participation is
declined no further contacts will be made with that specific agency. The community members will be recruited by personal solicitation at a city park during daylight hours. No inducements for participation will be offered. All selected interviewees will be 18 years or older at the time of the interview.

Obtaining citizen complainant participation will involve further steps due to the complexity of obtaining confidential information and protecting their privacy (i.e. any complainant’s contact information in order to solicit them for participation in this study). I will request civilian oversight agencies advise their complainants of this study. The oversight agency will only provide my contact information to complainants interested in participating in the study. Those persons interested in participating in the study will then contact me directly.

2. How will informed consent be obtained from the subjects? Attach a copy of the consent form you will use. If a signed written consent will not be obtained, explain what you will do instead and why. (See Appendix C for examples of consent forms, an example of an assent form for children, and a list of consent form requirements. Also see Informed Consent earlier in this manual.)

Interviewee participation will be voluntary and a written consent form (Article B) will be presented and signed before each interview is conducted.
The written consent form will be clear and forward about the intent and purpose of the interview and this study.

3. How will the subjects’ rights to privacy and safety be protected? (See Level of Risk earlier in this manual. For online surveys, also see Appendix B.)

The identity of each interviewee will remain confidential. All identifiable information of each interview participant will be removed and replaced with a pseudonym such as Citizen Complainant #1, Police Officer #1, Police Administrator #1, etc to provide confidentiality. A list linking the pseudonym with the interview participant will be kept in a secure location apart from the research data. This list and the research data will be destroyed at the completion of the study.

4. Summarize the study’s purpose, design, and procedures. (Do not attach lengthy grant proposals, etc.)

The purpose of this exploratory study is to address the lack of concentration to specific conditions of particular civilian oversight agencies and the deficiency of identifying performance measures of civilian oversight agencies. This study will cross examine 4 varying local (California) civilian oversight agencies through interviews of subjects with distinct associations, or lack of associations, with each agency. The cross examination will be based on
key factors and performance measures of civilian oversight agencies identified in the literature review.

The interviews will be recorded on audio tapes. The audio recordings will be stored in a secure location; then transcribed and destroyed at the end of the study. As mentioned, the pseudonym list will be kept in a secure location apart from the research data. All research data (interview audio tapes, audio tape transcriptions, and pseudonym list) will be destroyed at the completion of the study.

5. Describe the content of any tests, questionnaires, interviews, etc. in the research. Attach copies of the questions. What risk of discomfort or harm, if any, is involved in their use?

The study will consist solely of interviews. Each interview will be based on varying factors of civilian oversight agencies. These factors will include agency budgets, training and education of staff, authority, performance measures, job position requirements, police misconduct complaint investigations, police department policy audits, the complaint process experience, etc. Each interview will have predetermined questions and will be contoured to the interviewee’s association with the civilian oversight agency (See Article B attached). Minimal risk is expected solely
due to the political nature of some questions involved. Confidentiality will be given to participants to mitigate this risk.

6. Describe any physical procedures in the research. What risk of discomfort or harm, if any, is involved in their use?

N/A

7. Describe any equipment or instruments and any drugs or pharmaceuticals that will be used in the research. What risk of discomfort or harm, if any, is involved in their use?

An audio-tape recorder will be used for recording the interviews.

8. Taking all aspects of this research into consideration, do you consider the study to be “exempt,” “no risk,” “minimal risk,” or “at risk?” Explain why. (See Level of Risk earlier in this manual.)

At risk is expected due to the political nature of some interview question involved. Confidentiality will be given to participants to mitigate this risk. Risk is also expected for the personal solicitation of community member interview subjects. Some questions may illicit emotional responses. For those individuals who may experience emotional distress a referral to the
National Mental Health Association Resource Center (800-969-6642) will be given.

DEPARTMENT HUMAN SUBJECTS COMMITTEE APPROVAL

Project Title: _____________________________________________
Student Researcher: _______________________________________
Faculty Sponsor: __________________________________________

The ______________________________ Department’s human subjects committee has reviewed and approved this application. It requires review by the CPHS because the research is

(circle one) Minimal Risk or At Risk.
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APPENDIX B

Interviewee Classifications (1-5) and Questions

1. Oversight Agency Manager/Administrator

-How are this agency’s employees hired/selected/appointed?

-How many employees/volunteers work for this agency? Collectively how many hours per week are worked?

-Is this agency appropriately staffed? Please explain

-Is a ratio of officers to agency employees considered?

-What are the job requirements for an employee and/or a volunteer? (education, experience)

-What training is given for staff regarding cultural diversity? Non-English speaking citizens?

-What experience and/or training do you have with conducting investigations in an official capacity?

-What experience and/or training do you have with evaluating and investigating police action and/or policy?

-What is your agency’s goal/mission? Is it codified and clearly known to agency employees/volunteers?

-What is this agency’s day to day duties?

-How is funding appropriated for this agency?

-What is this agency’s budget?
- Is the current budget sufficient for this agency’s responsibilities?
- Is cost effectiveness considered with this agency’s functions? If so, how?
- What factors are associated with the creation of a local civilian review procedure?
- What role does the mayor, city council, or board of supervisors play in the implementation and functioning of a civilian oversight agency?
- Is there a decline in the opposition from police departments in general towards civilian oversight?
- Do you think the civilian oversight agency staff can adequately accept complaints, investigate complaints, and/or evaluate police policies and/or actions? Why?
- Who or what is this agency accountable to?
- By what authority does this agency complete its mission? How is this authority granted? (referendum, executive order, etc)
- Does this agency have the authority to accept complaints and investigate them?
- Does this agency have punitive authority over officers?
- Please describe your agencies level of autonomy from its respective police department?
- Has there historically been conflict between this agency and its purposes and between the police department? If so please describe.
- What political influences does this agency confront?
- Does civilian oversight interfere with the authority of police administrators?
- Does this agency have an official definition of a complaint? If so what is it?
-How does this agency intake a complaint? Is there an intake procedure?

-At what locations can a citizen file a compliant? Are these locations intimidating?

-Is there an official categorizing system for complaints?

-Is there a recording system for complaints?

-How does this agency investigate a complaint?

-Is there a complaint rate calculated? If so how is it calculated and what is the rate?

-How are complaints settled? Are there disposition classifications? If so what?

-Does this agency calculate sustainment rates? If so why and what is it?

- Are there different options for investigating and settling a minor complaint versus a major complaint?

-Is a low or high complaint rate a result of police misconduct or open or closed perceptions of the law enforcement complaint process?

-Has the oversight agency had an impact on improving police-community relations? If so explain.

-Does this agency practice any community/police relations measures?

-Does this agency conduct audits? If so what is audited and how?

-Does this agency conduct audits that evaluate the quality of complaint investigations, dispositions, and/or discipline imposed?

-If audits are conducted, how many were completed in 2008?

-What types of discipline if any did this agency issue on peace officers in 2008?
-Does this agency participate in any policy review for its respective law enforcement agency?

-What are this agency’s major accomplishments?

-Has this agency made any proactive efforts to mitigate officer misconduct?

-How does this agency address the non-English speaking public?

-How does this agency address the low-income populations and their restraints for filing a complaint?

-How does this agency address cultural diversity regarding its functions?

-Does this agency evaluate its performance? If so how?

-How does this agency evaluate its integrity and legitimacy? How often?

-Do you experience any problems and/or shortcomings with using complaint and/or sustainment rates as a measure of performance for this agency?

-Is there a feedback mechanism in place for involved parties (officers, complainants)? What are the results?

-Is complainant satisfaction considered in the performance of the agency’s actions? If so how?

-How does this agency affect police morale? What measurement is used?

-How does this agency affect police effectiveness? What measurement is used?

-How does this agency reduce police corruption? What measurement is used?

-How has this agency improved the way in which complaints against police are investigated?
- What is the most pressing change needed for this agency?
- What is the most pressing change needed for civilian oversight of law enforcement?

2. Complainant (Person who filed complaint against police and participated in civilian oversight complaint process)
- What was the nature of your complaint against the police?
- Did you file a complaint with the police department?
- How many complaints have you filed with the police department?
- Do you think your complaint filed with the police department would have/or will be investigated fairly? Please explain?
- How many complaints have you filed with the oversight agency?
- Are, or were, you intimidated to file a complaint against an officer? If yes, why?
- Is filing a complaint at the police department more intimidating than at a civilian oversight agency? If yes why?
- Why did you file a complaint with the civilian oversight agency in addition to, or instead of, the police department?
- What steps were taken in filing the complaint with the oversight agency?
- Describe the complaint process
- Do you think the cost of a civilian oversight agency is worth its services to the public?
- Has the oversight agency helped improve police community relations in any way? If yes, how?
- Do you think the civilian oversight agency staff can adequately accept complaints, investigate complaints, and/or evaluate police policies and/or actions? Why?
- Did the oversight agency allow you to provide feedback? If yes, how?
- What would you change about the oversight agency?
- How did you learn about the civilian oversight agency?
- What percentage of the community do you think knows about the civilian oversight agency?
- How far did you have to travel to file a complaint with the oversight agency?
- How accessible was the oversight agency in order to make a complaint?
- What locations were available to you to file a complaint with the civilian oversight agency? Were these locations intimidating in any manner? If yes how?
- What options were provided for you to file a complaint with the oversight agency? (phone, internet, library, varying times of day)
- What financial assistance options were available during the complaint process to compensate for travel, time, and employment missed?
- How satisfied with the complaint process are you? Why?
- How satisfied with the oversight agency are you? Why?
- What did you want as a result of your complaint?
- What punishment, if any, do you think is appropriate for your complaint?
- Would you prefer a mediated session between the officer and you or a court trial as a means of complaint settlement?
3. Peace Officer or Sheriff Deputy

- Are you aware of the existence of civilian oversight agencies?
- Are you aware of any civilian oversight agencies that are associated with your respective law enforcement department?
- Do you know of any colleagues that have been investigated by a civilian oversight agency as a result of a citizen complaint?
- Do you know of any department policies that have been affected by a civilian oversight agency? If so what?
- Does the potential for your police actions to be reviewed and/or scrutinized by a civilian oversight agency affect your decisions while on duty? Why?
- Would you rather have an allegation of police misconduct investigated by your department internal affairs division or a civilian oversight agency? Why?
- Do you think the civilian oversight agency staff can adequately accept complaints, investigate complaints, and/or evaluate police policies and/or actions? Why?
- Have civilian oversight agencies had a detrimental effect on police morale and police operational effectiveness? Explain.
- Have oversight agencies had an impact on improving police community relations? Please explain.
- What should civilian oversight agencies have the authority to do?
- Would you prefer a mediated session between the citizen and you or a court trial as a means of complaint settlement? Please explain.

- Is there a decrease or increase in the opposition from police departments in general towards civilian oversight? Why?

- What would you change about your agency’s respective oversight agency?

- Do you think the cost of a civilian oversight agency is worth its services to the public?

*Further questions if been part of civilian oversight complaint/investigation:*

- What was the nature of the complaint against you?

- Do you think the proper outcome was reached as a result of the complaint?

- How many official complaints, to your knowledge, have been filed against you at a civilian oversight agency?

- How satisfied with the complaint process are you? Why?

- How satisfied with the oversight agency are you? Why?

- Did the oversight agency allow you to provide feedback? If yes, how?

4. Law Enforcement Administrator (Police management position held by sworn peace officer)

- What factors contribute to the creation of a local civilian review procedure?

- What role does the mayor, city council, or board of supervisors play in the implementation and functioning of a civilian oversight agency?
- Is there a decline or increase in the opposition from police departments in general towards civilian oversight? Why? Since when?

- Does the evaluation of your department’s performance include an analysis of your respective civilian oversight agency’s statistics? Why?

- How would you evaluate this department’s respective oversight agency’s performance?

- How would you describe this department’s internal affairs complaint sustainment rate? Is it important to compare statistics with the respective civilian oversight agency? Is this done?

- Has the oversight agency had an impact on improving police-community relations? If so please explain.

- Has the oversight agency had a detrimental effect on police morale and police operational effectiveness?

- Who or what is your respective civilian oversight agency accountable to?

- By what authority does this agency complete its mission? How is this authority granted? (referendum, executive order, etc)

- Does the respective oversight agency have the authority to accept complaints and investigate them?

- Does this agency have punitive authority over officers?

- Has there historically been conflict between this department and the oversight agency? If so please describe.
-What political influences does your respective civilian oversight agency confront?

-Does civilian oversight interfere with the authority of police administrators? How?

-Does the oversight agency conduct audits on this department? If so what did it audit, how, and how often?

-Does the oversight agency conduct audits that evaluate the quality of this department’s complaint investigations, dispositions, and/or discipline imposed?

-Does the respective oversight agency participate in any policy review for this department? Should they? Why or why not?

-Is this department’s policy creation/review affected by the oversight agency?

-Has the respective civilian oversight agency made any proactive efforts to mitigate officer misconduct?

-How does the oversight agency reduce police corruption?

-How has the oversight agency improved the way in which complaints against police officers are investigated?

-What is the most pressing change needed for civilian oversight of law enforcement?

-Do you think the civilian oversight agency staff can adequately accept complaints, investigate complaints, and/or evaluate police policies and/or actions? Why?

5. Community member (Citizen within jurisdiction of respective oversight agency and law enforcement agency department and having not participated in complaint process)
-Have you ever wanted to file a complaint against a police officer but did not? If yes, why?

-Are you aware of the existence of civilian oversight agencies?

-Are you aware of any civilian oversight agencies that are associated with your respective law enforcement department?

-Would you rather have an allegation of police misconduct investigated by the police department or a civilian oversight agency? Why?

-Do you think the civilian oversight agency staff can adequately accept complaints, investigate complaints, and/or evaluate police policies and/or actions? Why?

-Have oversight agencies had an impact on improving police community relations?

-What should civilian oversight agencies have the authority to do?

-Would filing a complaint at the police department be more intimidating than at a civilian oversight agency? If yes why?

-Do you think a complaint filed with the police department would be investigated fairly? Please explain?

-Do you think the cost of a civilian oversight agency is worth its services to the public?

-How do you think the oversight agency could improve in the future?

-Where did you learn about the civilian oversight agency?

-What percentage of the community do you think knows about the civilian oversight agency?

-How accessible is the oversight agency in order to make a complaint?
- What locations are available to you to file a complaint with the civilian oversight agency? Are these locations intimidating in any manner? If yes how?

- What options are provided to you to file a complaint with the oversight agency? (phone, internet, library, varying times of day)

- What financial assistance options are available during the complaint process to compensate for travel, time, and employment missed?

- If you did file a complaint, would you prefer a mediated session between the officer and you or a court trial as a means of complaint settlement?
Dear Sir or Madam,

Hello my name is Mark Callaghan and I am a graduate student at Sacramento State University and a police officer with the Sacramento Police Department. I am currently completing research for my Master’s thesis which focuses on civilian oversight agencies, and I respectfully request an interview with you to help me with my research.

The interview will require up to an hour of your time. The interview will be recorded on audio tape. The interview will be based on civilian oversight agencies and your interaction, knowledge, and/or association, or lack thereof, with civilian oversight agencies. Your participation in the interview is voluntary, and at any point you may discontinue your participation. You may decline to answer any question.

Your participation will help identify ineffective and effective procedures of civilian oversight agencies, which are growing entities in our society that have not been adequately researched. It is hoped that the results of this study will beneficially affect the performance of civilian oversight agencies.
Your identity will remain confidential; all your identifiable information will be removed from the study. You will not receive any compensation for participating in this study.

If you are willing to help me with this research please contact me at (530)297-6770 or by e-mail at markcallghan2003@yahoo.com.

