



Agenda _____ September 19, 2023

BOARD OF SUPERVISORS

ELISA MÁRQUEZ
Supervisor, District 2

September 5, 2023

Honorable Board of Supervisors
County of Alameda
1221 Oak Street, Suite 536
Oakland, California 94612

Dear Board Members:

SUBJECT: Reimagine Adult Justice Initiative, Element #4, *How can the Sheriff's Oversight Body and/or an Office of the Inspector General be designed into the new RAJ model?*

RECOMMENDATIONS:

- A. Adopt the preliminary direction from the July 18, 2023, Board of Supervisors Work Session, as outlined in the attached report entitled "Assembly Bill 1185: County Board of Supervisors; Sheriff's Oversight" and summarized in the table on page 3 of this Board Letter;
- B. Delegate authority to the Office of the County Counsel to draft an ordinance for adoption by the Board of Supervisors, delineating the authority and bylaws of this new oversight structure;
- C. Delegate authority to the Human Resources Department, or designee, to recruit an AB 1185 Project Director to implement the recommendations;
- D. Authorize the County Administrator to establish the Oversight Board and Office of the Inspector General as part of the Fiscal Year 24-25 budget process; and
- E. Authorize the Human Resource Services Department to review and establish the classifications and salary ranges for the positions within this new structure, as outlined in the table on page 4 of this Board Letter.

DISCUSSION/SUMMARY/FINDING:

In December 2020, Supervisor Miley requested a referral item for the Board's Public Protection Committee to consider Assembly Bill 1185 (County Sheriff's Oversight). On March 11, 2021, and on July 8, 2021, the Public Protection Committee (PPC) received presentations from the Office of County Counsel and the County Administrator's Office on AB1185. Later, in July 2021, the late Supervisor Richard Valle, District 2, Alameda County Board of Supervisors, introduced the Reimagine Adult Justice (RAJ) initiative after considering the discussions in PPC concerning Sheriff's Oversight and after receiving requests from the Board of Supervisors that PPC review additional alternatives to incarceration.¹ Supervisor Valle subsequently issued a follow-up memorandum in September 2021, in

¹ Alameda County Board of Supervisor Richard Valle, District 2, memorandum dated July 14, 2021, *Reimagine Adult Justice*

which he clarified this initiative and his expectations surrounding the 12 elements associated with this 18-to-24-month initiative.²

At a macro level, the 12 elements of RAJ were intended to explore short and long-term strategies to address inequities and ineffective practices associated with the justice system. At a more granular level, this initiative involved:

- the application of a close lens to the processes, data, and information associated with each element function,
- their relationship to each other,
- where they intercept in the criminal justice system, and
- how they can be modified to effectuate substantive public safety change by affecting positive behavioral change and minimizing the risk of reoffending.

A component of the 12 elements entailed the exploration of whether a Sheriff's Oversight Body and/or OIG should be established within Alameda County pursuant to Assembly Bill 1185 (AB 1185).³ The attached report outlines the process that was undertaken, since 2021, to facilitate an informed response to the PPC and the Board of Supervisors (BOS) on whether Alameda County should establish oversight. It explores the evolution and history of civilian oversight in this country, the advantages and disadvantages of different types of oversight models and systems, financial considerations, and the features, authority, and structure that should be taken into consideration in the development of an oversight system tailored to the needs of the community.

Between October 2021 and December 2022, the RAJ Project Manager made a number of presentations to the PPC and the BOS related to the potential establishment of a Sheriff's oversight structure within Alameda County.

The purpose of these presentations was to:

- Obtain guidance on specific elements related to the creation of a potential oversight structure customized to the needs of Alameda County; and to
- Provide the community opportunities to provide feedback to the PPC and/or the BOS on whether oversight should be established within Alameda County.

Thereafter, ***on May 23, 2023***, the BOS held a special meeting to consider more detailed and specific options related to oversight type, structure, authority, staffing, costs, legal representation, etc. Supervisors provided preliminary direction related to oversight during this meeting, including the overarching decision that oversight should be established within Alameda County in the form of an OIG, with the caveat that after 12 months, the BOS would conduct a reassessment to determine if oversight should be expanded to include an Oversight Board and an Executive Director.

² Alameda County Board of Supervisor Richard Valle, District 2, memorandum dated September 27, 2021, *Reimagine Adult Justice*

³ Assembly Bill 1185 authorizes a county to establish a sheriff Oversight Board, either by action of the BOS or through a vote of county residents. It authorizes a sheriff Oversight Board to issue a subpoena when deemed necessary to investigate a matter within the jurisdiction of the board. It also authorizes a county to establish an office of the inspector general to assist the board with its supervisory duties.

However, prior to the item coming to a Regular Board of Supervisors meeting, the BOS directed that this item return to the PPC in a public forum for two purposes:

- To give the members of the public an additional opportunity to provide feedback and recommendations; and
- To give the PPC the opportunity to consider the preliminary direction from individual Supervisors.

In response, the PPC held a public meeting on *June 22, 2023*, in which they considered the preliminary direction from Supervisors and feedback from the community. At the conclusion of this meeting and after extensive discussion, the PPC supported the preliminary direction from the BOS, with the exception of structure. The PPC opined that given the historical issues at the Santa Rita Jail and after listening to extensive feedback from the community, the more appropriate option should be the establishment of an OIG, Oversight Board, and Executive Director in year 1. The PPC directed that this modification be returned to the full Board for a final decision.

In response, on *July 18, 2023*, a follow-up presentation was made to the BOS in which they agreed that the PPC's modification would be placed on the September 19 Regular Board meeting agenda for a final decision. A recap of these modifications is outlined below.

REQUEST ADOPTION OF THE FOLLOWING ITEMS

Adopt option 2, which includes the establishment of an Office of the Inspector General, Ombudsman, Oversight Board and Executive Officer in year 1.

Establish a hybrid oversight system to allow Alameda County to build a system that is tailored to the needs of Alameda County. The system shall, minimally, be authorized to conduct independent oversight and monitoring; issue subpoenas; audit, investigate, and inspect operations; review policies, procedures, and trends; and; prevent civil rights violations and litigation by proactively identifying patterns and practices.

Create and hire an IG classification to lead the OIG.

Create an Oversight Board consisting of seven volunteers from the community. Prior or retired law enforcement personnel would not be prohibited from being considered for membership. Additional discussion will occur at a future BOS meeting regarding the number of Oversight Board members and the composition.

The initial budgetary allocation and future technical adjustments shall be made in collaboration with the County Administrator and Auditor-Controller through the normal budgetary process and shall include the staffing levels outlined in option 2.

A ½ time Senior County Counsel shall be identified and/or established to support the hybrid oversight system and to provide the OIG and the BOS with dedicated legal counsel. This position will report to the Office of the County Counsel.

Establish the oversight system through the enactment of a county ordinance and in collaboration with the Office of the County Counsel.

FINANCING:

Appropriations for the establishment of the Sheriff’s oversight system shall be included in the Fiscal Year 2024-25 budget, to include annual adjustments thereafter. The following table reflects the appropriate annual cost of this body.

Position Title	Total Positions	Low Range Annual Salary + Benefits	High Range Annual Salary + Benefits
Oversight Board Members (Volunteers - Stipend Only)	7	N/A	N/A
SUBTOTALS:	7	N/A	N/A
* Executive Director (0256)	1	\$183,106	\$279,152
* Senior Management Analyst (0207)	1	\$142,538	\$191,027
* Secretary I (1215)	1	\$86,766	\$103,272
INDIRECT COSTS:		\$103,102	\$143,363
SUBTOTALS:	3	\$515,512	\$716,814
** Inspector General	1	\$289,830	\$424,474
** Assistant Inspector General	1	\$230,976	\$346,963
** Community & Public Relations Officer	1	\$147,034	\$171,405
*** Ombudsman	1	\$142,886	\$205,363
* Senior Management Analyst (0207)	2	\$285,075	\$382,054
* Senior Investigator II (8581)	1	\$255,656	\$310,170
* Management Analyst (0206)	2	\$271,622	\$363,814
* Investigator II (8577)	1	\$166,931	\$205,437
* Secretary II (1220)	1	\$116,813	\$138,477
* Administrative Secretary II (1227)	1	\$128,128	\$152,555
* Senior Deputy County Counsel	0.5	\$131,466	\$175,289
INDIRECT COSTS:		\$541,605	\$719,000
SUBTOTAL:	12.5	\$2,708,023	\$3,595,002
CUMULATIVE SUBTOTALS		\$3,223,535	\$4,311,816
OVERSIGHT BOARD ANNUAL STIPEND:		\$8,400	\$8,400
TOTALS:	22.5	\$3,231,935	\$4,320,216

VISION 2026 GOAL:

The establishment of a County Board of Supervisors Sheriff's Oversight Board and Office of Inspector General meets the 10x goal of **Crime Free County** in support of our shared vision of a **Thriving and Resilient Population**.

Respectfully submitted,



Elisa Marquez

Supervisor, District 2

Alameda County Board of Supervisors



Assembly Bill 1185:

County Board of Supervisors;
Sheriff's Oversight



Wendy Still
Reimagine Adult Justice
Project Manager

August 2023

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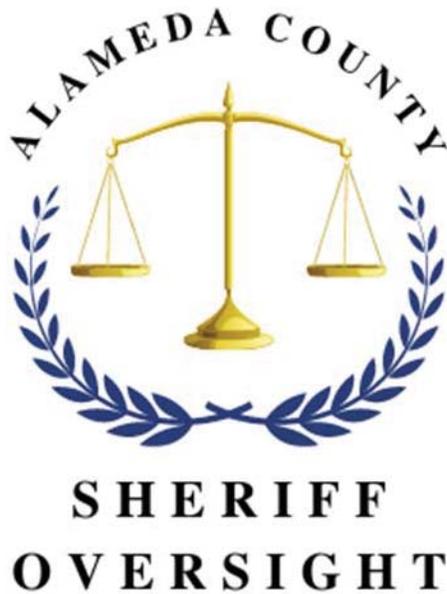
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MESSAGE FROM THE REIMAGINE ADULT JUSTICE PROJECT MANAGER

In recent years, particularly, in 2020, high-profile incidents between law enforcement and the community have prompted the public to demand greater oversight and accountability of law enforcement. In response, Governor Gavin Newsom signed into law Assembly Bill 1185 in order to provide counties with the authority to create an official civilian oversight system over their county sheriff. With this end in mind and in preparing this report, the principle that I maintained at the forefront was the significance of proposing a system that is not only tailored to the needs of Alameda County, but one that encourages a respectful, professional, and productive working relationship between the Alameda County Sheriff's Office (ACSO), the community and whatever oversight system the Board of Supervisors (BOS) chooses to establish.

While there is a clear recognition of the need to ensure a cooperative relationship ensues, it is also important to facilitate a system that the ACSO can appreciate as one that is fair and objective in evaluating the operations of the Sheriff and not one intended to stifle an already complex and demanding job that is constantly under the spotlight.

Additionally, if an Oversight Board is created, the members of this body must also be cognizant of the need to approach their duties in the same manner as they would want the Sheriff and their staff to approach theirs -- with impartiality and balance, and with a strong commitment to enhancing local accountability and trust, by working collaboratively to build a system of accountability and fairness.

In closing, it is my hope that whatever final decision is made by the BOS will result in greater transparency, accountability, and an improvement in the relationship between the community and the ACSO. Furthermore, that it will result in an improvement in the provision of quality services and programs for justice-involved individuals and practices that are further aligned and in compliance with the law.



WENDY STILL, MAS

Reimagine Adult Justice Project Manager

Alameda County Board of Supervisors, District 2

EXECUTIVE SUMMARY

BACKGROUND: Alameda County is at the forefront of implementing progressive criminal justice reforms that reduce crime and victimization, which rely less on incarceration and more on diversion, re-entry, and effective preventive services. In recognition of this fact, the Alameda County BOS approved the Reimagine Adult Justice (RAJ) initiative consisting of 12 complementary elements intended to facilitate criminal justice reform and the improved provision of services to the justice-involved population.

A component of the 12 elements entailed exploring whether a Sheriff's Oversight Body and/or OIG should be established within Alameda County pursuant to Assembly Bill 1185 (AB 1185).¹ This report outlines the process that was undertaken, since 2021, to facilitate an informed response, to the Public Protection Committee (PPC) and the BOS, on whether Alameda County should establish oversight. It explores the evolution and history of civilian oversight in this country, the advantages and disadvantages of different types of oversight models and systems, financial considerations, and the features, authority, and structure that should be taken into consideration in the development of an oversight system tailored to the needs of the community. This document was further guided by Alameda County's strategic direction as outlined in Vision 2026, and more specifically, *Thriving & Resilient Population – "Individuals and communities are empowered to overcome adversities and supported so they can grow, flourish, and be self-sufficient."*

Equally important, to gauge the public's sentiment on this topic, community engagement forums were held with the general public, with more focused meetings held with local government stakeholders and leaders, and focus groups encompassing businesses, justice-involved individuals, advocates, and union representatives. This report was further informed by a review of the research, literature, periodicals, and articles on the topic of oversight, as well as through what we learned in response to our collaboration with academic and national experts and jurisdictions throughout the country with active oversight bodies. In the ensuing sections, we expand upon these areas.

CIVILIAN OVERSIGHT OF LAW ENFORCEMENT: Civilian oversight of law enforcement agencies is nothing new. Although not generally acknowledged by the public, law enforcement has always had civilian oversight through elected mayors, city councils, prosecutors' offices, court decisions, and state and federal legislation. Albeit many would opine that it was mostly ineffective and failed to root out excessive use of force and discriminatory civil rights violation.

Since the early 1960s, other forms of oversight have been developed in the hope of ensuring

¹ Assembly Bill 1185 authorizes a county to establish a sheriff Oversight Board, either by action of the BOS or through a vote of county residents. It authorizes a sheriff Oversight Board to issue a subpoena when deemed necessary to investigate a matter within the jurisdiction of the board. It also authorizes a county to establish an office of the inspector general to assist the board with its supervisory duties.

greater law enforcement accountability and community trust. In the earliest cases, a number of cities established civilian law enforcement commissions or boards (e.g., Los Angeles, Chicago, Kansas City, Detroit) that played a role in the selection of the chief, policy development, and discipline.

Since the late 1960s, other forms of civilian oversight have emerged.² While not present everywhere, according to Director Cameron McElhiney, Education and Training, National Association for Civilian Oversight of Law Enforcement (NACOLE) and as of early 2022, there are now more than 220 oversight entities across the nation established in response to state legislation. There are many more that have been established in response to local ordinances or city charters. However, like any local law enforcement initiative, civilian oversight takes different forms in different jurisdictions.

In California, there are at least 25 cities or counties with some form of law enforcement oversight, either in the form of an auditor, Inspector General (IG), independent review office, or some similar type of agency.³ This does not include loosely based oversight agencies created in response to a need identified within their communities rather than enabling state authority.

TYPES OF OVERSIGHT MODELS: It is significant to note that according to NACOLE and many of the experts and practitioners that were interviewed in the development of this report, “**there are no two jurisdictions that are alike.**” There is no one-size-fits-all approach that makes one form of civilian oversight better than another.⁴ In general, effective oversight systems should reflect the needs of their community and incorporate feedback from the community, law enforcement, and their unions, and government stakeholders in order to achieve the most sustainable and appropriate structure.

Throughout this country, there are three common configurations encompassing Oversight Boards, commissions, agencies, or systems, with the fourth model becoming more and more prevalent as jurisdictions tailor their oversight models to their particular needs.

- **Investigation-focused Model:** May consist of professional civilian investigators who are responsible for conducting independent investigation of complaints against law enforcement officers. Investigation reports may be reviewed by a separate civilian Oversight Board or commission.
- **Review-focused Model:** Typically consists of a civilian Oversight Board or commission comprised of community volunteers who review the results of internal affairs investigations and/or the law enforcement agencies' compliance with their own policies, procedures, and practices.