Sincerely,

Mark Callaghan
Dear Sir or Madam,

You are being asked to participate in research conducted by Mark Callaghan, who is a graduate student in Criminal Justice at California State University, Sacramento and a police officer with the Sacramento Police Department. The purpose of this study is to better understand specific conditions of civilian oversight agencies of law enforcement, and identify functional and poor performance measures for these agencies.

You will be asked to participate in an interview that will require up to an hour of your time. The interview will be recorded on audio tape. The interview will be based on civilian oversight agencies and your interaction, knowledge, and/or association, or lack thereof, with civilian oversight agencies. Some of the questions may pose professional repercussions, but you do not have to answer any question if you do not want to. Your participation in the interview is voluntary, and at any point you may discontinue your participation.

Your participation will help identify ineffective and effective procedures of civilian oversight agencies, which are growing entities in our society that have not been
adequately researched. It is hoped that the results of this study will beneficially affect the performance of civilian oversight agencies.

Your identity will remain confidential. All your identifiable information will be removed from this study and replaced with a code such as Citizen Complainant #1, Police Officer #1, Police Administrator #1, etc to provide confidentiality. A list linking the code with your identifiable information will be kept in a secure location. This list and the interview audio tapes will be destroyed at the completion of the study.

You understand the preceding and voluntarily decide to participate in an interview. You understand at any point during the interview you may discontinue your participation. There are resources available such as the National Mental Health Association Resource Center (800-969-6642) if you experience emotional stress.

You will not receive any compensation for participating in this study. If you have any questions about this research you may contact Mark Callaghan at (530)297-6770 or by e-mail at markcallaghan2003@yahoo.com. My faculty advisor, Dr. David Swim can be contacted at 916-278-6487 or by e-mail at swimd@ccol.csus.edu.

Your participation in this research is entirely voluntary. Your signature below indicates that you have read this page and agree to participate in the research and be audio-taped.

___________________________________
Signature

___________________________________  ______________
Print Name        Date
Hello,

My name is Mark Callaghan and I am a graduate student at Sacramento State University and a police officer with the Sacramento Police Department (Display identification cards for Sacramento State and Sacramento PD). I am currently completing research on my Master’s thesis which focuses on civilian oversight agencies for law enforcement agencies. Are you willing to spend approximately 30 minutes answering some questions for my research?

If no, then say thanks anyway and walk away.

If yes, state:

Your participation is voluntary and your identity will be confidential. However your city of residence will be recognized with your answers in the study. To assure you understand your participation is voluntary I ask you read and sign this short consent form.

If they refuse to sign then say I appreciate your time and walk away.

If yes, then proceed with interview questions.
APPENDIX F

Interviews

(Civilian Oversight Agency #1, COA1) The following is a summary of the interview with the director of Civilian Oversight Agency #1 (COA1).

COA1 at the time of this study was staffed by one person holding the title of Director. The director position is ultimately hired by the city manager. The COA1 director was first questioned by an oral panel consisting of community members along with Fire Department and Police Department employees. The panel then made recommendations to the city manager who would make the decision to hire. The director is accountable to the city manager and the community. The director has been working for COA1 since approximately 2006 and works an average of forty hours a week. The director has a four year college degree and six years of prior law enforcement experience.

COA1, per the director, is appropriately staffed for its functions. COA1 intakes complaints against its respective police department and then forwards them to the police department’s internal affairs division for investigation. COA1 does not conduct its own investigations of complaints, but has the authority to do so if it chose to. Another major component of COA1 is to audit the internal affairs investigations for quality. In 2008 COA1 audited 156 investigations of misconduct. These audits included reviewing the internal affairs investigations and the discipline imposed on the officer(s) from the Chief’s Office. The director made note that there was only a single
instance where COA1 found that the discipline proposed was not sufficient. COA1, working in partnership with the police department, also audited the functionality of the police in car camera system (ICC). This audit included a check on how many of the cameras and microphones for the ICC were operational.

COA1 does not participate in any policy review for its respective police department. However the director did note that when it was discovered through a complaint that their officers had a general lack of knowledge about a police policy (in this instance strip search procedures), COA1 worked with the police department to produce a training bulletin on the strip search policy.

COA1 does not have punitive authority over officers and thus does not interfere with the authority of police administrators, but can make recommendations regarding discipline imposed on officers. COA1’s current budget, per the director, is approximately $185,000 per year. There is no operating budget, and all costs are out of the city manager’s budget. The director stated the budget was sufficient for COA1’s duties.

When asked about continual training they receive, the director stated they did not receive any. The director stated they had attended a week long course for internal affairs; the same course officers attend when learning to investigate complaints against the police. The director also confirmed that this absence of training included no training on cultural diversity. The director did mention that although they had not received any cultural diversity training, they had prior training regarding cultural
diversity in other capacities. As a side note to the minimal training the director had received, the director did state that their prior experience with police procedure and policies, along with on the job training was sufficient for their responsibilities.

The director did know COA1’s goal verbatim per its public brochure where it is codified. The goal/mission of COA1 is to enhance relationships between the city’s public safety employees and the community by independently accepting, monitoring and investigating complaints of misconduct. The brochure states that COA1 was established in 1999 to oversee the police department and in 2004 its jurisdiction was expanded to include the Fire Department. The director stated that the mayor and city council approved COA1 and the city manager hires the director. I asked the director about the city manager, mayor, and city council involvement with COA1’s day to day functions and the director advised there was none.

In addition to its formal duties of accepting complaints and auditing internal affair investigations, the director stated they frequently resolve informal issues. For example, the director stated they often receive requests for additional police services. The citizen has sought police action for nuisances such as drug activity at a certain apartment complex and the police have not attended to the request. The citizen will call COA1 and the director will then contact the appropriate key employees within the police department to make sure the problem is solved. Another example the director used was non-police issues citizens contact COA1 with such as parking or code enforcement. The director, although the complaint is not within their jurisdiction, will
contact the involved department until the matter is resolved as a means of customer service.

The director was questioned about the cost effectiveness of COA1 and whether cost effectiveness was continually evaluated. The director stated the cost effectiveness of COA1 is casually questioned by city officials, but there is no formal cost effectiveness analysis.

Regarding the director’s opinion on why and when a civilian oversight agency is created, the director said it usually starts when a critical incident occurs like an officer involved shooting or use of force and the officer is exonerated after the investigation. The community can not come to terms with the outcome and they lose confidence in the police to police their own.

The director stated there has been a decline in opposition from the police department towards COA1. The director stated that opposition or support from the police department depends on the oversight agency’s office and approach. Per the director, COA1 has a good working relationship with the police department. There is ongoing communication between COA1 and the police department’s internal affairs division. This ongoing communication consists of new complaints received, updates on current investigations, and audits of investigations to be performed. The director states ongoing communication fosters a good working relationship and mitigates opposition. The director states there has not been any conflict historically between COA1 and the police department.
The director was asked if they had the training and experience to investigate police complaints and evaluate police policy and action. The director stated evaluating police action and investigating complaints is not that difficult. The director stated they must be objective and be set on fact finding, along with maintaining knowledge on the subject matter like staying on top of laws. With this approach anyone can evaluate police actions. The director again emphasized that if you are educating yourself on any business or practice then it is not difficult to evaluate action.

COA1 faces political influences. Per the director, city officials use COA1 to further investigate the police when they feel the police were not thorough. Community leaders will use COA1 for a second opportunity to present their case when they feel they were not given a fair investigation by the police. COA1 also asserts that the police department often contacts COA1 and requests audits on cases to provide and illustrate transparency to the public.

COA1’s official definition of a complaint is any allegation of employee misconduct, where misconduct is defined as a violation of any law, department order, rule, regulation, or policy. COA1 can receive a complaint in person, by telephone, or by e-mail. The director has responded to locations to receive a complaint, but it is not standard practice. There are fliers for COA1 placed at the police stations, city hall, and the jail. The only brochure is written in English, but there is a translator service available. After receiving a complaint COA1 will forward the complaint to the internal affairs with the police department if they feel it is credible. There is no formal
procedure pertaining to what is determined credible and what is not. Complainants are not required to sign anything when filing a complaint with COA1. If a complaint is not regarding misconduct but rather a customer service issue then an informal option will be presented to the complainant. This informal option involves COA1 contacting the involved officer’s supervisor and requesting the supervisor counsel their officer regarding the issue. With this informal option, no formal complaint is generated against the officer. There is no mediation settlement offered by COA1.

COA1 uses computer software (IA PRO) to record complaints. The software is not web-based and there is no internet connection. COA1 does not record or track specific officer names with their recording system. COA1 does not calculate complaint or sustainment rates and there is no complaint or sustainment rate analysis conducted. Complaint dispositions are classified into five categories: unfounded, exonerated, not sustained, sustained, and reclassified to citizen inquiry.

Civilian oversight can have an impact on improving police-community relations in many ways. When asked how COA1 has helped, the director stated they have helped individuals have better perceptions of the police though education of police practices and laws and acting as a liaison between the two entities.

COA1 conducts community outreach. The director meets with the local district attorney’s office, makes a presentation at the police academy, visits local schools, interacts with media sources, and contacts national groups like the NAACP and the National Association of Civilian Oversight of Law Enforcement (NACOLE).
Regarding the non-English speaking public, COA1 had an article in a Russian newspaper, conducted a radio interview in Hmong (using a translator), and has a brochure at a Laos Community Center.

When asked its agency’s major accomplishments, COA1 claims an improved relationship between the community and the police. COA1 corroborates this accomplishment by stating the director knows of community members who have an improved perspective of the police from their interaction with COA1.

There is no external review of COA1’s performance. There are no current measures to evaluate its agency’s performance. COA1 states it evaluates its integrity and legitimacy through feedback from the community. Per the director, if members of the community were not satisfied with COA1, then the director would hear about it. The director also stated that COA1 does not consider complainant satisfaction in the performance of the agency. The director stated the complaints received about COA1’s performance from the community are minimal.

COA1 states that it does not affect police morale, but if police morale was affected it is a result of the stigma associated to oversight. The director stated that the word oversight itself is a “buzz kill” and that COA1 is not here to get officers in trouble. COA1 had no measurement for its affect on police morale.

COA1 states it improves police effectiveness by holding them accountable which in turn makes the police more effective. COA1 had no measurement for its affect on police effectiveness, but in passing the director mentioned that there had been
a reduction of complaints received. For improving the way complaints are investigated, COA1 states it has improved the turn around time for an investigation by requesting a response process to address time delays. COA1 also claims that it has improved the process of closing a case; requiring attempts to contact complainants are done in three different ways.

When asked if COA1 reduces police corruption, the director stated that they did not believe police corruption was present in their respective police department. The director attributed the lack of corruption to COA1 addressing misconduct (a lesser value) with COA1’s auditing function. The director stated that out of 156 audits, COA1 disagreed with 19% of the police departments findings.

The director stated the most pressing change needed for COA1 is to set up criteria on what to audit and expand COA1’s jurisdiction to cover more city departments. The director stated the most important change needed for civilian oversight in general is for those within the civilian oversight agency to understand police and police work in general which will foster a good relationship with the police department.

(Law Enforcement Administrator #1, LEA1) The following segment is a summary of the interview with a law enforcement administrator employed by the police department within COA1’s jurisdiction.

LEA1 states that a civilian oversight agency is created by a lack of trust the community has for law enforcement to police their own and also because of the amount
of authority given to officers. LEA1 states, “It is imperative, once you look at the Peace Officer Bill of Rights you can see how much is done to keep police officer records, personnel records, very confidential, and if there was not any oversight it would be easy for corruption to be there…There needs to be some sunshine put on it…a check and balance.”

LEA1 believes there has been a decline in opposition from police departments in general towards civilian oversight. LEA1 stated there is a general acceptance of civilian oversight because it is happening and it is going to happen. LEA1 did state that there was historically conflict between the police department and COA1. LEA1 stated there were growing pains that involved turf battles and developing the role of COA1 when COA1 was implemented.

LEA1 is pleased with his associated civilian oversight model. Per LEA1, COA1’s director works under the city manager and is given full authority for their duties. LEA1 stated that when interviewed for a position within the police department, the city manager explained that if the COA director were to ask for something, LEA 1 should consider it as if the city manager himself were asking for something. Per LEA1, COA1’s scope of duties is to review internal affairs cases after they are completed. COA1 does not have the authority to complete investigations or have punitive authority over officers. If the COA requests further investigation or does not concur with the disposition of the case or the discipline then there is further discussion on a higher level. LEA1 did make note that if there is disagreement between the COA and the
Chief of Police on a case then the Chief will win because the Chief is the one who is ultimately accountable for the police organization. This is why LEA1 believes that COA1 does not have a detrimental effect on police morale, because the officers are ultimately concerned with the Chief’s ruling on a case and not COA1’s. Furthermore, when LEA1 was asked what the most pressing change needed for civilian oversight of law enforcement was, LEA1 correlated the following. LEA1 stated that civilian oversight needs to “avoid kangaroo courts” that occur with civilian oversight panels that are making decisions on complaints and officer discipline. These panels that have authority to make rulings and issue discipline create conflict on who is running the show. The Chief is no longer accountable for the officers. LEA1 stated that this police department is fortunate to have one person (COA1’s director) and not a panel because the panels are like a courtroom hearing setting where the officer is held to be questioned by the oversight agency. With COA1, LEA1 stated the officers are not questioned by the COA and there is still a check and balance system when COA1 reviews the internal affairs investigation. Furthermore COA1 does not interfere with the authority of police administrators. LEA1 stated COA1 legitimizes the Chief’s authority because when the police department uses an outside agency to review the case, it legitimizes what the department is doing.

LEA1 stated that the police department does not compare statistics with COA1, like complaint or sustainment rates, because COA1 did not conduct their own investigations. LEA1 did advocate the idea of comparing rates between civilian
oversight and police internal affairs investigations, where concurrent investigations were conducted, as a means of identifying police favoritism/cover-up.

LEA1 stated that COA1 has improved police-community relations but could not provide a measure to prove it. LEA1 stated that the police department uses COA1 to provide credibility to their investigations which improves the police-community relationship. The police department can, and often does, advise complainants or community groups that the internal investigation has been reviewed by a separate, non-police agency. This provides transparency and improves the relationship.

Per LEA1, COA1 does not currently have a detrimental affect on police morale or operational effectiveness. Regarding police morale, LEA1 did mention that the person prior to the current director had a different agenda which caused conflict. LEA1 attributes the current successfulness of COA1 to the current director’s prior law enforcement experience and their focus on fact finding without an agenda. Per LEA1, the integrity and credibility of the person working for a civilian oversight agency is crucial. Regarding police operational effectiveness, LEA1 stated that COA1, in the broad sense, has improved operational effectiveness by promoting and assisting with police trainings. However in the exact tactical sense, COA1 has not improved or affected police operational effectiveness at all. LEA1 doubted that any officer was making decisions on the street based on what COA1 will do or thinks.

LEA1 stated that COA1 has improved the operational effectiveness of the police department. The director is concerned with fixing problems and promoting
training for issues that have risen with complaints. Although COA1 and the Chief
might not agree on the disposition of a case, for example a case that is determined to be
unfounded, the director will push for an officer to receive training and/or advocate for
training bulletins to be distributed to stations in order to reduce future complaints.
LEA1 stated the police department will absolutely work with COA1 for that end.

Per LEA1, COA1 does not participate in the policy creation or review process
for the department. LEA1 states it is the duty of the Chief to set policy and it is the
oversight agency to review complaint investigations within that policy. When asked
whether COA1’s input into policy creation or review would be a positive or negative
thing, LEA1 said it would create more transparency for the police department and thus
be a positive thing.

When asked about the proactive efforts made by COA1 to mitigate officer
misconduct, LEA1 recalled training bulletins which were made in cooperation with the
police department. These bulletins were sent to officers via e-mail and presented at
roll-calls.