² *Civilian Oversight of the Police in Major Cities*, Stephens, Darrel W., Ellen Scrivner and Josie F. Cambareri, Washington, DC: Office of Community Oriented Policing Services, 2018

³ NACOLE, *Police Oversight by Jurisdiction*, https://www.nacole.org/police_oversight_by_jurisdiction_usa

⁴ De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement: Assessing the Evidence*

- **Auditor/monitor Model:** Focuses on data, trends, and patterns, rather than individual complaints, as a means by which to identify needed systemic changes to departmental policies, procedures, and training.
- **Hybrid Model:** Encompasses elements of each of the three more common models.

The fact that no two oversight jurisdictions are identical explains (to some extent) the reason why jurisdictions are opting to, with more regularity, adopt a hybrid model. This emerging hybrid trend encompasses newer civilian oversight agencies that perform functions or are organized in ways that go beyond the traditional definitions of the review-focused, investigation-focused, or auditor/monitor-focused models, combining several oversight functions in an effort to create an oversight system that is both proactive and reactive.⁵

All of these models are explored in more detail in the body of this report, along with relevant factors that should be considered in determining the best model for Alameda County.

LITERATURE REVIEW: In exploring oversight options for Alameda County, a comprehensive review of research and literature was also conducted, along with data and reports from national academic experts and jurisdictions with active oversight bodies from throughout the country.

It is significant to note that one of the primary sources that was utilized was the NACOLE and the United States Department of Justice (DOJ), Community Oriented Policing Services (COPS). Many of the reports that were reviewed, in the development of this report, were produced by NACOLE and COPS in response to DOJ grants and funding opportunities in which both entities collaborated closely with local jurisdictions in this country and Canada. Both entities continue to work together with local, state, and national government, and practitioners and academic experts in the development of studies, research reports, and literature intended to inform the topic of oversight.

- **National Association for Civilian Oversight of Law Enforcement:** NACOLE is a non-profit organization that assists individuals and agencies, within the United States, to establish or improve oversight practices within their jurisdiction.⁶ They help jurisdictions develop, strengthen and expand oversight by providing the technical guidance and assistance needed to build a strong and effective system. Their top three priorities are:
 - ◆ advocating for oversight,
 - ◆ providing training to oversight professionals, and
 - ◆ defining and defending oversight with state-of-the-field research and data. NACOLE offers a plethora of research, resources, and literature that expands beyond reports

⁵ Harris, "Holding Police Accountability Theory to Account."

⁶ National Association for Civilian Oversight of Law Enforcement, <https://www.nacole.org/>

produced by this organization, and which were used to help inform and establish the foundation and knowledge base from which this report was written.

- **Community Oriented Policing Services:** As a component of the DOJ, COPS was created in 1994 to advance community policing in jurisdictions of all sizes across the country. COPS provides grants to tribal, state, and local law enforcement agencies to hire and train law enforcement professionals, acquire and deploy cutting-edge crime-fighting technologies, and develop and test innovative law enforcement strategies. This includes strategic problem-solving approaches based on collaboration. COPS also provides training and technical assistance to community members and local government leaders, as well as all levels of law enforcement.⁷ Many reports on the topic of law enforcement oversight are produced by different jurisdictions and entities throughout the nation through funding made possible through COPS.

A more expansive list of reference materials that were reviewed to inform this report can be found on page 58.

COMMUNITY ENGAGEMENT, RESOURCES & EDUCATION: As a component of our efforts:

- community engagement meetings were held for all five supervisorial districts,
- live “on the spot” community and online surveys were administered, and
- an educational seminar on the basics of oversight was hosted specifically for the community in collaboration with NACOLE.

To ensure the community had access to all of the resources and information related to Alameda County's AB 1185 efforts, a dedicated website was created, which houses an assortment of material related to this topic, including:

- relevant BOS documents and notices, including public meeting dates,
- video recordings of prior community engagement meetings,
- community engagement meeting PowerPoints, related documents, and public comments,
- community survey results (“on-the-spot” and online),
- NACOLE's educational seminar, recording and materials, and
- Text of AB 1185 enabling legislation, to include related penal codes, government codes, etc.

A dedicated email was also established to give the community the opportunity to direct their comments and questions on this topic, to the BOS.

⁷ Community Oriented Policing Services, <https://cops.usdoj.gov/>

RECOMMENDATIONS: *Between October 2021 and December 2022*, the RAJ Project Manager made a number of presentations to the PPC and the BOS related to the potential establishment of a Sheriff's oversight structure within Alameda County. This occurred after months of research and review of related literature, reports, and an array of other written sources, information gathered during community engagement and focus group meetings and surveys, and discussions with academic experts and jurisdictions with active oversight bodies.

The purpose of these presentations was to:

- Obtain guidance on specific elements related to the creation of a potential oversight structure customized to the needs of Alameda County; and to
- Provide the community opportunities to provide feedback to the PPC and/or the BOS on whether oversight should be established within Alameda County.

Thereafter, *on May 23, 2023*, the BOS held a work session to consider more detailed and specific options related to oversight type, structure, authority, staffing, costs, legal representation, etc. BOS members provided preliminary gave direction on a number of issues related to oversight during this meeting, including the overarching direction that oversight should be established within Alameda County in the form of an OIG, with the caveat that after 12 months, the BOS would conduct a reassessment to determine if oversight should be expanded to include an Oversight Board and an Executive Director.

However, prior to providing direction, the BOS requested that their direction be presented to the PPC in a public forum for two purposes:

- To give the PPC the opportunity to consider the preliminary direction from the BOS members, and
- To give the community another opportunity to provide feedback and recommendations.

In response, the PPC held a public meeting on *June 22, 2023*, in which they considered the preliminary direction from the BOS members and feedback from the community. At the conclusion of this meeting and after extensive discussion, the PPC supported the preliminary direction from the BOS, with the exception of structure. The PPC opined that given the historical issues at the Santa Rita Jail and after listening to extensive feedback from the community, the more appropriate option would be the establishment of an OIG, Oversight Board and Executive Director in year 1, noting that a 12-month start-up was ambitious.

The PPC directed that this proposed modification be returned to the full Board for a preliminary decision. On July 18, 2023, the BOS held a public meeting in which they agreed with the modified direction of the PPC. They directed that a follow up BOS meeting would be held in the near future for a final decision.

INTRODUCTION

Alameda County is at the forefront of implementing progressive criminal justice reforms to reduce crime and victimization through policies and practices that rely less on incarceration and more on diversion, and a re-entry and continuum of care model focused on services proven to reduce recidivism. In recognition of this fact, in July 2021, then Supervisor Richard Valle, District 2, Alameda County BOS, introduced the Reimagining Adult Justice (RAJ) initiative after receiving input from the PPC on alternatives to incarceration.⁸ Supervisor Valle subsequently issued a follow-up memorandum in September 2021, in which he clarified this project and expectations surrounding the 12 elements associated with this 18 to-24-month initiative.⁹

The intent of the 12 elements is to address:

- the operation, impact and cost of jail operations and inmate programs,
- diversion and investments in preventative services,
- funding opportunities to enhance physical and mental health services in Alameda County
- achieving reductions in racial disparities, and
- ***whether a Sheriff's Oversight Body and/or OIG should be established within Alameda County.***

This report specifically focuses on the last item with respect to whether an Oversight Body and/or OIG should be incorporated into the overarching RAJ strategy. In responding to this question, my team and I engaged in an intensive eight-month research, educational and community engagement process in order to facilitate an informed response to the PPC and the BOS.

BACKGROUND

ASSEMBLY BILL 1185: In February 2019, Assemblymember Kevin McCarthy introduced AB 1185 to enhance the oversight of Sheriff Departments within California. The bill was subsequently signed into law on September 30, 2020, by Governor Gavin Newsom and became effective January 1, 2021.¹⁰ AB 1185 authorizes a county to establish a sheriff's oversight body, either by action of the BOS or through a vote of county residents. If established, the legislation authorizes the oversight body to issue a subpoena when deemed necessary to investigate matters within their jurisdiction. It also authorizes a county to establish an IG to assist the oversight body to accomplish its oversight functions. The premise of this bill stemmed from the

⁸ Alameda County Board of Supervisor Richard Valle, District 2, memorandum dated July 14, 2021, *Reimagining Adult Justice*

⁹ Alameda County Board of Supervisor Richard Valle, District 2, memorandum dated September 27, 2021, *Reimagining Adult Justice*

¹⁰ Assembly Bill 1185, https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB1185

general belief that a lack of oversight gives rise to civil rights violations that result in costly litigation and settlements in response to allegations of misconduct against deputies and Sheriff Department employees.