When asked about how COA1 reduces police corruption, LEA1 stated that if
police corruption is in the management ranks, they can reduce it. Per LEA1, COA1
operates as a check for corruption of internal affairs investigators and management by
reviewing their work. Without COA1 the Chief could determine any investigation
unfounded even if it were not and there would not be any means to discover it because
of police confidentiality laws. LEA1 also stated the COA1 has made the police
department do a more thorough job with complaint investigations. He said they do thorough and complete investigations because they know it will be reviewed by COA1.

When asked if civilian oversight staff could adequately accept complaints, investigate complaints, and/or evaluate police policy and actions and LEA1 said, “No, but it depends on who the staff is.” LEA1 clarified the staff would need expertise and then stated, “That is why I believe in an internal affairs process with the department holding their own accountable; but yet reviewed by an outside agency, not investigated, but reviewed, audited, and monitored. There is no reason to have a separate entity, if you will, of investigators paid by someone else with perhaps a different agenda.” LEA1 stated he would have concerns regarding the expertise and knowledge of civilian staff investigating complaints; along with their restricted access to necessary data like criminal history checks. LEA1 did add that if a civilian review component is set up with fact finding parameters it would not make a difference who is making the investigation, but it would be difficult for a civilian panel to gain access to all the needed information that officers already have access to.

(Police Officer #1, PO1) The following segment is a summary of the interview with a police officer employed by the police department within COA1’s jurisdiction.

PO1 was aware of the existence of both civilian oversight agencies in general and COA1. PO1 made note that he had heard of the San Francisco Police Department’s civilian oversight agency, specifically how that agency was involved with making findings and recommending discipline for officers on compliant investigations. PO1
did not know of any colleagues that had been investigated by a civilian oversight agency as a result of a citizen complaint.

When asked if he knew if any of his department’s policies had been affected by COA1, PO1 could not recall any specific policy. PO1 mentioned that his department’s Vehicle Stop Data Form (VSDF) program which tracks racial statistics and the In Car Camera (ICC) policy have both been promoted publicly by COA1, but he stated that neither policy was affected by COA1. PO1 stated that his department has done a good job policing themselves, especially with their policies, so COA1 has just encouraged them to continue in their self directed path because they see that we are doing the right thing.

PO1 stated that the potential for his police actions to be reviewed and/or scrutinized by COA1 does not affect his decisions while on duty. When asked if PO1 would rather have an allegation of police misconduct investigated by his department’s internal affairs division or a civilian oversight agency, PO1 stated, “By my department, because they are subject matter experts. They are sworn employees who have been in my particular position at one time or another. They are well aware of what our training is, the challenges that we face on a daily basis, the type of people we deal with, the things we have to take into consideration, especially in regards to officer safety. What an officer or person with law enforcement experience would consider suspicious or unusual and in need of being investigated further a civilian might not get it.” PO1 also noted that a civilian oversight agency has the potential to be influenced by politics.
PO1 was asked civilian oversight staff could adequately accept and investigate complaints, and/or evaluate police policy and actions and PO1 identified criteria believed necessary for civilian oversight to partake in these tasks. PO1 stated civilians would need to attend extensive POST (Peace Officer Standards and Training) training so they would understand state standards for officers. PO1 mentioned that officers get at least 1000 hours of formal training in the academy and then an additional six months of field training before an officer could complete his or her job on his or her own. PO1 stated civilians would need at least this much training and experience to accept and investigate complaints along with evaluating police policy and action. PO1 also noted that in addition to state standards, civilians would also need training on department policies. PO1 did not believe that COA1 could adequately investigate complaints because he believed COA1 staff did not meet these criteria. Per PO1, COA1 staff only have some basic law background that is equivalent to a legal assistant.

PO1 stated that although the police union has been against civilian oversight since its implementation, PO1 thinks that because COA1 is in a position of just reviewing policy and complaint investigations, and has historically made recommendations that were concurrent with police department findings, COA1 has not had a detrimental effect on police morale. PO1 stated that COA1 has had a positive influence overall because they have provided an independent second opinion to complaint investigations that have agreed with the findings. Consequently this gives PO1’s police department credibility.
When PO1 was asked about COA1 improving the police-community relationship, PO1 stated that is what COA1 is intended to do but PO1 could not think of any examples. In fact, PO1 stated PO1 could not think of any examples, in any city, where civilian oversight has improved the police-community relationship. PO1 stated there is a belief, whether educated or not, that with independent review, the police will have a higher likelihood of doing the right thing. PO1 stated PO1 doubted if there was anything that substantiated this belief.

Per PO1, civilian oversight agencies should have the authority to review police activities. Civilian oversight should be in an independent auditor format that has the authority to audit and then forward the finding to a superior official. PO1 stated, “I am not afraid of a glass house policy. We do not have to put a veil over anything.” PO1 also stated that civilian oversight should not have any punitive authority over officers or conduct their own complaint investigations. PO1 stated there is nothing PO1 would change about COA1. PO1 advised the auditing function that oversight performs works well.

PO1 was asked if he would prefer mediation or a court trial as a means of complaint settlement. He said there were advantages to both. PO1 stated that mediation would work with complaints regarding communication issues like rudeness, but complaints involving issues like force used or misconduct, then the matter needs to be taken out of both party’s hands.

Regarding opposition from police departments in general towards civilian
oversight, PO1 stated he believes there is decreased opposition as it has been gradually integrated. Regarding the cost of civilian oversight agencies being worth its services to the public, PO1 stated that when you have a department struggling with community relations like the Oakland Police Department or the Los Angeles Police Department, where there is potential for people to get hurt, or massive resources used when a neighborhood revolts, then money on civilian oversight is well spent. PO1 stated he was unaware of the COA1’s budget, but if it were even a moderate amount, being able to show that we (the police) are a glass house is money well spent.

(Citizen #1, CI1) The following segment is a summary of the interview with a citizen living within COA1’s jurisdiction.

CI1 has filed a complaint with the police department within COA1’s jurisdiction, but has never filed a complaint with COA1. CI1 stated his son, who was on probation during the time, had fallen behind on required probation classes. The police came to CI1’s house looking for his son. CI1 stated he let the officers into his house and showed them that his son was not home. The officers questioned CI1 about his son’s whereabouts and CI1 refused to answer. CI1 stated one of the officers then called him a “dick.” CI1 asked the officers to leave his house and they complied. CI1 called the police department and they gave him two options which were to either have the officer spoke to informally or have a formal investigation conducted. CI1 stated that since he just wanted the officer told he could not go into people’s houses and call them sexual names, he chose the informal route. CI1 stated he was not trying to get the
officer fired. Having chosen the informal route, the police department informed CI1 that he would not receive any further update regarding the resolution.

CI1 also mentioned an incident where he thought about making a complaint but did not. He stated about 20 years ago he was providing pro-life material to the public in front of a pro-choice clinic. CI1 stated he was not violating any laws. The police, per CI1, were bias against the pro-life group because the pro-choice group had political support. CI1 stated the police unjustly sprayed several people with Mace. CI1 stated he decided to not make a complaint because he felt it would not do any good, being one person’s word against another. CI1 stated he does not have a high regard for justice when it involves politics.

CI1 had heard in the news of civilian committees that oversee the police and presumed that they existed in all cities, but he was not familiar with COA1. When asked if he would rather have police misconduct investigated by the police department or by a civilian oversight agency, CI1 stated he would rather have the police because of what he had read of oversight agencies, that they have an antagonistic and hostile approach towards the police. CI1 stated that people who are involved with oversight agencies often have a political agenda and narrative already established. CI1 stated that oversight agencies often use a template to their story before the facts are discovered, and this is why he does not trust them. CI1 stated that civilian oversight agencies typically operate on bias because they see controlling the police and police misconduct as their reason for existence; and if that is their reason for being they might not always
control their bias.

CI1 was asked if he thought COA1 could adequately accept and investigate complaints and evaluate police policies and he was unsure. He stated it depended on the case and persons involved.

CI1 stated he assumed COA1 has had an impact on police community relations. He stated that even squeaky wheels make you take the car in to get fixed. Per CI1, COA1 serves a function. CI1 did mention that sometimes civilian oversight can create political pressures that can cause changes that are not in the best interest of everyone.

CI1 would not be intimidated by filing a complaint with his respective police department. CI1 did believe his respective police department could investigate a complaint fairly if there were not politics involved because of his prior experience at the pro-choice clinic.

CI1 could not say whether the cost of COA1 was worth its services to the public because his lack of information on COA1. He did mention that he thought the police would desire COA1 because it would provide them “cover” to show they were operating correctly.

When asked how COA1 could improve, CI1 stated they could publicize themselves more because he was not certain of their existence. CI1 estimated that thirty percent of the public in his city knew about COA1 and its services. CI1 did not know what locations and options were available to him to make a complaint. He was also
uncertain of financial assistance options that were available to him during the complaint process.

When asked if he would prefer a mediated session or a court trial as a means of complaint settlement, CI1 stated it would depend on the nature of the situation. If it were a courtesy or relations issue then he would prefer mediation. If it were a violation of the law of constitutional rights then he would prefer a court trial.

(Complainant #1, CO1) The following segment is a summary of the interview with a complainant living within COA1’s jurisdiction.

CO1’s complaint was based on harassment. CO1 stated that officers pulled him over because he was a black man and searched his car without authority. CO1 went to COA1’s office at City Hall, approximately ten to fifteen miles away, and filed a complaint about the incident. CO1 stated the director of COA1 was accessible; he arrived at COA1’s office without an appointment and only had to wait ten to fifteen minutes. To file a complaint with COA1, CO1 stated that he just relayed the incident to the director of COA1 and signed a form. I asked CO1 if he concurrently filed a complaint with the police department and he explained that he thought COA1 was a part of the police department where complaints were filed.

CO1 stated he has lived within this city his entire life and has filed four to five complaints. He grew up in a notoriously crime ridden and poor housing project area of the city and, per his statement, had seen lots of racial profiling conducted by officers.

CO1 stated he was not intimidated to file a complaint against an officer,
however his complaints were only filed at COA1’s office or by phone to the police department. CO1 stated he had also called the police department (unknown what department) to file a complaint and the police department referred him to COA1. CO1 however would not be intimidated more or less by filing a complaint with the police department versus COA1. CO1 said that he believed that a complaint filed with the police department would be investigated fairly.

CO1 was unaware of any other locations and options to file a complaint. He stated he went to COA1’s office in person to show he was serious about the complaint in order to get results. CO1 was unaware of financial assistance options available to complainants.

After filing a complaint with COA1, CO1 stated that the police department contacted him and gave him options regarding the complaint. He could either have the officer spoke to by his superior informally or seek a formal investigation. CO1 stated he sought a formal investigation. CO1 stated he never received a response from the police department regarding the outcome of the investigation but he did receive a letter from COA1 stating, “The police knew they were wrong for what they did.” CO1 was frustrated that he was never told what punishment the involved officer received. When asked what he wanted as the result of his complaint, CO1 stated he wanted the officer to be terminated for racial discrimination. When asked CO1 about mediation as a means of complaint settlement, CO1 was firmly opposed and stated mediation “wouldn’t get no where.”
CO1 believed that COA1 is worth its costs because “there is a lot of police officers out there doing wrong.” CO1 added that someone has to have “the citizens’ back.” I asked CO1 if COA1 had improved police-community relations in any way and he stated he did not have the slightest idea.

CO1 stated he believed COA1 could adequately accept and investigate complaints and evaluate police policies and action because COA1 produced results. CO1 stated, “I got action back on it” referring to receiving a letter about the outcome of his complaint.

Per CO1, COA1 did not provide a means to provide feedback. No survey or exit questions were provided to CO1. I asked CO1 what he would change about COA1 and the complaint process and he stated the process was too slow. CO1 did however state he was satisfied with the performance of COA1. CO1 had learned about COA1 from a family member.

CO1 estimated that approximately twenty five percent of the city population knows about the existence of COA1 and its services.

(Law Enforcement Administrator #2, LEA2) The following segment is a summary of the interview with a law enforcement administrator employed by the police department within COA2’s jurisdiction.

Per LEA2, civilian oversight was created for the police department after an officer made an arrest of a minor that was of Arab descent for hit and run. LEA2 stated the arrest stirred political activists during a time when there was a heated election for
the district attorney seat and three city council seats. With the elections the hit and run
arrest was used by community activists to push for civilian oversight. The push was
primarily for a “Berkeley” civilian review board model. LEA2 stated they considered a
Berkeley type oversight model but it was rejected primarily because of cost.

LEA2 stated his department looked at two different oversight models, a
monitor/auditor and a committee. The auditor had a community component, where the
position accepts citizen complaints against the police and operates as a
mediator/moderator between officers and citizens when there is a complaint or
misunderstanding. They do not have the authority to complete their own investigations.
When the auditor receives a formal complaint that requires a formal investigation he
forwards it to the police department. The auditor also audits all complaint
investigations conducted by the police department, analyzes trends with complaints,
and provides an unbiased perspective on daily police activities. The auditor is on site at
the police department three days a month and is always available via telephone.

LEA2 stated the committee has no community component, in that it does not
interact with any community members in fulfilling its functions. It is composed of
attorneys, a retired police chief and selected citizens who meet once a quarter and
review the quality of complaint investigations. They also analyze patterns, trends,
policies and training. The committee does not accept citizen complaints or perform any
community outreach. Neither the auditor nor the committee has punitive authority over
the police department and its officers.
LEA2 stated after considering the two models, the city manager presented them to the city council. The city council decided to not take any formal action for or against the creation of the oversight models so the city manager implemented both models under his authority and scope of employment. This lack of action by the city council would provide political cover in case the oversight failed. Both oversight models are ultimately accountable to the city manager and operate under an employment contract.

When implementing the oversight model, LEA2 stated the police department had concern with lay people, who have a propensity to be swayed by emotion and not guided by law, being part of the oversight. Not having a background in law most lay people have an idea of what the law should be and not what the law actually is. LEA2 stated that a peer in law enforcement told him that the Berkeley oversight board once admitted they found an officer had done nothing wrong after a complaint investigation but sustained the complaint anyway because they wanted the complainant to feel affirmed. LEA2 stated this is the shortcoming of civilian oversight. If an investigation is based on law and policy there is no room for an emotional response. LEA2 continued to state this is why most civilian oversight rulings are overturned later, because lay people make their ruling on feeling and the way they think it should be and not the way it is.

In turn LEA2 acclaimed his respective oversight model, the auditor. LEA2 stated because the auditor is an attorney and they are familiar with police procedure, they can make decisions and explain the law to complainants. The auditor has an
education in law and police procedure and operates as an auditor for other agencies.
LEA2 also noted that complainants will accept an explanation of the law pertaining to
their complaint better from the auditor than they will from the police office because of
pre-existing bias.

When asked if the evaluation of his police department’s performance included
an analysis of their respective oversight agency’s statistics LEA2 stated they look at
how all complaints come in and how they are resolved. They also consider feedback
received from the auditor and implement changes per the feedback when desired.
LEA2 stated they typically get more useful information from the auditor than from the
committee. He said the committee generally requests that complaint investigations be
conducted quicker while the ombudsman provides meaningful and specific feedback.
LEA2 did mention that the city manager appeared to value the committee’s feedback
more than the auditor’s feedback. He attributed this to the auditor’s on site association
with the police and potential for assimilation whereas the committee is removed from
the police department’s physical location and its daily activities.

Since implementing the auditor and committee, LEA2 has observed a decline in
complaints. He said the police department had been averaging approximately 30
complaints a year, and had only two being halfway through this calendar year. LEA2
stated that the auditor and the police department have been working together to
reclassify complaints.

There has not been a detrimental effect on police morale or police operational
effectiveness by the implementation of the auditor and the committee according to LEA2. However he did state there was potential for it. LEA2 attributes the success of the auditor oversight model to the individual holding that position. If a stereotypical “ACLU” person were put in the ombudsman position then they would have an agenda which would affect police morale and operational effectiveness. LEA2 states the current auditor does not think “cops are heroes,” but he is a realist who understands laws, police procedures, and what police officers face daily. If the wrong person was put in an oversight position like the auditor there is definitely potential for problems.

LEA2 stated there has not been any conflict between the two oversight models and the police department historically. Neither do the oversight models interfere with authority of police administrators. Per LEA2, everything done by the two oversight models are recommendations and feedback.

The Police Advisory Committee (PAC), which has no public component, does not face political influences according to LEA2. The auditor however faced strong political influences when he filled the position. LEA2 stated that when the current person filled the position of auditor, many activists thought they had obtained an insider. The activists had done their research on the individual and discovered he had publically disagreed with another police department in the past and was not just a “yes man” for the police. However when he filled the position of auditor they discovered he maintained a neutral position. He told the activists our police department was doing right and he also has given us areas where he thinks we can improve. He has
maintained credibility on both sides of the fence.

Per LEA2, the auditor does not conduct audits on anything except complaint investigations, although it is within his jurisdiction to do so. The auditor also reviews the discipline imposed on officers when complaints are sustained and provides recommendations. The auditor does not participate in policy review or creation in general but offers specific recommendations on certain policies here and there according to LEA2. Regarding proactive effort to mitigate officer misconduct, LEA2 stated the committee has done nothing but the auditor has. The auditor will often ride along with officers during a shift and provide input on topics like “perspective” to circumvent future complaints.

When asked how the civilian oversight models with his police department reduce police corruption, LEA2 stated they do not have corruption so the oversight models do not reduce it. If corruption did exist in the police department, LEA2 stated the system would probably not discover it. The police department administration might be inclined to hear about it through the auditor via a complaint because there was not direct contact with the police. LEA2 then explained that if the corruption consisted of taking bribes, falsifying evidence, etc. and the administration “swept it under the rug” then both the committee and the auditor would catch it. LEA2 stated the auditor would be more likely to catch it because of his greater involvement, frequency, and unfettered access with the police department, along with his specific education, background training and experience.
When asked how the auditor has improved the way in which complaints against
the police are investigated, LEA2 stated that before civilian oversight the police
department gave their best effort and there was no misconduct or cover-ups with
complaint investigations. He added however that the police department eventually
becomes a victim of its “own blinders.” Then the auditor comes in as an outsider and
shows us the culture built around our activities and gives a new perspective on areas to
improve. LEA2 continued to state that the auditor pointed out things they were blind
to, not that they were trying to cover up anything; it is just that he gave a new
perspective. LEA2 stated the quality of investigations has improved, not by two or
three fold, but they have improved by having a different perspective and by being open
to reevaluating how they do things.

LEA2 stated he believed there was value to civilian oversight in general but it
has to be administered correctly. He stated he was opposed to the Berkeley model
because lay people sometimes have an agenda and do not always have knowledge of
the law. LEA2 posited that sometimes the law is what the law is and it does not always
match with common sense, therefore oversight needs people who are experienced
investigators and knowledgeable of the law. LEA2 stated he would not sit in judgment
of what a doctor does because he is not an expert in that profession. LEA2 stated that
law enforcement is a profession and that it needs people with experience in the
profession. Conversely law enforcement sometimes fall victim to the established way
of doing things. LEA2 continued by stating that is why he liked the auditor model and
a quality person filling that position. LEA2 stated a knowledgeable person that can bridge the fence between the police and public is what is needed. LEA2 stated he believed that the current auditor could adequately accept complaints, investigate complaints (although that is not his function), and evaluate police policies and actions.

When asked if he believed there was a decline or increase in opposition from police departments in general towards civilian oversight, LEA2 stated that opposition is as strong as it has ever been, however with that said, more and more of them are being put in place.

(Police Officer #2, PO2) The following segment is a summary of the interview with a police officer employed by the police department within COA2’s jurisdiction.

PO2 stated he had been an officer with this department for 12 years and was aware of the existence of civilian oversight agencies in general and the specific oversight agency for his police department. PO2 stated his police department has an auditor that reviews the department’s policies and use of force issues and provides feedback suggestions. PO2 also knew of committees within the city, but did not know their duties or function.

PO2 did have a colleague that was investigated by a racial oversight committee when the colleague made an arrest of a juvenile for hit and run. PO2 stated there was controversy regarding the arrest but did not know anything further regarding the committee and its function.

When asked if he knew of any department policies that had been affected by his
police department’s oversight agency, PO2 said that his understanding was that the auditor reviews and has input on every police policy. PO2 said he could not identify a specific policy that the auditor has had involvement with.

PO2 stated that the potential for his police actions to be reviewed and scrutinized by the auditor did not affect his decisions on duty. PO2 stated he acts professionally on the job and therefore does not need to be concerned with accountability to the oversight.

When asked if he would rather have an allegation of police misconduct investigated by his internal affairs division or a civilian oversight agency he said internal affairs. He explained that internal affairs, which are police, would be able to better look at the situation from his perspective. With experience as officers, they know the job, mindset, training, and everything else that is important when evaluating police action. PO2 stated civilians will base their decisions on what they have seen on television or heard, and a lot of that is not the reality of what we do.

PO2 continued to say that the biggest fault of police agencies in general is that they are not doing a good job educating the public on what police officers do and how they function. If the public knew more of what law enforcement did on a day to day basis I think a lot of complaints would go away.

PO2 stated he thinks that the current auditor can adequately accept complaints, investigate complaints, and evaluate police policy and action because he has experience working with police departments and has a strong knowledge of what the police do and
why they do it. PO2 said that based on the auditor’s knowledge and experience he could make an objective decision. PO2 did mention that the auditor might operate with some bias when making decisions. PO2 clarified by stating the auditor works closely with the police department and has established friendships and working relationship which might produce bias. Nevertheless, PO2 stated that even with bias he believed the auditor could make an objective decision because of his background. PO2 added that a civilian oversight committee consisting of normal people in the city would not be able to adequately accept and investigate complaints and evaluate police policy and action because of their own agendas they would be pursuing.

PO2 did not believe that his police department’s oversight agencies have had a detrimental effect on police morale and police operational effectiveness. He said that when the auditor first arrived officers were apprehensive, but after the auditor had reviewed our policies and practices and said that our department was doing everything right he became more accepted. PO2 stated he could not recollect any instance when the auditor had requested or recommended a significant correction for the police department. PO2 stated that he might not be privy to such a correction if one had been made. PO2 added that he hoped and hopes for such corrections because the police department has nothing to gain by being secretive and that police departments in general need to be transparent. I asked PO2 what he would change about the auditor and he said he was not sure because he was not sure what he does.

PO2 stated he was not sure if his department’s civilian oversight agencies have
improved police community relationships, but his subjective feeling was that they have. PO2 stated that when the Chief goes out into public and can say we are working with civilian oversight then trust is built with the community.

When asked what civilian oversight agencies should have the authority to do, PO2 stated they should have the authority to review policy and operating procedures and make recommendations. PO2 stated they should not have punitive authority over officers and should not investigate complaints because they do not have the experience and knowledge to do so. PO2 added that he believed the police department did not need civilian oversight, but having an individual review their practices to provide transparency was a good thing.

When asked about his preference between mediation versus a court trial as a means of complaint settlement, PO2 stated it depended on the issue. If the complaint was not criminal in nature he would prefer mediation. If the complaint was criminal he would prefer the matter go before a judge and jury.

PO2 believes there is still strong opposition towards civilian oversight. PO2 stated that when “civilian oversight” comes up most people discount it and say they do not know what they are doing. When asked if he thinks civilian oversight is worth its services to the public PO2 said he did not know, that it depends on what services they are providing. PO2 clarified that the civilian oversight agency needs to review police policies, educate the community on the police department’s conduct, educate the police department on what they need to improve, and improve the perceptions of the public
towards the police. If the oversight agency performed these functions, PO2 stated the oversight agency would be worth its services to the public. PO2 added that gone are the days of the secretive society where the police do whatever they want.

(Citizen #2, CI2) The following segment is a summary of the interview with a citizen living within COA2’s jurisdiction.

CI2 stated he has had minimal contact with the police and has never wanted to file a complaint against a police officer. CI2 was aware of the existence of civilian oversight agencies in other cities. CI2 was not aware of COA2 or any other civilian oversight agency within the city where he lived.

When asked if he would rather have an allegation of police misconduct investigated by the police department or by a civilian oversight agency he stated he did not know why both could not investigate, but he would prefer the civilian oversight agency because he hoped there would be more objectivity. CI2 added a caveat by stating that whereas the police might lean toward protecting their own, an oversight board might be more aggressive in looking for ways to go after the police. CI2 explained that if the oversight agency were “even handed” then he would prefer they investigate the complaint.

CI2 speculated to himself during the interview and asked, “What type of person wants to go onto a (civilian oversight) board?” CI2 supposed it was someone who has “some grind against the police.” CI2 then stated he believed the police could do a good job investigating complaints on its own but there would be a conflict of interest
because it is an agency investigating itself, as opposed to a third independent party like a civilian oversight agency.

When CI2 was asked if he believed civilian oversight staff could adequately accept complaints, investigate complaints, and/or evaluate police policy and action, he said that if the oversight agency was a full time agency with full time staff that could perform “due diligence in investigating the complaints” then yes. CI2 added that if the oversight agency was a committee that met only once a month then he believed it could not adequately perform its functions. CI2 stated the oversight agency must be able to put in the necessary time. CI2 believed that the competency of the staff was not an issue and that they could perform effectively.

CI2 did not know if oversight agencies have had an impact on police community relations. He stated he could see the potential for improving the relationship, but also could see instances such as the “BART” police officer shooting where a white officer shot an unarmed black man in the back that would not be impacted by an oversight agency no matter how they operated.

CI2 believed civilian oversight agencies should have the authority to investigate only. They should not have the authority to set or determine policy or have punitive authority over officers. CI2 stated he did not want oversight agencies running the police department; he wants the police department running the police department. CI2 stated he trusts the police and he does not think we need “another layer telling the police what to do.” CI2 said he preferred the oversight agencies be solely fact finders
CI2 stated filing a complaint against the police at the police department would not be more intimidating than at a civilian oversight agency. CI2 add that his general perception of society is that they would be intimidated and prefer filing the complaint at the oversight agency. CI2 stated there would be more confidence the complaint would be handled correctly if it were given to an independent agency and especially with large cities with large minority groups where there is a real lack of trust for the police it is imperative to have an independent agency where people can file a complaint.

CI2 stated he believed a complaint filed at his police department would be investigated fairly. CI2 stated he believed a complaint filed with a police department in general would be investigated fairly. CI2 then explained that police departments are run by people, officers are people, and no matter what profession or employment you are in there will be workers who perform poorly. CI2 said there is potential for a complaint to not be investigated fairly by the police department because you might run across that bad employee just like at any job. That is why it is good to have an independent oversight agency. CI2 then speculatively added that a complainant might also come across a bad employee at the oversight agency.

CI2 believed the cost of civilian oversight is worth its services to the public. CI2 could not name any measures taken by his respective oversight agency to improve police community relations. If CI2 could improve his respective oversight agency in
the future he would have better marketing. He stated it would be nice to know they exist. CI2 believed civilian oversight could improve in general by employing qualified people who take their job seriously.

CI2 estimated that in his city, a maximum of twenty percent know about the existence of their civilian oversight agency. CI2 stated he likes to consider himself well informed and he was not aware of the oversight agency. CI2 did not know how accessible COA2 was in order to make a complaint. CI2 did not know the locations available to make a complaint with COA2, what options are available to file a complaint (phone, internet, library, varying times of day, etc), and if financial assistance options were available to file a complaint.

If given the option between mediation or a court trial as means of complaint settlement, CI2 said it was case specific. He clarified that if the complaint were a serious issue such as an unjustified use of force then he would prefer a court trial because he would be “out for blood.” If the complaint was regarding a communication issue then he would like mediation because it is a quicker and cheaper option.

(Civilian Oversight Agency #3, COA3) The following is a summary of the interview with staff of Civilian Oversight Agency #3.

This interview was of an employee of COA3, who was appointed by the director to be interviewed on their behalf. The employee interviewed advised COA3 is run by a director. That director is appointed through the Police Commission. The Police Commission is a body of seven volunteers from the community, four of whom
are appointed by the mayor and three are appointed by the County Board of
Supervisors. The Police Commission is “the boss” and has “full authority” over COA3
and ultimately oversees the police department. Per the employee, all operating
procedures of the police department are ultimately accepted by the Police Commission.

Once the Police Commission appoints a director for COA3, the mayor must
confirm the appointment. The director of COA3 is charged with the daily functioning
of COA3, including the hiring of COA3’s employees. COA3 is a city agency that was
established through the city charter amendment. The Board of Supervisors placed an
initiative to establish COA3 on the ballot which was then voted on and based by the
citizens. COA3 was thus an amendment to the city charter. When COA3 was proposed,
the respective police union supported it. The employee stated the Board of Supervisors
and Mayor are not involved with the day to day functioning of COA3, but the director
of COA3 does make quarterly reports to the Police Commission and the Board of
Supervisors. Additionally the director of COA3 meets with the Police Commission and
Police Chief once a week to discuss issues.

COA3’s jurisdiction includes only its city’s police department. COA3 currently
consists of 34 full time employees and one part time employee. These employees
include sixteen “line” investigators, three senior investigators, a chief investigator, four
attorneys, the director (who is an attorney), and support staff. Per the employee, two of
the investigator positions are not currently filled due to budget constraints. The
employee felt COA3 was understaffed because the investigators were currently
managing a case load of 29 cases on average. The employee stated that when COA3 was audited in 2007, the auditor noted that most internal affair investigators carry a much smaller caseload. Additionally, at COA3, the investigators have to perform their own administrative secretarial tasks because of a lack of support staff.

One requirement for COA3 employees is that they have never been employed by the police department they review. The employee could have worked for other law enforcement agencies, just not the one they supervise. The employee advised COA3’s investigators include a former California Highway Patrol officer, a prior officer from Siberia, prior fraud investigators, and a former federal officer. COA3 has a mandated staffing ratio of 150 officers to one investigator.

The employee was not familiar with the education requirements for investigators employed by COA3, but she knew prior investigative experience was required. COA3’s attorneys are required to be active members of the bar. She advised two of the attorneys specialize in prosecution, one attorney runs the mediation program, and the final attorney specializes in policy work.

The employee was asked what COA3’s mission was and if it was codified and clearly known to COA3 employees and volunteers. The employee referred to COA3’s 2009 annual report for the official mission statement. The 2009 report stated the mission of COA3 is to promptly, fairly and impartially investigate complaints against police officers of the police department within COA3’s jurisdiction, and to make policy recommendations concerning police practices.” The employee was asked what COA3’s
day to day duties are. The employee stated COA3 is mandated to promptly, fairly, and impartially investigate citizen complaints of misconduct. COA3 is also mandated to recommend discipline on officers and make policy recommendations. The employee stated COA3 had replaced its respective police department’s internal affairs division. COA3 investigates all citizen complaints against officers whereas the police department’s internal affairs division only investigates internal complaints like one officer against another. The employee stated the police department has and can conduct their own investigation of a citizen complaint, but it is very rare and usually only occurs with highly political or sensitive cases.

Per the employee, COA3 receives complaints, conducts interviews involving victims, officers, witnesses, etc., collects evidence, determines findings on the complaint, and then recommends discipline against involved officer or officers if it is warranted. COA3 does have subpoena power but typically operates without it as officers are required to cooperate with COA3 per the city charter.