THE EVOLUTION OF CIVILIAN OVERSIGHT: Civilian oversight of law enforcement has been a topic of discussion and debate for many years in this country. Although not generally acknowledged by the public, law enforcement agencies have always had civilian oversight through elected mayors, city councils, prosecutors' offices, court decisions, and state and federal legislation.¹¹ However, the questionable effectiveness of these systems has been one of many interrelated and complex social factors which have given rise to civilian oversight, to include the public's mistrust of law enforcement and government in general. Developments in oversight have oftentimes been precipitated by historical misconduct resulting from allegations of racial discrimination, police brutality, civil rights violations, etc. Historically, most often, racial or ethnic allegations of discrimination have been at the center of efforts to introduce citizen oversight, to include high-profile incidents in which a member of the community has been injured or killed during an encounter with law enforcement.

In general, the notion that the community should have some level of involvement and input into the process through which complaints of law enforcement misconduct are received, handled, investigated and disposed of first emerged, in a more formal fashion, in the late 1920s.¹² A more formalized concept of civilian oversight emerged amid tensions between law enforcement and minority communities in the late 1920s. From the 1930s to 1950s, riots over race relations and police violence in urban areas gave way to strengthened movements for law enforcement accountability and improved civilian complaint processes. In 1948, a breakthrough came about in Washington, D.C., when the nation's first civilian review board was established in response to community concerns over law enforcement using excessive force against African Americans.

Twenty-five years later, in 1973, a group of community organizations in Berkeley, California, mounted a successful campaign prompting the city council to pass an ordinance establishing the Police Review Commission; the first civilian oversight agency specifically authorized to independently investigate police complaints.¹³ As of July 1, 2021, and in response to a November 2019 ballot measure, the Police Review Commission has been replaced by the Police Accountability Board and the Office of the Director of Police Accountability, with expanded authority and jurisdiction.¹⁴

The shooting death of Michael Brown in Ferguson, Missouri, in August 2014 followed by the most recent case of George Floyd on May 25, 2020, in Minneapolis, Minnesota, pushed civilian

¹¹ *Civilian Oversight of the Police in Major Cities*, Darrel W. Stephens, Ellen Scrivner, and Josie F. Cambareri, 2018

¹² *Police Accountability: The Role of Citizen Oversight*, Samuel Walker, 2001

¹³ *Civilian Oversight of Law Enforcement, A Review of Strengths & Weaknesses of Various Models*, Joseph De Angeles, Richard Rosenthal, Brian Buchner, OJP Diagnostic Center, September 2016

¹⁴ Office of the Director of Police Accountability, <https://www.cityofberkeley.info/dpa/>

oversight and law enforcement accountability into the national spotlight. By the beginning of 2022, citizen review, through oversight bodies, has become more widespread than ever, with over 220 in the United States as of today – as a result of state legislation. Other forms of oversight also exist, mostly enacted by local jurisdictions and oftentimes, as a result of pressure from the public in response to high-profile case(s) of alleged misconduct and/or the recognition of local governments that oversight could be of benefit to their communities. According to NACOLE Director Cameron McElhiney, the demand for training, consultation services and technical assistance has skyrocketed in the last couple of years in response to the case of George Floyd.

The following page contains a graphical depiction of early efforts to establish civilian oversight, to include the emergence of investigative models of civilian oversight and finally, the emergence of auditor, monitor, and hybrid models, which will be explored further in this report. While the first wave of oversight entities were marked by review boards (1920s – 1960s) and the second wave (1970s to 1980s) by the development of fully independent investigative oversight entities, the third wave (1990s to present) saw the emergence of the auditor/monitor model (Bobb 2003; Walker 2006).

Within this graphical depiction, three reports are also cited which, combined, present a historical perspective of the interrelated complexities that have influenced the advent of civilian oversight beyond simply law enforcement practices.

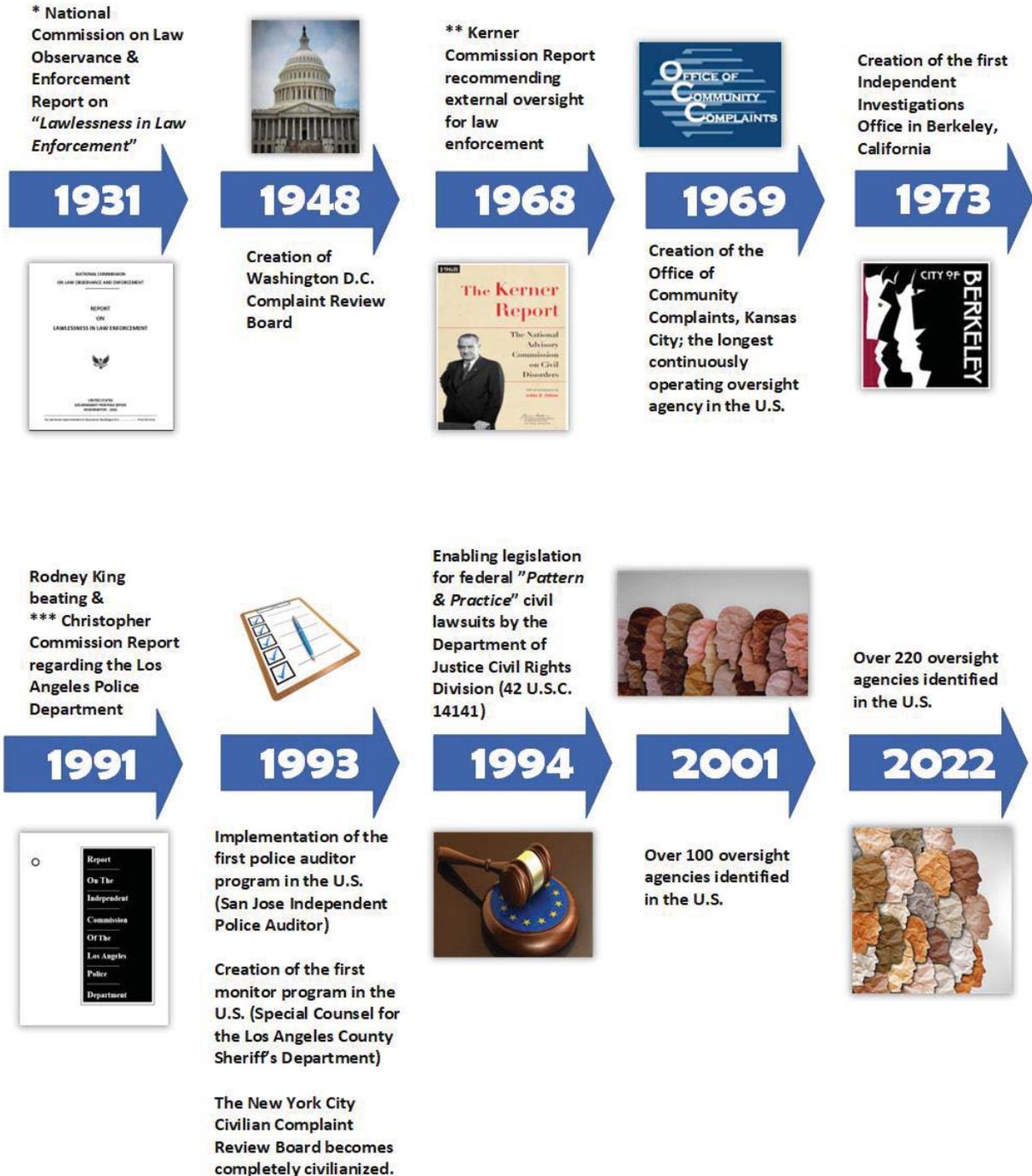
- **1931:** U.S. National Commission on Law Observance & Enforcement Report No: 11, Report on Lawlessness in Law Enforcement¹⁵
- **1968:** The Kerner Report: The National Advisory Commission on Civil Disorders¹⁶
- **1991:** Report on the Independent Commission of the Los Angeles Police Department¹⁷