A comprehensive report that includes the preceding and also a legal analysis on department policy and/or constitutional law issues involved with the complaint is forwarded to the Chief of Police Office from COA3. If the case warrants officer discipline, COA3 will either recommend a chief hearing or a Police Commission hearing. If COA3 believes the officer discipline should be 10 days or less then the report will recommend a Chief of Police hearing. If COA3 believes the officer deserves discipline greater than 10 days, COA3’s report will recommend a Police Commission
hearing. The Chief of Police, or his designee, will review the report and will either agree or disagree with the recommendation of the Chief hearing or the Police Commission hearing. Per the employee, the Chief of Police typically agrees with COA3’s recommendation, but has also at times requested either more or less discipline than the COA3’s report recommended.

If there is a disagreement between the Chief and the recommendations of COA3 then the director and the Chief have negotiation. Per the employee this negotiation has been uncooperative at times in the past. In 2006 a proposition was passed by the voters that gave COA3 greater power when there is an impasse between the police department and COA3. This proposition also mandated negotiation between the Chief and the director of COA3 be made in “good faith” when there is disagreement on COA3’s discipline recommendations. If there is no resolution after good faith discussions between the Chief and the director of COA3, then COA3 can forward the report directly to the Police Commission for their review. The Police Commission will then have the final say on whether the case will be a Chief’s hearing or a Police Commission hearing.

At the Chief and Police Commission hearings typically both the COA3 and the involved officer will have legal representation present and the case will be decided either by the Police Commission or the Chief of Police, or his designee. I asked the employee if COA3 interfered with the authority of police administrators and she said no, it was a system of check and balance.
The employee stated she felt COA3 was an effective model because if citizens were fearful of officer misconduct then they do not have to go to the very agency they are complaining about; it is a separate body to examine what had occurred. The employee also touted COA3’s other activities including the mediation program and policy review. The mediation program is offered in certain instances when a complaint is regarding discourtesy and no significant police department policy or law violations. The employee was not certain of the specific criteria for a complaint to be eligible for the mediation program. To participate in mediation all involved parties, which includes the complainant and the officer, must agree to it. If parties accept mediation, the mediation program coordinator of COA3 refers them to an agency that uses trained, certified, volunteer mediators who are not associated with COA3 or the police department. After mediation is conducted then the complaint is closed. The employee stated that COA3 has conducted surveys regarding the mediation and the overwhelming result was that both the complainants and officers were satisfied with the process.

The employee stated the policy review aspect allows COA3 to work with community members to enhance police practices. The employee advised that policy recommendations made by COA3 have historically been refused by the police department. The proposition mentioned earlier that mandated good faith discussion between the Chief of Police and the director of COA3 regarding officer discipline, also mandated good faith discussions between COA3 and the police department regarding
policy recommendations. The employee stated that even with the mandated good faith discussions, policy recommendations with the police department have been a long term venture. As with the officer discipline, the Police Commission would have the final say on policy recommendations if there was an impasse between the police department and COA3.

The employee stated COA3 would conduct national research on what other law enforcement agencies were doing regarding their policies in order to find the best practice approach. COA3 also worked with community members to identify needed policy changes and would also monitor trends with complaints to see where needs for policy review was. After analyzing outside agencies’ policies and complaint trends, and working with the community, COA3 was more influential in policy recommendation to the police department. Two specific policies that the employee touted as an accomplishment of COA3 were a language barrier policy and a shooting at a vehicle policy.

Per the employee, COA3’s budget is a component of the police department’s budget. The employee felt that their budget was not sufficient and mentioned that they recently lost forty thousand dollars for needed technology updates. The employee stated that cost effectiveness is considered with this agency’s functions. The employee stated the mediation program alone is cost effective. The mediation is conducted by a volunteer, and when mediation is conducted there is not a paid investigator investigating the complaint. The employee stated that COA3’s policy
recommendations help the police department to operate with best practices which prevent lawsuits. The employee stated that COA3 received approximately one thousand complaints a year and of those complaints, approximately five to ten percent are sustained. She stated with those statistics, COA3 has a burden to make cost effective priorities.

When asked if there was a decline in the opposition from police departments in general towards civilian oversight, the employee said it was “mixed.” The employee said this specific city has had a civilian oversight agency for a long time and the police department had been very hostile in the past. The employee then stated that the prior Police Chief and the current Police Chief understand how important civilian oversight is. She said they saw and now see the benefit of working with COA3 and being transparent.

The employee stated she believes civilian oversight staff can adequately accept complaints, investigate complaints, and evaluate police policies and actions when they are adequately trained and have proper resources. She stated she did not “kid” herself, and think that she is a sworn officer. She did say however that she has attended force options training, fired guns, and participated on police ride-alongs which help her see what law enforcement is like. The employee made the distinction that her job is not the law enforcement, but rather to investigate, examine policy, discuss with other academics and experts, and conduct research; and therefore she could adequately perform her functions. She stated that the fact the Chief of Police agrees frequently
with COA3’s sustained cases validates that civilian oversight staff can accept and investigate complaints and evaluate police policy and actions.

The employee added that she knew some civilian oversight is very problematic, when proper training and resources are not available. She stated when the oversight is composed of volunteers; they are not going to have the time, training, and resources to learn what proper police procedures are. They are not going to be able to provide a proper investigation because they do not have the tools. The employee also mentioned the turnover rate associated with volunteers and how that was problematic with civilian oversight staff.

The employee advised that COA3 staff does receive cultural diversity training. She stated most of the training was informal “in-house” training where COA3 staff is made up of various community members with varying cultural competencies. The employee advised that she has attended Police Officer Standards and Training (POST) trainings, trainings with the police department, and had participated on panel discussions at the non profit organization NACOLE (The National Association for Civilian Oversight of Law Enforcement). The employee mentioned that COA3 makes policy recommendations which enhance community police relations, and therefore it is imperative for COA3’s staff be representative of the community in order to reach all segments of the community.

Per the employee, COA3 is completely autonomous from the police department, but there are some things they have to do together. Investigators are in
continual contact with the police department to obtain records and documents. The employee advised there has been difficulty obtaining documents from the police department in the past, but the same proposition that mandated good faith discussions between COA3 and the police department, also mandated the police department to share documents with COA3. The employee advised the COA3 employees assigned to policy review also interact daily with the police department’s officers and command staff.

Regarding political influences, the employee said that on a given case the County Board of Supervisors, the Police Department, community members, and other parties each might get upset based on COA3’s findings. The employee also mentioned that in California, complaints are part of a police officer’s personnel file, which has several protections which limit what information is available to the public. Therefore the public gets angry when they can not find out what happened to an officer accused in a complaint.

When asked if COA3 has an official definition of a complaint, the employee hesitated. After pausing she stated a complaint was when an officer has violated a department general order or constitutional law. The employee advised that complaints can be made by telephone, in person at COA3’s office, via fax, and at police stations. Additionally, complaint investigators will respond to a complainant’s house, jail, or wherever they are needed. COA3 distributes their brochures to libraries, police stations, city agencies like city hall, and community organizations. The brochures are
in five different languages, and every quarter they restock their brochures throughout the city. COA3 does not provide financial reimbursement for complaints that face economic constraints for filing a complaint. However, the employee stated that COA3 focuses their outreach on low income areas because of their propensity for police contact.

The employee said all complaints are recorded into a log, assigned a case number, and any work on each case is documented. COA3 receives approximately 1000 complaints a year. COA3’s disposition classifications are mediation, sustained, not sustained, unfounded, training failure, policy failure, and proper conduct. The employee advised that COA3 does calculate sustainment rates and it is on average between five and ten percent.

The employee was asked for her opinion on whether a low or high complaint rate is the result of police misconduct or open or closed perceptions of the law enforcement complaints process. The employee stated it was a complicated question and then suggested surveying the public’s perception of the police department’s credibility and then comparing that with complaints rates. The employee also stated that there would need to be evaluation of specific complaints and the context of the complaints to evaluate the relationship.

The employee stated she believed that COA3 has improved the police community relationship. She stated COA3 has improved police procedures such as the language barrier policy which has helped the police communicate with the community.
She stated the COA3 has helped build bridges between the two entities.

COA3 has itself been audited and does audit the police department. In 2006 COA3 was audited by the city auditor which resulted in several recommendations. The employee advised COA3 is mandated to audit the police department’s 1st Amendment activities and enforcement actions. COA3 conducts this audit, when 1st amendment rights are implicated by the police department, once a year. COA3 does not conduct an internal audit.

When asked what some of COA3’s major accomplishments are, the employee advised of several policy recommendations that had been implemented by the police department. The police department’s shooting at a vehicle policy, the custody/interrogation of juvenile policy, the language barrier policy, and the recommendation to place the police department’s general orders online were all influenced by COA3 per the employee.

The employee stated COA3 has taken several proactive steps to reduce officer misconduct. COA3 has helped develop trainings given to officers when trends in complaints are observed, attended police academy classes and spoke on how to reduce and avoid complaints, and has participated in discussions with the police chief regarding trends.

The employee stated COA3 evaluates its performance. The employee stated COA3 provides budget and performance standards and measures them against previous budget and performance standards. The employee stated that when the director of
COA3 submits the budget it is all performance based. The employee was not familiar with the budget and performance standards but did state that she was familiar with the policy standards. COA3 evaluates the policy component of the agency by looking at how many policy recommendations were made, how many were accepted, and how many complaint investigations were given a disposition of policy failure.

The employee was asked how COA3 evaluated its integrity and legitimacy. The employee stated COA3’s legitimacy is established by the mandate in the city charter. COA3’s establishment was voted upon by the citizens and COA3’s duties are mandated. Regarding integrity, COA3 is evaluated by the police commission annually after COA3 submits its annual report. Every aspect of the agency is evaluated. Additionally, as mentioned there are strict confidentiality rules with officer personnel files and COA3 would be sued if they did not operate with integrity. The employee stated COA3 staff is meticulous on documents that they make public in order to protect officer rights.

When asked if COA3 experienced any problems and/or shortcomings with using complaint or sustainment rates as a measure of performance, the employee said using sustainment rates for measuring performance would be the same as using a quota system for officers on tickets and arrests. The findings should be based on evidence, and COA3 looks objectively at whether there was misconduct. The employee stated that if the sustainment rate was COA3’s performance measure, it would negate what their mission is.
Per the employee, COA3 has conducted in the past a satisfaction survey for complainants and officers involved with mediation, but the survey has not been a systematic procedure. Per the employee, the survey did show a positive response by both officers and complainants to the mediation process. Other than this survey, and officer complaints filed against COA3, the employee stated there were no other feedback mechanisms in place.

When asked if complainant satisfaction is considered in the performance of COA3’s actions, the employee stated it is a consideration but it is not the benchmark because civilian oversight is much more complicated than complainant satisfaction. The employee said there are times when people are not going to be satisfied because they are not going to get the information they want. They will want to know what happened to the officer and we can not tell them “so customer satisfaction is not going to be the touchstone for us.” The employee added that if COA3 is sustaining 5 to 10 percent of the complaints then there is going to be 90 to 95 percent of the complainants that are not satisfied with the outcome. The employee stated the touchstone for COA3 is having both the civilian and the officer treated fairly and with integrity, and they feel it was a fair, objective, and timely process.

The employee stated that COA3 does not measure police morale or its effect on police morale. She stated officers come into the office for complaint investigations with different attitudes. Some officers are indignant and others are apathetic to COA3.

When asked how COA3 reduces police corruption, the employee stated that the
respective police department does not have corruption. If they did have corruption it would be found when we analyze the complaint trends.

Regarding improving the way complaints against the police are investigated, the employee stated that the more they work with the police department and are inline with what the internal affairs division is doing internally then we come at the issue with the same perspective and improve complaint investigations. The employee added that COA3 continues to look outside to other agencies to find the best practices.

The employee stated the most pressing change needed for COA3 is acquiring the full resources needed to do their job. She stated COA3 staff uses antiquated computers, can not access the California Department of Motor Vehicles database because of financial constraints, and does not have the needed amount of investigators and support staff. Regarding civilian oversight in general, the employee stated the most pressing change needed was for the appropriate model of oversight to be established in each city. The employee stated she believed civilian oversight makes the police better and more accountable to their communities and therefore appropriate models of oversight, which are effective for the given community, need to be established. Some models of oversight are not appropriate for some communities. The employee added that there needs to be an agreement between police departments and cities that oversight is a respectable institution. Both the police departments and the communities need to respect civilian oversight.

(Law Enforcement Administrator #3, LEA3) The following segment is a
summary of the interview with a law enforcement administrator employed by the police department within COA3’s jurisdiction.

Per LEA3, COA3 came about through a ballot measure voted upon by the citizens. The reason the ballot measure for COA3 was introduced and passed was because of public distrust for police and public distrust of the police department’s ability to monitor themselves. LEA3 stated that at the time of the ballot there was publicized misconduct of the police department and an election.

LEA3 advised that COA3 is completely independent of the police department, and it is run by a civilian director who is appointed by the mayor. COA3’s staff is selected by the director. The County Board of Supervisors monitors COA3, but in general does not have a say in what happens. COA3 is accountable to the Police Commission.

The police department’s internal affairs division handles only complaints generated internally from the police department. COA3 investigates all complaints generated from civilians. The police department is required to forward any complaint filed by a citizen at any police department to COA3 for investigation.

Per LEA3, COA3 does not have the power or authority to discipline any officers. COA3 completes an investigation regarding the complaint and makes recommendations regarding officer discipline. COA3 forwards the investigation and recommendations to the police department’s internal affairs division for review. Once the investigation is reviewed, it is reviewed by the chief and forwarded to the police
commission. LEA3 stated that in cases with important significance or egregious conduct, COA3 can send the investigation directly to the Police Commission, and surpass the Police Chief. The Police Chief has the authority to issue discipline up to ten days. All complaint investigations involving discipline greater than ten days are referred to the police commission. If there is conflict between the Chief of Police and the Police Commission regarding the discipline warranted for a complaint investigation then the Police Commission supersedes the Chief of Police.

LEA3 stated the Police Commission is a body consisting of nine members; five are appointed by the mayor and four are appointed by the County Board of Supervisors. These members are volunteers from the community who are responsible to who appointed them, either the Board of Supervisors or the Mayor. LEA3 added that some of the Board of Supervisors are bias against the police and they often appoint Police Commission members with an anti police agenda.

Some of the Police Commission members are very involved with the police department and some are not. The Police Commission generally asks questions about the functioning of the police department and requests report. The Police Commission has administrative control over the police department, including its conduct and policy.

The Police Commission in turn appoints the Chief of Police. LEA3 commented on how politics play a part with the mayor having five Police Commission appointments. LEA3 stated that if the mayor wants the Chief of Police removed then the mayor will appoint Police Commission members who will remove him or her.
LEA3 stated he had also observed officers being terminated from political pressure within their authority structure. On a case where an officer would typically be given ten days off as discipline, with that level of discipline being the objective standard, the officer was terminated instead. The Chief of Police said the officer deserved a maximum of ten days off, but because of political pressure from the Board of Supervisors and the mayor, the Police Commission took up the case and had the officer terminated.

Regarding the complaint investigation, LEA3 stated that the police department’s internal affairs division reviews COA3’s investigation of a complaint because they have found that COA3’s investigations are incomplete and they will sustain a complaint whenever possible. LEA3 gave the following example. An officer assigned to a school found contraband in a school locker. The officer contacted the student who used the locker. The student spoke perfect English. The officer admonished the student and filed a report. The student’s parents filed a complaint stating that the student did not understand the officer because the student does not speak English. Every teacher confirmed that the student understands English, and they confirmed the student is bilingual. The student was in ESL (English second language) classes the year before but had progressed out of them. Initially COA3 found the complaint not sustained. Then an advocate on the Board of Supervisors demanded that the case be reopened. COA3 reopened the case and now finds the complaint sustained because the officer should have gotten an interpreter. At that time there was no
department policy mandating officers to get an interpreter. To resolve the case, COA3 offered the officer mediation. The officer declined because the case was originally found not sustained. The officer is still currently fighting the case. Subsequent to this complaint ordeal, a policy requiring officers get an interpreter if there is any suspicion of needing one was implemented. LEA3 stated the ESL interpreter policy was an agenda of COA3, and the school officer was a pawn to push forward an agenda and a victim of politics.