¹⁵ U.S. National Commission on Law Observance & Enforcement Report No: 11, Report on Lawlessness in Law Enforcement, <https://www.ojp.gov/ncjrs/virtual-library/abstracts/us-national-commission-law-observance-and-enforcement-report-no-11>; <https://www.ojp.gov/pdffiles1/Digitization/44549NCJRS.pdf>

¹⁶ The Kerner Report: The National Advisory Commission on Civil Disorders, https://belonging.berkeley.edu/sites/default/files/kerner_commission_full_report.pdf?file=1&force=1

¹⁷ Report on the Independent Commission of the Los Angeles Police Department, <https://www.hrw.org/legacy/reports98/police/uspo73.htm>; http://michellawyers.com/wp-content/uploads/2010/06/Report-of-the-Independent-Commission-on-the-LAPD-re-Rodney-King_Reduced.pdf

EVOLUTION OF CIVILIAN OVERSIGHT ¹⁸



¹⁸ Civilian Oversight of Law Enforcement, *A Review of Strengths & Weaknesses of Various Models*, Joseph De Angeles, Richard Rosenthal, Brian Buchner, OJP Diagnostic Center, September 2016 (with slight modifications)

WHAT IS CIVILIAN OVERSIGHT AND WHAT ARE ITS COMMON GOALS? Oftentimes referred to as *citizen oversight*, *civilian review*, *external review* and *citizen review boards* (Alpert et al. 2016), this form of law enforcement accountability is frequently focused on allowing non-sworn residents to provide input into the operations of law enforcement, often with a focus on the citizen complaint process. In some jurisdictions, this is sometimes accomplished by allowing oversight practitioners (both paid and volunteer) to review, audit or monitor complaint investigations conducted by internal affairs investigators for the law enforcement agency. In other jurisdictions, it is accomplished by allowing civilians to conduct independent investigations of allegations of misconduct lodged against sworn law enforcement officers. Oversight can also be accomplished through the creation of mechanisms that are authorized to review and comment on law enforcement policies, practices, training, and systemic conduct. Some oversight mechanisms involve a combination of systemic analysis and complaint handling or review.

The common goals of oversight have evolved throughout the years, but in general they include:

- improving public trust
- ensuring an accessible complaint process
- promoting thorough, fair investigations
- increasing transparency
- deterring law enforcement misconduct¹⁹

DOES OVERSIGHT REDUCE CRIME? Although the intent of oversight is to ensure that law enforcement operates within the confines of state law and the United States Constitution, sometimes the question is asked, "*Does oversight reduce crime?*" Although the purpose of oversight is not to reduce crime, it is nonetheless an important question, particularly in light of the overarching role of law enforcement within the public safety realm.

Many factors impact the crime rate within a community. They include, but are not limited to:

- ***poverty*** which can impact an individual's perception of risk associated with what they have (or not) to lose if they are caught
- ***degrees of morality*** within the home or community with respect to right and wrong and that which is tolerated or encouraged
- ***upbringing and social environment*** which can shape an individual's view of the world and directly affect future decisions
- ***law enforcement policies, practices and resources*** within a community

¹⁹ Civilian Oversight of Law Enforcement, *Assessing the Evidence*, Joseph De Angelis, Richard Rosenthal, Brian Buchner, September 2016

- **sentencing laws and prosecution rates** within a community
- **unemployment rates** and the opportunity to take advantage of employment opportunities that allow individuals to make a living wage
- **age of the population** in that most crime is committed by males and individuals in their teens, 20s, and 30s

To that end, although oversight **may** impact crime, it is difficult to definitively measure the many intangible factors that collectively exist and the degree to which they impact crime. Nevertheless, logically it is reasonable to assume the answer to whether oversight impacts crime relies heavily on the effectiveness of the oversight body or system in place, and its ability to bring about needed change in response to many static and dynamic factors. Those factors include such things as:

- the quality, diversity, knowledge base and training of Oversight Board members,
- the operational structure, functional authority and features, political support, and resources at the disposal of the Oversight Board,
- its rapport, support, and the quality of collaboration with the community, ACSO, BOS, the OIG (or other investigative agency created to support the Oversight Board), and the
- extent to which decisions are based on objective factors and general fairness, rather than political agendas or personal biases.

As previously indicated, although the predominant intent of oversight is to ensure law enforcement operates within the confines of the law, it can impact crime through a variety of interrelated dynamic factors that can, collectively, have a corresponding impact. For example, oversight can indirectly reduce crime through the cooperation that ensues when law enforcement and the community work together. In other words, when the community has faith that law enforcement is fair, balanced and responsive to the needs of the community, it strengthens trust. This factor alone **can** result in improved cooperation in that the public is more likely to assist law enforcement to more accurately assess areas of concern requiring more focus, and therefore, allow law enforcement to make better use of their limited resources. This can include the public's help in solving crime, as well as the identification of more relevant options to improve policing and services tailored to that particular community, i.e., the identification of "hot spots" and/or areas requiring more preventative services for its residents.

Furthermore, oversight can put into perspective the parameters under which law enforcement operates by facilitating the public's understanding of their policies and procedures. A lack of knowledge by the public in these areas can contribute to miscommunication, misunderstandings and an overall suspicion of law enforcement. This alone can further contribute to a general lack of cooperation and mistrust. Ultimately, ensuring the public is informed on law enforcement practices can help build bridges and ideally, contribute to a reduction in crime.

STRATEGIC ROADMAP TO DETERMINING WHETHER OVERSIGHT IS NECESSARY IN ALAMEDA COUNTY

In response to the question of whether oversight should be implemented within this county, a two-step approach was undertaken. It included:

- eliciting feedback from the community, local leaders, stakeholders, county officials, practitioners, and academic experts, and
- exploring the best possible model of oversight for Alameda County.

The accomplishment of these objectives was achieved through a combination of interrelated strategies that were conducted simultaneously. They include:

- Community Outreach & Engagement
- Community Surveys & Public Comments
- External Stakeholder & Focus Group Meetings
- Use of Technology to Enhance Communication & Outreach
- Educational Seminar & Resources
- Literature Review

COMMUNITY OUTREACH & ENGAGEMENT

To ensure the community was given the opportunity to convey their thoughts on whether the BOS should establish a Sheriff's Oversight Board and/or OIG, a variety of avenues were used to communicate and elicit feedback from Alameda County residents. The objectives of this strategy were to:

- facilitate, engage, solicit, and promote extensive public involvement in the discussion,
- increase public awareness and knowledge of the topic of oversight through educational opportunities and resources, and
- help build a feeling of community, with shared interests, among the participants.

COMMUNITY ENGAGEMENT MEETINGS: The BOS' email distribution list, with hundreds of email addresses, was used to notify the public of its intent to solicit feedback on this topic through live interactive virtual community engagement meetings. Through a series of Eventbrite postings, electronic "Save the Date" reminders, and in collaboration with advocacy groups to "help spread the word," three virtual town hall meetings were held in December 2021. The meetings with supervisorial districts 1 and 2 were combined into one meeting, along with a

separate combined meeting involving supervisorial districts 3 and 4. A second round of three community engagement meetings were held in January 2022, with a similar configuration among the supervisorial districts. Over 250 members of the public attended the events, with some individuals from the community attending all six meetings.

December 2021: Deliberate efforts were made to ensure the December 2021 live virtual meetings entailed an educational component in order to promote and facilitate informed opinions from the public. Additionally, a preliminary "on-the-spot" community survey and an opportunity for the public to provide live comments and receive immediate feedback from each supervisorial district was also a component of each meeting.

The meetings entailed an overview of the following topic areas:

- Assembly Bill 1185; County BOS, Sheriff's Oversight
- Sheriff Department's responsibilities
- Overview and history of civilian oversight in this country
- Benefits of civilian oversight
- Overview of the four categories of oversight models
- Common functions of an OIG (or investigative agency assigned to support an oversight body)
- Discussion on whether civilian oversight impacts crime rates²⁰
- Live "on the spot" community survey

January 2022: In recognition of the fact that the December 2021 meetings were held during the holidays, and to give the public an additional opportunity to provide their perspective, in January 2022, a second round of live virtual community engagement meetings were held for all five supervisorial districts. The meetings entailed a recap of the topics covered during the December 2021 meetings, as well as a summary of information collected during these meetings, to include:

- synopsis of feedback and comments from the "chat"
- "on-the-spot" community survey results
- survey results from a subsequent online community survey released in early January 2022

Similar to the December 2021 community engagement meetings, 50% of each two-hour meeting was reserved for public comment and questions.