When asked if he believed there was a decline or increase in the opposition from police departments in general towards civilian oversight, LEA3 stated his impression is that there is a decline, but there is still opposition. LEA3 advised that initially there was a lot of resistance because there was a belief that civilian oversight was going to “head hunt you.” LEA3 said that to this day he believes COA3 has had investigators who have that mindset; that cops are wrong despite what the facts say. LEA3 stated he thinks most cops feel this way; if a complaint is generated COA3 will find some way to sustain it so that at the end of the day they can say they had ten complaints and sustained eight of them.

LEA3 provided the following example to illustrate his point. A sergeant at a police station received a complaint by phone. The sergeant who received the complaint is supposed to complete a COA3 form and make a copy of it for the captain, and then forward it to COA3. The sergeant forgot to make a copy of the complaint form for the captain, but still forwarded the complaint to COA3. The original complaint was not
sustained, but during an interview for the original complaint investigation, the sergeant disclosed that he forgot to make a copy. COA3 then sustained the complaint because the sergeant forgot to make a copy for the captain. This is how COA3 operates.

LEA3 provided another example regarding how COA3 functions. He said he had personally received a complaint for something that had occurred six hours before the start of his shift. He said he was functioning as a commander and had reviewed and approved an arrest report that had occurred before the start of his shift. LEA3 stated COA3 accused him of approving a report that had a bunch of lies in it. LEA3 stated he reviewed the report to determine if a crime had occurred, to see if the officer followed proper procedures, and to see if everything was filled out properly. LEA3 asked me how he would know if the report was full of lies when he was not at the scene and it had occurred prior to the beginning of his shift. LEA3 stated the complaint was given an unfounded disposition for him and the involved officers because COA3 could not prove that they were guilty, instead of giving them a not sustained disposition which would show that they were found innocent. LEA3 stated there is no reason why he should have been involved with this complaint and now he has a blemish on his record.

LEA3 also mentioned that it is now a common practice for defense attorneys to automatically file a complaint when they defend someone. This practice, along with COA3’s pursuit of a sustained complaint despite the facts, is causing contention with the police department.

LEA3 stated that COA3’s caliber of investigations were initially poor. COA3
did not know how to complete investigations. LEA3 stated that when the police department would review COA3’s investigations, the police department would find errors and inadequacy, which would cause tension. LEA3 stated that over time COA3’s quality of investigations has improved, but COA3 is still out to get a sustained complaint at any cost. If a complaint was for excessive force, you would get a sustained complaint because you did not check a box on the report. Then the officer’s file says they have a sustained complaint for excessive force. LEA3 stated that if COA3 is stretching so hard to sustain these complaints it shows that either the officers are doing a good job, their investigations are inept, or that the complaint is bogus.

LEA3 stated that another factor regarding opposition from the police department towards COA3 is that COA3 has been in existence for approximately twenty years. Now the police department has employees coming in who have not known the resistance between COA3 and the police department. They only know how it is now. The officers do still pick up that COA3 is “nickel and diming” people to get a stat, but the hard resistance is not there anymore.

LEA3 stated that because the quality of COA3 investigators is not that great and because he believes that most cops act properly, he is not afraid of COA3. LEA3 stated that what cops are afraid of is the tracking of nonsense complaints with the early intervention systems in place. Good working cops that are involved with stuff are beginning to look at how they are receiving these frivolous complaints. LEA3 stated he sees officers using these complaints and COA3’s pursuit of a sustained complaint at all
costs as an excuse to not work to prevent from receiving complaints. Officers will instead go and park somewhere instead of hunting criminals because of fearing a complaint. The hard working officers are going to be impacted the most because they are out working hard and exposing themselves. This is where a department’s leadership needs to stand up for those officers. LEA3 continued to say that if an officer is maliciously screwing up, he did not want them on his department, but if they are making honest mistakes then lets get them some training.

LEA3 said that COA3’s affect on police morale ebbs and flows. LEA3 said that if it is a hot topic where everyone thinks an officer is getting screwed by COA3 because of political pressure then morale suffers. LEA3 continued by saying that police morale gets worse when it is obvious when someone is getting railroaded for political purposes. LEA3 said that officers sometimes admit to things they did not do in order to not deal with the injustice and political pressure.

LEA3 was asked if the evaluation of his police department’s performance includes an analysis of COA3’s statistics and he said yes. LEA3 stated that the police department looks specifically at how many complaints are filed, was there a decrease or increase, etc. Since COA3 investigates citizen complaints, they would have these statistics.

LEA3 was asked how he would evaluate COA3’s performance. LEA3 stated that he thinks COA3 is bias and driven by statistics. He stated that in concept he did not have a problem with COA3, however sustaining complaints over minor infractions
like not checking a box or making a copy of a form, which were not relating to the original complaint, is wrong. LEA3 stated that if an internal administrative mistake is made, it should be addressed internally. Otherwise it becomes a misleading statistic. LEA3 stated for COA3 to say they sustained so many complaints for excessive force is misleading and COA3 needs to get away from being driven by statistics. LEA3 stated that he thinks COA3 should look at things more objectively and politics should stay out of their activities. LEA3 stated that fairness and objectivity is lost at COA3 because they are such advocates for the community.

LEA3 added that COA3 will even sustain a complaint based on something that is contrary to state law. COA3 sustained a complaint which found an officer guilty for serving a search warrant. COA3 concluded that the search was illegal even though it was a legal search warrant, signed by a judge. COA3 found the complaint sustained because they felt the search warrant was faulty and the officer should not have been in the citizen’s house. The police department reviewed the complaint investigation case and found it completely ridiculous.

When asked if COA3 has had an impact on improving police-community relations, LEA3 said maybe. He states that having civilian oversight shows the police department is being transparent and it gives the public the impression they can go and get a fair shake, perhaps they feel this makes for a better police department. The true relationship between the police department and the community starts with the officers and not the civilian oversight. COA3 contributes somewhat to the police community
relationship in that it gives a sense there is more openness, but the bigger factor is the concerted effort made by police departments and individual officers to professionalize law enforcement.

LEA3 stated that COA3 has had an effect on operational effectiveness. He said that COA3 sends monitors into crowds or large functions to observe if the police department acts accordingly. COA3 also attends police trainings. LEA3 said that the police department has to take into consideration that COA3 will be out in the public and attending police trainings and therefore they need to take them into account.

LEA3 also related how policy affected by COA3 has had a detrimental effect on police operations. Regarding the ESL policy, officers are now hesitant and concerned to speak with the public because of the possible need/requirement for an interpreter. Officers are known to avoid tourist areas of the city because of the policy requiring an interpreter when speaking with a person who does not speak English. If an officer sends a tourist to the wrong area because the officer did not understand what directions the tourist was asking for, and then something happens to the tourist, then the officer is liable because they should have obtained a translator. So if an ESL tourist asks for directions the officer has to wait for twenty minutes to get an interpreter.

When asked what political influences COA3 confronts, LEA3 said that the Mayor, the Board of Supervisors, and their constituents can all influence COA3 decisions. LEA3 said he has seen COA3 cases revisited solely because of politics. LEA3 also said that this political pressure that COA3 draws in interferes indirectly
with the authority of police administrators.

LEA3 stated that COA3 audits the police department’s training. LEA3 also said COA3 does not audit the police department’s internal affairs internal complaint investigations, and that COA3 has not improved or contributed to how the police department investigates its internal complaints.

LEA3 stated that COA3 does participate in policy review for the police department, however their policy review is on selective areas and their input is one part of a larger selection of groups that have input on the police department’s policy. LEA3 stated that legal groups, advocacy groups, and anyone in particular who would be affected by the policy have sat in on developing policy, and that COA3 would only be another component of that review. LEA3 stated his respective police department is used to public input on their policy. LEA3 said his police department serves the community and therefore the community should have input on the police department’s policy. LEA3 said the police department is an arm of the community and the police department should do what the community wants as long as it does not violate the law. The COA3 has a place to provide input, but they should not be the overriding voice. Ultimately the Police Commission has the final word on policy.

When asked if COA3 has made any proactive efforts to mitigate officer misconduct, LEA3 said that COA3 does recommend policy change when they deem it necessary or policy clarification when something comes to light from a complaint. COA3 also makes recommendations on how to enhance police training when they
attend it.

LEA3 was asked if he thinks COA3 staff can adequately accept complaints, investigate complaints, and/or evaluate police policy and or actions. LEA3 said COA3 is very good at accepting complaints because they accept all kinds of complaints. He said there needs to be a filtering process for complaints. LEA3 said he does not think that COA3 investigates appropriately because of their biases and prejudices; they have a predetermined disposition to believe the officer was wrong and the civilian was right regardless. LEA3 said that attitude needs to be changed. LEA3 added that this disposition towards complaint investigation was the general outlook of COA3, but there are some fair investigators employed by COA3. Regarding evaluating policy, LEA3 said that COA3 can not perform this function adequately because COA3 staff does not have the background and the experience necessary, and because they have an overriding advocacy that is not in line with what a police department is supposed to do.

LEA3 was asked about the mediation COA3 offers as a means of complaint settlement and he said he believes mediation is a good way to adjudicate an issue and resolve a complaint. He added that this is the way most complaints should go because most of the time it is just a matter of misunderstanding. LEA3 said the con of mediation is the difficult reaching the middle ground. LEA3 said he has heard of both parties having difficulty admitting guilt. He said that overall, if mediation avoids a sustained complaint, if the complaint is off the officer’s record, and the mediation presents an opportunity for a positive contact between the two parties then it is a good
thing.

LEA3 was asked how COA3 reduces police corruption and he said he could not see COA3 reducing corruption. He said they might in a subtle subliminal way influence people from being corrupt. LEA3 said most of the corruption cases have been generated internally and the reduction of police corruption is more a result of law enforcement elevating its standards than the existence of COA3. LEA3 added that he could not think of any corruption cases that COA3 had generated from citizen complaints.

LEA3 stated that the most pressing change needed for COA3 is that they should require their investigators to have law enforcement experience so that they have insight into law enforcement which civilians do not have. This insight would help them moderate their decisions, and better understand policy and laws of operation. LEA3 said the ludicrousness of sustaining a complaint against an officer for serving a search warrant shows that COA3 needs someone with law enforcement experience. Having law enforcement experience will give perspective on the complaint, the investigation as a whole, and coming to a just resolution in the case. COA3 also needs some kind of standardized criteria for evaluating complaints so that there are not frivolous investigations like not checking a box or making a copy.

LEA3 added that he believed civilian oversight in general is a good thing. I asked LEA3 what he thought was the most pressing change needed for civilian oversight in general and he said prior law enforcement experience for staff members.
LEA3 stated that a lot of people who are community advocates, who think law enforcement needs to be corrected and changed, and that is their focus in life, gravitate towards those kinds of civilian oversight positions because they think they are going to make a difference. LEA3 said he thinks these people do a disservice in one regard because their advocacy undermines the credibility of civilian oversight because they have skewed decisions. If you had people who were reasonable and worked through standardized guidelines regarding the complaint investigation then the credibility of civilian oversight would jump immensely. LEA3 added that politics need to stay out of civilian oversight.

(Police Officer #3, PO3) The following segment is a summary of the interview with a police officer employed by the police department within COA3’s jurisdiction.

PO3 said he was aware of the existence of civilian oversight agencies and the existence of COA3 which oversee his respective police department. PO3 knew of colleagues that have been investigated by COA3. He said that he has defended over one hundred officers over the past fourteen to fifteen years against COA3 as part of the police department’s “defense committee.”

PO3 advised that he was aware of department policies being affected by COA3. He knew that the police department’s juvenile procedure had been affected by COA3 but he was unaware of the specifics. He also said that COA3 had input on the police department’s language barrier policy, but the policy was not changed solely because of COA3’s input.
When I asked PO3 about knowing if any police department policies had been affected by COA3 he made point of stating that the police department had challenged and affected COA3’s policies. He said that the police department in years past had requested the city controller office conduct an external audit on COA3 because of concerns. PO3 stated the audit found COA3 to have severe performance issues. Per PO3, COA3 has sustained less than eight percent of their complaints within the last few years; and more importantly most of the complaints are administrative in nature. PO3 said this shows that his police department is functioning within the policy, procedures, and guidelines set forth by the police department.

PO3 stated that the potential for his police actions to be review and/or scrutinized by COA3 probably affects his decisions while on duty. He said he educates officers that they are under a microscope and a video camera as officers. There is awareness by officers that they need to conform to department policy and procedure so that they are not adversely affected by COA3. PO3 added that by virtue of a ninety-two percent rate of complaints being not sustained, officers are also confident that they are doing the right thing. PO3 said yes, COA3 is in the officers’ thought process, and officers also know their potential for a retaliatory complaint if the officer takes enforcement action a citizen does not like.

PO3 said he would rather have a complaint investigated by COA3 instead of his police department’s internal affair division because COA3 does not have the investigative experience and insight that an officer from internal affairs would. He said
that he thinks COA3 can accept a complaint with relative diligence because that is not too complicated. He said he is not over confident in COA3’s ability to investigate and evaluate. They too often get caught up on either the letter of the law or the spirit of the law. PO3 added that if an officer has done everything correct but forgets to mark a box on a police citation or report they COA3 will sustain a complaint; they do not allow margin for human error. PO3 advised that COA3 has the luxury of not being in an officer’s shoes. It is easy to judge anyone’s actions when you are not in the mix. PO3 said COA3 does not know what it is like to be surrounded by five or six people who are trying to lynch a prisoner from you. They lack training, knowledge, credibility, and experience.

PO3 stated he did not think COA3 has had a detrimental effect on police morale and police operational effectiveness. He said officers refer to COA3 as a necessary evil, and that ninety to ninety-five percent of cops understand the need for COA3. The officers understand that working in a political city it is difficult to get away from civilian oversight.

PO3 said that he did not think COA3 has improved police-community relations. He said that COA3 has had a divisive effect on the relationship. He said the COA3 does not educate the public enough about the police and they do not forward enough cases to mediation where the two parties can sit down and discuss the issue. PO3 said that mediation allows the officer to educate the citizen about the actions they took like the fact that they are bound by law to tow a vehicle or make an arrest in certain
situations. Then the citizens say that although they did not like what the officer did, they now understand why they did it. PO3 said COA3 does not afford the public at large an opportunity to understand why the police do what they do.

PO3 was asked what authority civilian oversight agencies should have. PO3 said they should investigate cases, determine a finding, and present it to the police department. He also added that police officers already have a high amount of accountability. They have a street sergeant, an administrative sergeant, a lieutenant, and a captain that all review the officer’s work. However people want someone outside the police department to provide a check and balance, and that is where COA3 comes in. PO3 said that he is not sure if COA3 has a good idea of what it is to do police work, and he knows they have no idea of what it is like doing police work in this city because they are on the outside looking in.

PO3 said he would prefer mediation over a court trial as a means of complaint settlement. He said mediation is a win-win situation that gives both parties a chance to come together in a civil manner to discuss the case. PO3 said he is a strong proponent of mediation because it gives the officer an opportunity to educate the citizen and the citizen to educate the officer about the public. PO3 said a lot of times an officer has to act on the immediacy of the moment and employ certain tools. Mediation allows the citizen to hear why the officer employed a certain technique for a specific situation. The citizen may not like it but they will have a better understanding after mediation.