²⁰ This topic was added to the last community engagement meeting in December 2021 and to all the January 2022 meetings in response to a question from the public related to whether oversight impacts crime.

COMMUNITY SURVEYS & PUBLIC COMMENTS

GENERAL THEMES: A synopsis of all feedback received from the public, through community engagement meetings and surveys, suggests significant support for:

- the establishment of a Sheriff's Oversight Board and an OIG, with a large percentage of those who participated indicating that additional information would not change their position,
- the establishment of a hybrid oversight model tailored to the needs of Alameda County and created through an ordinance and bylaws,
- an Oversight Board staffed by civilian volunteers who are reflective of the community, and devoid of personal or political agendas, and whose reason for volunteering is not as a result of a "grudge" against the ACSO, and
- an oversight system (Oversight Board and OIG) that is empowered through the use of:
 - ◆ independent legal counsel,
 - ◆ independent investigatory, policymaking and subpoena powers over operations,
 - ◆ access to relevant documents, testimony and records, and with the authority to assess employee discipline, etc., and
 - ◆ a dedicated funding stream, staffing and resources to enable each to carry out their collective mission effectively.

It should be noted that *most statisticians agree that the minimum sample size, to get any kind of meaningful result, is usually 10%, so long as it does not exceed 1,000.*²¹ Given that Alameda County's population is approximately 1.6 million, a relevant sample size would have been 1,000. However, only approximately 250 members of the public participated in the on-the-spot surveys, predominately consisting of advocates, and 34 through an online survey (which may or may not have included the same individuals who participated in the on-the-spot surveys).

This primary source of this information was collected through the following:

December 2021 "On-The-Spot" Community Survey Results: The initial December 2021 community engagement meetings incorporated a live "on-the-spot" survey consisting of seven questions intended to measure different aspects associated with oversight. Responses to these questions can be found in Appendix B.

January 2022 Online Community Survey Results: In response to feedback from the community during the December 2021 meetings, in January 2022, Alameda County released a follow-up

²¹ *The Survey Research Handbook*, 3rd Edition, Pamela L. Alreck, Robert B. Settle, Perdue School of Business, Salisbury State University

online community survey. The development of this survey took into consideration feedback and recommendations from the community, NACOLE, advocacy groups, and external jurisdictions with existing oversight bodies. The survey asked the public to rank the significance of items specific to each question, with #1 as the most important. Responses to the online survey can be found in Appendix C.

Public Comments & Feedback: Each of the December 2021 and January 2022 community engagement meetings provided the public with the opportunity to ask questions and provide input, either live or through the “chat” feature in the Zoom platform. Questions or comments in the “chat” were then referenced during the meetings for the benefit of all participants. Additionally, the January 2022 online survey also incorporated an open blank space area to enable the public to provide written feedback. A synopsis of public comments can be found in Appendix D, with the caveat that this summary reflects the most common themes.

EXTERNAL STAKEHOLDER & FOCUS GROUP MEETINGS

To obtain additional diverse viewpoints beyond open meetings with the community and surveys, focus groups and one-on-one meetings were held to obtain a perspective from the vantage point of:

- individuals most likely to impact or be impacted by oversight, to include victims, justice-involved individuals, business partners, etc.,
- local justice partners and advocacy groups,
- jurisdictions currently engaged in sanctioned oversight activities within Alameda County,
- individuals, from throughout the country, with practical experience managing oversight, and
- national experts and academic representatives from educational institutions.²²

These meetings commenced in September 2021, and continued to occur as needed. Participants thus far have included representative(s) from the entities and/or individuals outlined on the next page.

²² Biographies for academic and national experts interviewed can be in Appendix E.

Focus Groups
Faith in Action - East Bay
League of Women Voters of Oakland
Community Advisory Board
Justice-involved individuals
Business Representatives

Academic & National Experts
Professor Sharon Fairley, Juris Doctorate, University of Chicago, Law School
Professor Michele Deith, Juris Doctorate, University of Texas at Austin, Law School
Director Cameron McElhiney, Training & Education, National Association for Civilian Oversight of Law Enforcement

Local Justice Partners
Public Protection Committee
Alameda County Sheriff's Office
Alameda County Undersheriff
Alameda County Office of the County Counsel
Alameda County Administrator's Office
Alameda County Human Resource Services Department

Jurisdictions with Active Oversight Bodies
Sonoma Independent Office of Law Enforcement Review & Outreach
Community Police Review Agency, Oakland
OIG, Oakland
Los Angeles Civilian Oversight Commission
Los Angeles County Inspector General
Bay Area Rapid Transit (BART) Police Citizen Review Board
BART Office of the Independent Police Auditor
City & County of Denver Citizen Oversight Board
City of San Diego, Commission on Police Practices
City & County of San Francisco, Department of Police Accountability
City & County of San Francisco, Police Commission

USE OF TECHNOLOGY TO ENHANCE COMMUNICATION & OUTREACH

In November 2021, a webpage and email box were created by the Alameda County's Information Technology Department specifically dedicated to the topic of oversight.

WEBPAGE: The webpage (ACOversight.acgov.org) was created to house all material associated with the county's effort to explore the relevancy of oversight in Alameda County and to keep the public informed. The website currently contains:

- relevant BOS documents and notices, to include public meeting dates
- video recordings of prior community engagement meetings,
- community engagement meeting PowerPoints, related documents and public comments,
- community survey results ("on-the-spot" and online),
- NACOLE's educational seminar, recording and materials, and
- text of AB 1185 enabling legislation, to include related penal codes, government codes, etc.



DEDICATED EMAIL BOX: A dedicated email box (ACOversight@acgov.org) was created to give the public the opportunity to provide direct feedback and maximize access to the BOS and their staff on this topic.

EDUCATIONAL RESOURCES & SEMINAR

To facilitate learning and greater understanding from the public, Alameda County hosted an educational seminar on January 13, 2022, on the basics of oversight. Ms. Cameron McElhiney, Director of Education and Training, NACOLE, provided the instruction over the course of a 2½ hour live virtual educational seminar.²³

The Alameda County Board of Supervisors invites you to an educational seminar on **CIVILIAN OVERSIGHT OF LAW ENFORCEMENT**

With the passage of *Assembly Bill 1185, County Board of Supervisors Sheriff Oversight*, Alameda County is in a unique position to determine if a Sheriff's Oversight Board is in the best interest of our community. To ensure the public is fully informed and in advance of our second round of community engagement meetings, you are invited to an educational seminar with Ms. Cameron McElhiney, national expert on the topic of civilian oversight. The live presentation will include a "question and answer" session for the public.

Additional information from the National Association for the Civilian Oversight for Law Enforcement can be found on Alameda County's Civilian Oversight webpage at ACOversight.acgov.org.
General questions may be sent to ACOversight@acgov.org.

THURSDAY
January 13th 2022
5:30 p.m. – 8 p.m.

Please register for this event using the following link:
<https://www.eventbrite.com/e/community-engagement-educational-seminar-on-law-enforcement-oversight-tickets-235637828087>

The curriculum focused on three topic areas:

²³ Ms. Cameron McElhiney's biography can be found in Appendix E.

- The basics of civilian oversight
- Principles of effective oversight
- Managing expectations

The last 45 minutes of the training session were reserved for questions from the public. Approximately 82 members of the community participated in the training. Overall complimentary feedback was received in that participants were thankful for the opportunity to learn more about oversight and the factors that should be taken into consideration in determining the most effective structure for Alameda County.

LITERATURE REVIEW

The research component of this project entailed an extensive review of existing documents pertaining to civilian oversight, with the overarching objective of exploring and understanding:

- the history and evolution of oversight,
- key principles and effective practices,
- relevant trends and developments, and
- significant factors that should be considered in the development of an oversight structure.

To accomplish this objective, meetings with academic experts and practitioners were used to gather information and data on lessons learned, effective practices, and structural, organizational and operational factors that should be considered in the development of an effective oversight system. Additional sources reviewed consisted of multiple written materials outlined in the References section of this report and commencing on page 58. This included, but was not limited to:

- academic reports and publications from experts,
- case studies,
- articles and periodicals, and
- oversight agency reports, data and other materials from practitioners and academic experts.

Throughout our research, three critical factors became clear. The need to:

- select a model that is the “best fit” for Alameda County,
- employ a model that is collaborative and utilizes the “least force” possible to accomplish its objective(s), yet is the least intrusive and
- incorporate 13 general principles into whatever model is chosen.

“BEST-FIT” RATHER THAN “BEST PRACTICE”: Research suggests that a best practice does not necessarily exist when it comes to oversight models. Rather, the best fit should be the focus given that now two jurisdictions are exactly alike. Given that every jurisdiction is unique from the standpoint of culture, politics, demographics, etc., the same can be said about its law enforcement agency. While some law enforcement departments may be better at holding their sworn staff accountable, others may not be as proficient. Additionally, the resources available to each jurisdiction to implement oversight is also an important consideration that cannot be overlooked.

EMPLOY THE “LEAST FORCE” NECESSARY TO ACCOMPLISH GOALS: Even though law enforcement resistance to the concept of oversight has diminished over time, it can be argued that "the least intrusive means of oversight" (Bobb 2003) necessary to achieve law enforcement accountability is the best means of approaching the oversight function in the long-term. Just as law enforcement is expected to only use only that amount of force that is proportionate, necessary and reasonable to accomplish their task, the same can be said about oversight. In other words, a jurisdiction seeking to create an oversight function should choose the least intrusive model of oversight necessary to accomplish the task. If the model chosen does not accomplish its intended objective, then a more aggressive form of oversight would then be required.

13 PRINCIPLES OF EFFECTIVE OVERSIGHT: Although much has been learned since the inception of the first oversight models in this country back in the 1920s, according to NACOLE, there are 13 key components of successful oversight. The extent to which Alameda County incorporates and adheres to these principles should be based on the model chosen. For brevity's sake, the following provides a high-level overview of each principle.

Independence: To maintain legitimacy, Alameda County's oversight model must demonstrate independence from politics and the ACSO.

Clearly Defined & Adequate Authority: The level of authority given to the oversight body must be commensurate with its oversight functions and duties.

Unfettered Access to Records and Facilities: The ability to review records, in a timely manner, and have access to facilities and other relevant sources that are within the scope of the oversight body's mission is critical to success.

Access to Law Enforcement Executives and Internal Affairs Staff: Regular communication between law enforcement and the oversight body promotes cooperation and ensures that those involved can develop mutual understanding and support for each other's role in promoting greater accountability.

Full Cooperation: The oversight body must have the full cooperation of the entity it oversees and its employees for oversight to be effective.

Sustained Stakeholder Support: Although the establishment of oversight may be politically expedient, successful oversight requires sustained support. Maintaining productive

relationships, even in times when disagreement and conflict may be unavoidable, will be crucial to future problem-solving, cooperation and collaboration on key issues.

Adequate Funding and Operational Resources: To ensure the work of the oversight body is performed thoroughly, timely, and at a high level of competency, adequate and sustained resources are critical.

Public Reporting and Transparency: Reports by the oversight body should be accessible to the public and written in a way that facilitates understanding of the oversight body's authority, purpose, focus and accomplishments. They should be produced as frequently as necessary to ensure transparency and accessibility by the BOS, stakeholders and the community.

Policy and Patterns in Practice Analyses: Performing analyses of law enforcement policies and patterns help advance the goals of effective civilian oversight by addressing systemic problems and by facilitating the formulation of recommendations to improve relations with communities.

Community Outreach: Outreach accomplishes many important elements of effective oversight, to include building awareness of its existence, sharing reports and findings with the public, building relationships with stakeholders, recruiting volunteers, soliciting community input and involvement, and developing a greater capacity for problem-solving.

Community Involvement: Community and stakeholder input, regarding how oversight should function, and which accountability issues should be addressed, helps to create a "best fit" oversight system that can help meet community needs and expectations.

Confidentiality, Anonymity and Protection from Retaliation: Effective civilian oversight must function with the same integrity, professionalism and ethical standards it expects from and promotes for law enforcement.

Procedural Justice and Legitimacy: How the oversight body exercises its authority helps build its legitimacy or lack thereof. To that end, perceptions of how fairly that authority is exercised are crucial components of legitimacy. *It is significant to highlight that the selection of members becomes even more important within the confines of ensuring that individuals selected for an oversight system (i.e., Oversight Board and/or OIG) are fair, unbiased and do not allow their prior experiences (positive or negative) to tarnish their ability to be objective and balanced in the performance of their duties.*

FACTORS TO CONSIDER IN DETERMINING THE BEST MODEL FOR ALAMEDA COUNTY

In determining the most appropriate system of oversight for Alameda County, several overarching themes surfaced with respect to factors that should be considered to ensure that the model selected is effective and equally important, tailored to the needs of the community.

- Types of Civilian Oversight Models/Systems
- Oversight Variabilities:

- Characteristics & Scope of Authority
- Oversight Board Membership
- Legal Representation
- Budget & Staffing

TYPES OF CIVILIAN OVERSIGHT MODELS/SYSTEMS: In general, oversight agencies fall into one of three models that are distinguished by relatively minor organizational differences. Most, if not all, encompass a combination of functions outside of their primary focus. The following section provides a brief summary of each, to include *potential* strengths, weaknesses and characteristics. The word *potential* is used within the context of the understanding that strengths and weaknesses are specific to each jurisdiction and the parameters under which oversight is carried out.

Review-Focused Model: Review-focused entities represent the earliest and most common form of civilian oversight in the United States, accounting for nearly 62%. They typically consist of an Oversight Board or commission comprised of community volunteers who review the results of internal affairs investigations. Generally, review-focused agencies provide community members outside of and unaffiliated with the law enforcement agency with an opportunity to review the quality of misconduct complaint investigations performed by the department they oversee.²⁴ The level of authority given to review-focused agencies varies.

In addition to reviewing completed internal investigations, review-focused models receive complaints from the public and forward them to the law enforcement department for investigation; remand cases back to the department's internal affairs unit for further investigation; hear appeals from complainants or subject officers; recommend case dispositions, discipline or revised departmental policies and procedures; hold public forums; and conduct community outreach.²⁵

There are certain types of authority that review-focused agencies typically do not have. While nearly all of them may review misconduct complaints filed by civilians, only half of them reported having jurisdiction over internal complaints filed by officers or deputies within the department. Moreover, just one-fifth of the review-focused agencies in a NACOLE/Federal Office of Justice Programs survey indicated they are authorized to review complaints filed against non-sworn employees.²⁶ Similarly, roughly one-third are authorized to subpoena records or witnesses.²⁷

²⁴ Bobb, Merrick (2003) *Civilian Oversight of the Police in the United States*, Saint Louis University Public Law Review: Vol. 22: No. 1, Article 10.

²⁵ De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement: Assessing the Evidence*, 27–28; Police Assessment Resource Center, *Review of National Police Oversight Models for the Eugene Police Commission*, 11–13; Attard and Olson, *Overview of Civilian Oversight of Law Enforcement in the United States*, 4–5; Bobb, “Civilian Oversight of Police in the United States,” 18–19.

²⁶ De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement: Assessing the Evidence*, 67 (Table B9).

²⁷ De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement: Assessing the Evidence*.

CASE IN POINT CITY OF SAN DIEGO ²⁸

The City of San Diego's Community Review Board on Police Practices (CRB) was established in 1988 and designed as a review-focused model, with a few hybrid elements intermixed. The CRB's mission is to review and evaluate complaints made by members of the public regarding the conduct of officers of the San Diego Police Department (SDPD). The CRB also reviews officer-involved shooting cases, in-custody death cases, and the administration of discipline resulting from "sustained" shootings and in-custody death cases are investigated by the SDPD's Homicide Unit, the District Attorney's Office and the SDPD's Internal Affairs Unit before being reviewed by the CRB. This work is accomplished by a 23-member board that is appointed by the mayor and confirmed by the City Council. It also includes an Executive Director who provides full-time technical and administrative support.