PO3 thought that there is a decrease in opposition from police departments in
general towards civilian oversight. He said most agencies understand the need and reasons for civilian oversight and they are not fighting it as much. He added that only a few large agencies still do not have civilian oversight.

If PO3 could change something about COA3, he said he would have them categorize administrative mistakes as such instead of sustained complaints. Mistakes like forgetting to issue a form or check a box would be classified as administrative mistakes.

PO3 was asked if he thought the cost of COA3 was worth its services to the public and he said probably not. PO3 said by virtue of a low sustainment rate, it shows that officers are doing things right. Furthermore, if someone had a complaint over an egregious police action there are tools in place where a complaint can be made at a police station and be investigated by a police department’s internal affairs division.

PO3 said he has had over one hundred complaints filed against him. These complaints vary from profanity to use of force. He said he worked in very busy police districts and had high levels of contact with the public. Of those complaints, which were all investigated by COA3, only three were sustained. PO3 felt that the proper outcome was reached on his complaints, except for one where a complaint was sustained for “hissing” at a COA3 employee who, per PO3, had been treating officers poorly. I asked PO3 how satisfied he was with the complaint process and he said he was fifty percent pleased with the process. I asked PO3 if COA3 allowed him to provide feedback on the complaint process or if they provided him a survey and he said
no. PO3 said, “They don’t give a shit about that. They are not here to make us feel good.”

(Citizen #3, CI3) The following segment is a summary of the interview with a citizen living within COA3’s jurisdiction.

CI3 stated she has never wanted to file a complaint against a police officer. She was not aware of the existence of civilian oversight agencies or the existence of COA3. I asked CI3 if she would rather have an allegation of police misconduct investigated by the police or by a civilian oversight agency and she said the civilian oversight agency. CI3 said that if the police investigated a complaint against an officer there would be some bias. She said there needs to be a neutral entity.

When asked if civilian oversight agency staff can adequately accept complaints, investigate complaints, and/or evaluate police policy and/or actions, CI3 said she was not sure. CI3 said she did not know what kind of resources these agencies had and how many complaints were filed. She added that she hoped they had the necessary resources because she thinks it is an important venture. CI3 said a complainant would be frustrated enough about the complaint, and would be even more frustrated if they had to file the complaint with the police department because they would feel that nothing is going to be done. CI3 added that in order for civilian oversight agencies to adequately function, the police department would have to cooperate with the oversight agency.

CI3 stated she believed civilian oversight agencies had an impact on improving police-community relations because they give the police department more
accountability. This accountability comes by the police department knowing they have another agency watching and protecting citizens.

CI3 was asked what civilian oversight agencies should have the authority to do. She said they should be able to question the involved officers, be fact finding, and then report their findings to a higher authority. CI3 added that the oversight agencies should not obstruct the police department’s actions; they should investigate the facts after police action. CI3 stated she thought oversight agencies should not have the authority to discipline officers; that they should just report the facts to a higher authority, if not, that level of authority will lead to corruption.

CI3 thought that filing a complaint at the police department would be more intimidating than at a civilian oversight agency because it would be filing the complaint at the agency that wronged you. CI3 clarified that less critical issues like a traffic ticket complaint would be less intimidating if filed with the police department, and for severe issues like racial discrimination or a civil rights violations it would be more intimidating.

CI3 stated she did not know if a complaint filed at her respective police department would be investigated fairly. CI3 commented on how she has seen how the police department has been motivated by money with regards to traffic tickets.

CI3 said she did not know if the cost of COA3 is worth its services to the public because she did not know the data. She said that she sees the value in what civilian oversight agencies offer, but she can not determine if they are worth their services until
she has the cost of COA3 and knows what the public need for COA3 is.

CI3 was asked how COA3 could improve in the future and CI3 marketing and staying committed to neutrality. CI3 estimated that five percent of her city’s population knows about COA3 and its services. CI3 said she considers herself well informed on her city’s activities, and she did not know about COA3. CI3 also added that COA3 would need to not be influenced by politics.

Regarding complaint settlement, CI3 said she would prefer mediation over a court trial for most situations. She said mediation would save tax payer money needed for a court trial, but for some situations a complaint would need a court trial and mediation would not be sufficient.

(Civilian Oversight Agency #4, COA4) The following is a summary of the interview with staff of Civilian Oversight Agency #4.

The employee interviewed advised that COA4 is created by a city ordinance and the head of COA4 is appointed by the city manager. It is a political “at-will” appointment who serves at the pleasure of the city manager. COA4 staff consists of one investigator and two administrative specialists who are hired through the civil service system. The head of COA4, along with the investigator and one administrative specialist, are full time employees; the other administrative specialist is currently a part-time position. The administrative specialists compile interview transcripts, prepare hearing packets, send out notices for interviews, maintain case files, maintain COA4’s online database, assist with the annual report, and perform administrative functions like
taking phone calls and making copies. COA4 also periodically uses student interns.

The employee stated that he was unsure of the job requirements for the head of COA4 and the investigator. He did know that the current head of COA4 had a law degree but was not yet admitted to the bar, and the investigator had four years prior civilian investigative experience and seven years experience supervising civilian investigators. The employee also advised that the investigator had a bachelors of science in political science and a master of science in public administration.

The employee stated that COA4 staff is responsible to a commission of nine people who are appointed by the nine city council members. The mayor is part of the city council and the city’s legislative body, while the executive functions are carried out by the city manager. The employee advised that these nine appointed individuals on the commission are political appointments. This commission (who for the purpose of this study is considered included in COA4) participates in the complaint hearings and commission meetings. The chief of police, or their designee, attends the commission meetings where police incidents, policy, and complaints are discussed. The commission will often make sub-committees to look at specific police policies or current issues.

The employee stated he did not know if the ratio of officers to COA4 employees was considered for staffing ratios. He did think that COA4 was appropriately staffed. The employee said that the head of COA4, who serves the nine person commission as a secretary, directs meeting agendas, minutes, and legal issues.
The head of COA4 also deals with the personnel, budget, and administrative duties.

The employee advised that a citizen complainant can file a complaint with COA4 or with the police department’s internal affairs division. If a complaint is filed with COA4, COA4 is required to notify the police department’s internal affairs division of their complaint and subsequent investigation. Internal affairs will then complete a parallel investigation. If a complainant files a complaint with the police department’s internal affairs division then internal affairs is not required to notify COA4 of the complaint.

The employee advised that when a complainant makes a complaint, the COA4 investigator will interview the complainant, involved officers, witnesses, and gather any other information and evidence that would be pertinent to the case. The investigator completes the investigation and collaborates with the head of COA4 to determine if the case will go to a hearing. If the case goes to a hearing, a two to three member “board of inquiry” is created to hear the case. This board of inquiry is selected from the COA4 commissioners by the head of COA4. Not all nine members of the commission will hear the complaint case. The employee advised that it is a requirement of COA4 that the commissioners’ service on board of inquiries be distributed equally and that a record on which commissioners have served on which board of inquires is kept. The employee did advise that political factors and the biases of the commissioners are considered when selecting them for a complaint hearing. The employee said the head of COA4 has discretion on which commissioners serve on the
board of inquiry for a certain case, and that the only requirement is that the commissioners serve equally on board of inquiries. For officer involved shootings, all nine commissioners will sit on the board of inquiry. The employee stated that the commissioners receive a small stipend of $3 per hour which is not to exceed $200 per month. The head of COA4, the investigator, and the administrative specialists are paid city positions.

If the case goes to a hearing, the board of inquiry will decide on the disposition of the case. The case will be assigned either an unfounded, not sustained, exonerated, or sustained disposition and forwarded to the city manager’s and police chief’s offices. The employee stated that the city manager will then determine if discipline will be imposed and if so, the level of discipline imposed. COA4 does not recommend discipline or the amount of discipline. The employee stated that COA4 plays an advisory role. COA4 does not receive any information regarding the case once it is forwarded to the city manager’s office. They are not advised of the discipline imposed.

The employee added that many complainants feel the process is not fair to them, and is slanted towards officers. He said, for example, the complainant comes in for the hearing process and after they testify they are questioned by the officer or the officer’s legal representative. The complainant however does not get an opportunity to question the officer. The complainant only testifies, and is required to leave after they testify. That does not sit well with many complainants. The complainants also do not know the result of the discipline imposed by the city manager’s office on the officer.
They are told of COA4’s findings, but nothing else after that.

The employee advised that the option of mediation is also presented to the complainant when they initially make a complaint. Mediation is outside the formal investigative process. If both the complainant and the involved officer agree to mediation, they both can sit down and come to a mutual understanding on what their issues were. The employee advised that he thinks COA4 pays for the mediators, which are supplied by a private agency, but he was not certain.

The employee was asked what training is given for staff regarding cultural diversity and non-English speaking citizens and he said he did not know. The employee advised that the city gives training for new hires that could address cultural diversity, but he was not certain. The employee stated he did not have prior experience or training in evaluating and investigating police action and/or policy but he did have previous political education and involvement with politics which opened him up to knowledge of laws. He said he had been a community activist in the past and was always debating and reviewing legislation. The employee stated he had not received any police or POST training, but had gone on a ride along when he was hired.

The employee stated COA4’s mission was to provide prompt, fair, and impartial investigation of citizen complaints alleging police officer misconduct; and COA4 is charged with providing a forum for community input in reviewing and evaluating the police department’s policies, practices, and procedures. The employee provided material where COA4’s mission was codified. The employee added that he
observes a need for greater coordination between COA4 staff, the COA4 commission, and the city manager’s office with regards to the purpose of COA4. He advised that the unaligned practical interpretation and application of COA4’s mission has contributed to unnecessary conflict between COA4 and the police department. The employee said that COA4 says its job is to conduct impartial investigations, but that is not always done. The employee was asked if there has been a decline in opposition from the police department towards COA4 and he said there has been strong opposition since he had been employed with COA4. The employee did not know or speculate on whether there has been a decline in the opposition from police departments in general towards civilian oversight.

The employee estimated the budget of COA4 for fiscal year 2010 to be $531,000. He believed COA4’s budget was part of the city manager’s budget, and ultimately part of the city budget. The employee felt that the current budget was sufficient for COA4’s responsibilities, but he added that he was not fully aware of the budget specifics. The employee did not know if cost effectiveness is considered with COA4’s functions.

The employee was asked if he thought civilian oversight staff can adequately accept complaints, investigate complaints, and/or evaluate police policies and/or actions. He said he thinks they can because the police, like anyone else, have rules and procedures to follow. If someone is working in either a department store or as a peace officer, there are certain rules and procedures that have to be followed. Most people
can assess whether those rules and procedures were followed. It is done all the time by lawyers, court, and lay people. The issue is being fair and reasonable, and recognizing the difficulty peace officers have in carrying out their duties, but also not let that be an excuse for not following proper rules and procedures.

The employee stated COA4 is accountable to the city manager’s office, which in turn is accountable to the city council. The employee said COA4 is also accountable to the police and the complainants because COA4 has to make sure their process is fair. The employee stated the public and the police have to trust in COA4; if the trust is not there, it breaks down.

As mentioned, COA4 was created by a city ordinance. The employee was asked how officers cooperate with complaint investigations performed by COA4. The employee advised that he believed the police chief has issued an order for the police department employees to cooperate with COA4. The employee added that the order may ultimately come from the city manager’s office, but he was not sure. The employee said involved officers are primarily interviewed at the COA4 office. The employee said that he tries to take as little as the officers’ time as possible because he knows they have a job to do, and he recognizes the importance of their daily work to keep the city safe. The employee said the COA4 primarily interacts with the police department’s internal affairs division as a point of contact. The interaction is typically by phone or e-mail regarding a request for information like obtaining a police report.

When asked to describe COA4’s level of autonomy from the police department,
the employee said COA4 is completely independent. COA4 does not work for or at the police department, is staffed by civilians, and reports to the city manager’s office. I asked the employee about the political influences COA4 confronts and he said that COA4’s commission is a political body just like city council. The nine commissioners are appointed by the nine city council members. The employee said that COA4 is occasionally impacted by the biases and slants of the commissioners. The employee added he thought COA4 did not get much undue political influence, but he advised that he might not see it at his level.

The employee stated that he did not think COA4 interfered with the authority of police administrators. He said that COA4 is not involved with the day to day affairs of the police department, and the police department still has their internal complaint process. The employee said that outside the officer subject to the complaint, he did not see how COA4 would interfere.

The employee knew and stated COA4’s official definition of a complaint. He said a complaint is a declaration that alleges misconduct by a police department employee while engaged in official duties. The employee advised that complaints could be filed in person at COA4’s office, by mail, and via e-mail. He said that all complaints have to be made on a complaint form which can be accessed online. The complainants are required at some point to come into COA4’s office.

When asked about the process for individuals who are not mentally sane who file complaints, the employee said that COA4 treats every complainant the same, but
COA4 is allowed to close cases if they are believed to be frivolous. The employee said COA4 has to accept all complaints, but not all complaints have to go to a hearing. The employee was not certain if all complaints have to be investigated, and he said that was a topic that was being discussed.

The employee advised that there are two types of complaints. There are the individual complaints filed by citizens and there are policy complaints that a group of fifty or more people can file about a specific police department policy that they want reviewed or revised. The employee also advised that COA4 has an online database where complaints are recorded.

The employee was asked if COA4 has had an impact on improving police-community relations and he said overall he thought so. He said the very existence of COA4 is a needed reminder for people who carry guns that they are accountable to other people, not just their chain of command. COA4 is an intermediary between the community and the police. If COA4 were not here there would be more conflict. By giving people an avenue to make a complaint with an agency other than the police, it allows the public to get their frustrations out. When asked if COA4 practices any police-community measures, the employee said he was not sure. He mentioned that COA4 participated in the “National Night Out” where COA4 attended some neighborhood meetings, but beyond that he could not recall any police-community measures. The employee stated that he was told COA4 performs outreach to community groups, but the employee said that beyond National Night Out there has not
been community outreach that he is aware of.

The employee stated that he did not believe COA4 performed audits. He said the closest COA4 comes to audits is the preparation of their annual report where they analyze their complaints and statistics. The employee said that no one that he is aware of has audited COA4. He added that there is a city auditor’s office, but he did not know if COA4 was on their list of entities to audit. The employee said that he has pushed for COA4 to audit the police department because COA4 receives complaints that the police department internal affairs division was not responsive to the complainant.

The employee was asked what COA4’s major accomplishments were and he said that they recently revised COA4’s regulations to make them clearer, and in some instances fairer. The employee said that COA4 has begun to improve relations with the police officers. He said he is making sure investigations are as fair and transparent as possible. He said the COA4 investigator is not a prosecutor and does not approach investigations as one because the investigator’s job is to be fair and impartial.

When asked if COA4 has made any proactive effort to mitigate officer misconduct, the employee said that the head of COA4 has gone to the police department and explained COA4’s process. He said that is as far as he knows. He added that he has recommended COA4 glean information from the complaints like trends and forward them to the police department. He said he has also recommended that a brochure be made for the public on how to interact with officers, because he has found that situations get escalated because certain members of the public do not know
how to interact with officers. The employee was unsure if his recommendations were implemented.

The employee was asked how COA4 addresses the non-English speaking public. He said that translators were used to assist complainants. He added that COA4 currently has no documents in Spanish and no phone translation services are available. The employee said that COA4 needs reform and is in the process of reforming how they do business.

Per the employee, COA4 does not offer any compensation for restraints on low-income persons filing a complaint. No bus passes are offered to complainants. The employee did advise that is was free to file a complaint. The employee advised that COA4 addresses cultural diversity regarding its functions by treating everyone fairly.

The employee was asked if and how COA4 evaluated its performance and he said he did not believe COA4 did, and referred me to the city manager’s office. The employee was asked how COA4 evaluates its legitimacy and integrity and he said he did not think COA4 did. The employee said there is no feedback mechanism in place for involved parties and that complainant satisfaction was only informally considered in the performance of COA4’s functions.

The employee did not know how COA4 affected police morale and police effectiveness. The employee said that he suspected that COA4 makes the majority of officers strive not to come here.

When asked what the most pressing change needed for COA4 was, the
employee said a philosophical discussion on the aim and goals of COA4 by its major actors, and more direct involvement by the commissioners and the city manager’s office. Regarding civilian oversight in general, the employee said the most pressing change needed was for the process to be fair to both involved parties and for both parties to believe in the process.

The employee was asked about using complaint and/or sustainment rates as a measure of performance and he said they both could be good performance measure tools, but it depends on the jurisdiction. He also said some people argue that if you have a high sustainment rate, you are doing a good job. The employee said he would argue against that, that civilian oversight is not here to get sustained complaints, but to be truly impartial. The employee said he judges success by how fast we get investigations completed, how thorough investigations are, and how fair the process is.

(Law Enforcement Administrator #4, LEA4) The following segment is a summary of the interview with a law enforcement administrator employed by the police department within COA4’s jurisdiction.

LEA4 did not know the specific environmental factors that contributed to the creation of COA4. LEA4 said that a voter approved initiative in the late 1970s created COA4. Per LEA4, COA4 has a head “officer” and investigators who are paid city employees. There is also a nine person commission appointed by the city council. These commissioners are non-paid positions. The COA4 officer supervises the complaint process. When COA4 receives a complaint, either the officer or investigator
will investigate the circumstances. Once the investigation is complete, the commission will hold a board of inquiry hearing. At the hearing the commission will hear testimony from the involved parties and witnesses and then make a determination on whether they feel the allegations are sustained, not sustained, unfounded, or exonerated.

LEA4 continued to say that if a complaint is filed at COA4, COA4 is required to give the police department internal affairs division the complaint and complainant’s information. A concurrent investigation at internal affairs will be conducted. Once the commission makes a determination at the hearing, their recommendations are forwarded to the chief of police and the city manager. COA4 is ultimately responsible to the city manager. LEA4 said the disposition of the internal affairs investigation and COA4’s investigation of the same complaint often differed. LEA4 said that the frequency of this disparity has recently decreased. LEA4 attributed this decrease to won lawsuits filed against COA4 by the police association. These lawsuits provided a means of appeal against COA4 complaint rulings and also upheld that board of inquiry hearings and officers’ personnel files were protected by the Peace Officers Bill of Rights and therefore could not be made public. LEA4 was asked what occurs when COA4 sustains a complaint and the concurrent internal affairs investigation finds the same complaint not-sustained or exonerated and he said COA4 does not have the power to discipline, they only give recommendations, and therefore nothing happens. COA4’s recommendation gets forwarded to the chief of police and that is it. LEA4 said that there has not been one case that he knows of, during the tenure of the last four
police chiefs, where a police chief has ever followed the disciplinary recommendations of a COA4 investigation. LEA4 was asked by what authority officers cooperate with COA4 and he said COA4 does have power of subpoena, but officers are given a directive from the chief to participate in COA4’s investigations.

LEA4 said that an evaluation of their police department’s performance does not include an analysis of COA4’s statistics. LEA4 was asked how he would evaluate COA4’s performance and he said that during his employment with the police department, COA4 has improved on being reasonable, but COA4’s investigators lack experience in investigations. He said that when he sits on board of inquiry hearings as a command officer, he reads COA4’s investigations and sees holes. LEA4 advised that COA4 does not interview key people that are interviewed in the concurrent internal affairs investigations. He said that witnesses who prove an officer’s innocence are not contacted by COA4 investigators, where the same witness will be contacted by internal affairs investigators. LEA4 concluded that he would judge COA4’s performance as lacking experience and not conducting thorough and impartial investigations.

LEA4 was asked if COA4 has had an impact on improving police-community relations and he said he did not think so. He said that the police department has been transparent and has the support of its community, and he does not attribute that to COA4. When asked if COA4 has had a detrimental effect on police morale and/or police operational effectiveness, he said he did not think so. LEA4 said that the police department has always gone about doing our job the best way we can, despite COA4
being out there. He said we do our job and do not let COA4 affect the way we do it. LEA4 also commented on how COA4 has been an impediment on the department deploying tazers and K-9 officers.

LEA4 was asked about the historical conflict between the police department and COA4 and he re-addressed COA4’s investigations and findings. He said that a reasonable person could look at the complaints and the facts, and determine that there was not sufficient evidence to sustain the complaint or that the officer was justified in what they did; however COA4 was sustaining many complaints of this nature. LEA4 also mentioned that COA4 has created conflict over policies. He gave an example where three persons murdered someone in cold blood with assault rifles during the daytime and fled in a car. An officer found the suspect car and there was a pursuit. The suspect’s car ran a stop sign and collided with another vehicle. That second vehicle then struck a pedestrian. The driver of the second vehicle and the pedestrian were both killed from the collision and the suspects of the shooting were taken into custody. One of the COA4 commissioners stated, “These two people died at the hand of the police” because the police officer pursued the suspects in a vehicle pursuit. COA4 was questioning/challenging the police department’s pursuit policy. LEA4 explained the bias of the COA4 commissioner against the police by blaming the police for the death of these people instead of the murderers, who decided to kill someone in cold blood, flee from the police, run the stop sign, and kill innocent bystanders.

LEA4 said that COA4 does participate in policy review of the police
department, but he was uncertain of their level of influence. He said that when a
general order of the police department is being updated it will go to COA4 for
comments. He was unsure of the weight COA4’s comments were given. LEA4 was
asked if he thought COA4 should have input into the police department’s policies and
he said no. He said they are not police professionals and they have shown they do not
understand what we do. They are civilians and they have their own careers. He said we
do not come in as law enforcement officers and tell them how to do their job or change
their policy or procedures.

LEA4 was asked what political influences COA4 confronts and he said they are
accountable to the city council members who appointed them and to their
constituents/citizens. LEA4 said COA4 does not interfere with the authority of police
administrators. To his knowledge, LEA4 said that COA4 does not audit the police
department. LEA4 was asked if COA4 has made any proactive efforts to mitigate
officer misconduct and he said he thinks COA4 has pushed for training in mental
health crisis in the last couple years.

LEA4 was asked how COA4 reduces police corruption and he said he did not
think that it does. He said that in his experience reviewing COA4’s investigative work,
he did not think COA4 could reduce police corruption if it existed. When asked if
COA4 has improved the way in which complaints against police officers are
investigated, LEA4 said he could not say for sure. He said that to some extent COA4
pushes the internal affairs division to be detailed and transparent, in order to show the
truth and prove or disprove the complaint.

LEA4 was asked what the most pressing change needed for COA4 and for civilian oversight in general was. He said that oversight for COA4 was needed, or some sort of tighter auditing of their investigations. When the police department conducts an investigation it is subject to all sorts of review, but yet COA4 conducts investigations which are virtually unchecked by anyone. LEA4 added that he understood this oversight of civilian oversight was not fiscally practical. Regarding civilian oversight in general, LEA4 said it appears COA4 does not hire people who have an investigative background. He said he thinks you could have civilian oversight here or somewhere else that could do a good job if they were a professional organization that hired professionals who had an investigative background.

LEA4 was asked about mediation as a means of complaint settlement and he said COA4 offers mediation if both the officer and complainant agree to it. LEA4 posited that officers in general were supportive of mediation. LEA4 said he thinks mediation is good only because it provides another option.

(Police Officer #4, PO4) The following segment is a summary of the interview with a police officer employed by the police department within COA4’s jurisdiction.

PO4 stated he was aware of the existence of civilian oversight agencies and of COA4. PO4 knew of approximately seven colleagues, including himself, that had been investigated by COA4 as a result of a citizen complaint. PO4 did not know if any of his police department’s policies had been affected by COA4.
PO4 was asked if the potential for his police actions to be reviewed and/or scrutinized by COA4 affected his decisions on duty and he said no. He added that he could see it affecting other officers. He said COA4 makes officers second guess themselves, like in a use of force situation. For example, when an officer uses a baton, the citizen is going to make a complaint and the officer is going to have to explain themselves. PO4 said he can see how officers knowing they are going to have their actions evaluated by COA4 would cause them to be hesitant to use force on the job.

PO4 said he would rather have an allegation of police misconduct investigated by the police department internal affairs division rather than COA4 because the people who work in internal affairs are sworn officers. PO4 said the officers will have a better understanding of what he has to do in his job and the things he goes through in his mindset. PO4 said on the other hand COA4 is completely civilians and he did not know if any of them are trained as investigators. PO4 said he has not seen COA4 staff go on any ride-alongs. PO4 said he does not know if COA4 can necessarily understand how officers handle situations.

PO4 was asked if he thinks COA4 staff can adequately accept complaints, investigate complaints, and/or evaluate police policies and/or actions. He said that some complaints are straight forward like a discourtesy complaint, but others may be more difficult to judge like a use of force complaint. With a complaint about an officer involved shooting there is so much to do with the officer’s mindset, with what the officer sees at that time, and with their training that COA4 staff might not understand.
PO4 added that an example would be when ever you hear of an officer shooting people ask why don’t you shoot them in the arm, but with officer training you know that is not a possibility or a reality. COA4 would not have this understanding. PO4 said that he believed some of the “real serious people” in COA4 are not the right people to be investigating complaints. He did not think they are capable of reviewing and making recommendations for police policies. PO4 said they have never worked the job themselves; it is not the best idea for them to be evaluating and making recommendations on policy.

PO4 was asked if COA4 has had a detrimental effect on police morale and police operational effectiveness and he said he has not noticed any effect. He said people complain about COA4, but he would not say there is a drop in morale. He said no one is too worried about COA4; that COA4 has had no effect on the police department. PO4 said he thinks that no one takes COA4 seriously; every time there is a COA4 investigation there is a parallel internal affairs investigation, and officers are more concerned about the outcome of the internal affairs investigation.

PO4 said COA4 has not improved the police-community relationship and he posited that there is an increase in opposition from the police department towards COA4. PO4 was asked what COA4 should have the authority to do and he said the concept of civilian oversight is good, having outside people review what the police do, but their power should be only to make recommendations. PO4 added that he believed civilian oversight should have the power of subpoena because without it they would be
ignored completely. PO4 said he did not have a problem with civilian oversight; it just needs to be done right. They have to be impartial, try as hard as they can to understand officers’ mindsets and know police policies for sure.

When asked if he would prefer a mediated session between the citizen and him or a court trial as a means of complaint settlement, PO4 said he would prefer mediation because at mediation he could at least explain himself. He said mediation allows face to face time with the person filing the complaint.

When given the option to change whatever he wanted about COA4, PO4 said that when the COA4 commissioners are chosen to sit on the hearing panels, he would want someone from the police department to have a say on which commissioners are chosen for the hearing panels. PO4 said that it is the same reasoning as a jury trial where when selecting a jury both the prosecution and the defense have a say in the jury selection. PO4 said this would make the hearings more impartial. PO4 said that one of the COA commissioners is a known “cop-watch” activist that he has seen in the field on calls for service with a notebook and pencil. PO4 added that cop-watch is not impartial.

PO4 was asked if he believed the cost of COA4 is worth its services to the public and he said no. He said he did not know how much COA4 makes, but it is his understanding that most of COA4’s sustained complaints are eventually overturned. PO4 said that COA4 does not have any standing with the police department; they are not serving a purpose.
PO4 said he has had one complaint filed against him at COA4, which was investigated by COA4. He said it was a procedural complaint regarding a civil matter between two siblings over their late parents’ estate. One party wanted PO4 to arrest the other party for burglary which PO4 did not and he received a complaint.

PO4 said in the end he believed the proper outcome was reached from the complaint. He said the complaint initially proceeded as a COA4 investigation and an internal affairs investigation. PO4 said he was never offered mediation until the very day of the hearing. PO4 said his representative asked why PO4 was never offered mediation and the answer COA4 gave was that it was oversight. PO4 said that basically COA4 forgot to offer me mediation. When mediation was offered both PO4 and the complainant accepted it. PO4 said the mediation worked out; that the involved parties came to an agreement. PO4 said that during the mediation the complainant, the other involved officers, two mediators, and himself were in the room. PO4 said the mediators were employees of a separate agency and the location of the mediation was at a mediation center in the city. PO4 said the mediation was basically a controlled discussion where everyone explained to each other why they did what they did and how they felt. PO4 said this was the best thing that could have happened because a big part of the complaint was that the complainant did not understand why the officers did what they did.

PO4 said he was not satisfied with the complaint process. He said he had to go into COA4’s office for an interview and the interview took about two hours. PO4 said
he was asked a total of ten questions about 30 different ways. He said it got to the point where his representative was just saying “asked and answered” because the COA4 investigator kept repeating the questions to try to get him to answer different ways. PO4 said he had to wait about six months before being called to a hearing when the whole complaint could have been solved immediately if mediation was offered right away like it should have been.

PO4 was asked how satisfied with COA4 he was and he said he is not satisfied with COA4 for the reasons he has stated. PO4 added that COA4 does not seem like the most professional organization, the investigators do not seem like the best trained investigators, and it does not seem like COA4 is the most impartial organization either.

(Citizen #4, CI4) The following segment is a summary of the interview with a citizen living within COA4’s jurisdiction.

CI4 said he has never filed a complaint nor wanted to file a complaint against an officer with the respective police department. CI4 mentioned one time when he thought officers handled a situation poorly, but CI4 said he did not file a complaint because he was not directly involved and he believed the involved parties pursued a complaint.

CI4 was not aware of the existence of civilian oversight agencies or of COA4. CI4 said he did not have any preference on who, either the civilian oversight agency or the police department, investigated a complaint. He said he believed his local police department would be fair with the investigation. CI4 stated that filing a complaint at his
police department would not be more intimidating than one at a civilian oversight agency.

When asked if he thought civilian oversight agency staff can adequately accept complaints, investigate complaints, and/or evaluate police policy and/or actions, CI4 said he liked the idea of an independent agency. He said he did not like the idea of any agency investigating itself. He also added that he did not think the civilian oversight agency would need to be involved for minor complaints.

CI4 said he did not know if COA4 has had an impact on improving police community relations and he did not know how COA4 could improve in the future. CI4 estimated that ten percent of his community knows about COA4. I asked CI4 if he thought the cost of COA4 was worth its services to the public and he said yes if they are only used in exceptional controversial cases. CI4 added that he would not want COA4 used for minor cases because it would be a waste of money.

CI4 was asked what he thought civilian oversight agencies should have authority to do and he said he did not want them to have authority over officers’ careers. CI4 said it seems oversight agencies should make a report with recommendations to a superior “officer.” CI4 said if he were setting up an oversight agency he would have it make recommendations to the chief of police and then it would be the chief’s decision on what happened. CI4 said for even bigger cases the oversight agency would make recommendations to perhaps the mayor. CI4 thought the oversight agency should have subpoena power because they would need to make
people appear before COA4 and provide information to them. CI4 said he was not comfortable with the civilian oversight agency having a lot of power, but they would need to be able to make people appear before them. CI4 stated he was not sure if oversight agencies should have the power to make citizens come and testify. He added that they should be able to make officers testify, but he was uneasy about giving oversight agencies the power to force citizens to testify.

CI4 said he would prefer mediation over a court trial as a means of complaint settlement because mediation was low cost and quick. CI4 added that if it were a big case he would prefer court, and posited that most complaints are small and can be solved with mediation.
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