It should be noted that on November 3, 2020, the voters of San Diego approved Measure B creating a new independent Commission on Police Practices (CPP) to replace the CRB. Moving forward, the purpose of the CPP will be to provide independent investigations of officer-involved shootings and in-custody deaths, and an unbiased evaluation of all complaints against the SDPD and its personnel. The CPP is also responsible for evaluating and reviewing SDPD policies, practices, training, and protocols and represent the community in making recommendations for changes.

REVIEW-FOCUSED MODEL

Potential Strengths

Can provide greater transparency and an additional layer of community involvement.

Can be more collaborative and less adversarial in nature in that it promotes constructive dialogue between law enforcement leadership and diverse community members which can, in turn, contribute to more meaningful changes in departmental culture.

When recommendations are made, the department may be more inclined to take action because of the more collaborative relationship fostered with this model.

The community sometimes has the ability to provide input into the complaint investigation process.

Community review of complaint investigations may increase public trust in the process.

Generally, the least expensive form of oversight since it typically relies on the work of volunteers.

²⁸ Commission on Police Practices, <https://www.sandiego.gov/cpp/about>

Potential Weaknesses
Review-focused agencies typically have less access to department records compared to investigation-focused or auditor/monitor-focused models.
Sometimes lack the independence they need to be effective in comparison to an investigative-focused model.
If the Oversight Board is all-volunteer, they can review only a limited number of cases. The time commitment can be overwhelming as all members not only need to review cases, but they also need to go through systematic training.
Oversight Board members must be trained regularly resulting in an ongoing expense of time and money.
As a result of their review function, if they rely on the law enforcement agency, they oversee to train them on their systems, policies and procedures, the Oversight Board may suffer from a lack of independence and credibility by the community.
May have limited authority and few organizational resources at their disposal to assist in preparing reports, conducting community outreach, etc.
May have significantly less expertise in law enforcement issues and limited time to perform their work.
May be less independent than other forms of oversight because of the requirement that they collaborate closely with the law enforcement agency they oversee in order to conduct their work.

Investigation-Focused Model: Investigation-focused models are currently the second most common form of civilian oversight in the United States.²⁹ Agencies that fit within the investigative model employ professionally trained staff to conduct investigations of allegations of misconduct, and independent of the overseen department's internal affairs unit. Their reports may be reviewed by an Oversight Board or commission. Independent-focused agencies of oversight (Walker 2001) tend to have more resources and larger staff than other types of oversight, thus, more expensive. Their investigators are also likely to have received highly specialized training and have prior investigatory experience. When resourced appropriately, this type of entity may typically contribute to an improvement in the quality of internal investigations.

While the structure, resources and authority of this type of oversight agency can vary, it is tied to the law enforcement entity it oversees by virtue of the fact that oftentimes they have the ability to conduct independent investigations related to allegations of misconduct against sworn staff.

²⁹ De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement: Assessing the Evidence*, 24. (Table 1).

CASE IN POINT CITY & COUNTY OF SAN FRANCISCO ³⁰

The Department of Police Accountability (DPA) and the San Francisco Police Department (SFPD) report to the San Francisco Police Commission (Commission). The Commission sets policy for the SFPD, conducts disciplinary hearings on charges of police misconduct filed by the Chief of Police or Director of the DPA, imposes discipline and hears police officers' appeals from discipline imposed by the Chief of Police. The Police Commission also appoints and regulates Patrol Special Directors (PSO) and may suspend or dismiss PSO's after a hearing on charges filed. This full-time board consists of seven members who oversee the SFPD and DPA. Of the seven members, four are appointed by the mayor with the consent of the BOS, and three are direct appointments by the BOS.

The DPA is responsible for investigating complaints, and filing charges, submitting use-of-force audit results and policy recommendations to the Commission. In its role, the DPA is comprised of different divisions responsible for audits and reviews of SFPD personnel and management's compliance with federal and state law, city ordinances and policies, investigating allegations of misconduct against SFPD officers, helping to improve the relationship between the community and the SFPD through mediation, making policy recommendations to the SFPD and the Commission, community outreach, and collaboration with leaders, advocates and organizations to educate the community. The DPA consists of approximately 46 full-time staff of which approximately 24 are investigators given the investigative focus of this model.

³⁰ San Francisco Police Commission, <https://sfgov.org/policecommission/>, Department of Police Accountability, <https://sf.gov/departments/departments-police-accountability>

INVESTIGATION-FOCUSED MODEL
Potential Strengths
Investigation-focused models typically have greater access to law enforcement records and databases than review-focused models, particularly with regard to body-worn cameras and in-car video. As a result, these systems can provide greater transparency and an additional layer of community involvement.
They are more likely to have the ability to subpoena documents and witnesses than review-focused or auditor/monitored models.
This system can help build community trust, particularly in communities in which public confidence in law enforcement's ability to investigate itself has been compromised by a history of lackluster or inadequate investigations.
This system avoids conflicts inherent in many internal affairs departments in which investigators are rotated from or come from the agency they are investigating.
May reduce bias in investigations into citizen complaints.
Full-time civilian investigators may have highly specialized training.
Civilian-led investigations may increase community trust in the investigative process.
Potential Weaknesses
Investigative-focused models tend to vary greatly in authority and organizational structure, but nevertheless, tend to be the most cost and resource intensive because of their staffing needs.
The city/county has to pay for investigators regardless of whether they are within the oversight agency or within the law enforcement department's internal affairs program.
Law enforcement is resistant to having non-sworn investigators conduct investigations in circumstances where the investigators are not current or former sworn investigators. The assumption is that the investigators will not have the sworn experience to accurately discern what they are investigating or reviewing.
This model may only address issues related to specific, individual complaints and may not help identify systemic departmental issues.
Most expensive and organizationally complex form of civilian oversight.
Civilian investigators may face strong resistance from police personnel.

Auditor/Monitor-Focused Model: The auditor/monitor-focused model emerged as a result of political compromises between community activists pushing for civilian oversight and the opposition of law enforcement agencies.

Sometimes referred to as IG or police monitoring systems, these types of oversight agencies tend to vary more in their authority than in their organizational structure. In general, they are created to promote broad organizational change by addressing systemic issues, analyzing patterns and trends, and deficiencies in policies and procedures.³¹ Their work may cover virtually any aspect of the law enforcement agency they oversee, such as complaints, discipline, training, staffing and recruitment, use of force, and crime-prevention strategies. They can typically issue recommendations regarding any aspect of the law enforcement agency that is within their purview. It should be noted that members of auditor/monitor-focused Oversight Boards are oftentimes professionals with backgrounds in the social sciences, auditing, data analysis, law and law enforcement, and community outreach.

CASE IN POINT LOS ANGELES COUNTY ³²

The Los Angeles County OIG (OIG) and Civilian Oversight Commission is the largest example of an auditor/monitor-focused agency. The OIG is responsible for monitoring and/or reviewing the operations of the Los Angeles County Sheriff's Department (LACSD), to include conditions of confinement, investigations that are in progress, disciplinary matters, the provision of services to inmates and probationers, the conduct of contractors and employees who provide services, the LACSD's response to complaints related to operations, compliance with civil rights laws, use-of-force patterns, trends, and statistics, and the quality of internal audits and inspections. The OIG also has the authority to issue subpoenas when directed by the BOS, undertake an investigation, inquiry and audit or perform monitoring at the request of the BOS, the Civilian Oversight Commission, the Sheriff or on its own.

The Civilian Oversight Commission is comprised of nine members, with four members of the Commission recommended by the community and other affiliated groups. The Commission's primary focus is community engagement and the ongoing analysis of LACSD's policies, practices and procedures. They work closely with the OIG, are further supported by a full-time Executive Director, who is a licensed attorney, and responsible for providing technical and administrative assistance. The commissioners include community and faith leaders, a retired Sheriff's lieutenant, and attorneys with a broad range of experience, from former prosecutors and public defenders to professors and executives from legal non-profit organizations.

³¹ De Angelis, Rosenthal, and Buchner, *Civilian Oversight of Law Enforcement: Assessing the Evidence*, 29 and 30; Attard and Olson, *Overview of Civilian Oversight of Law Enforcement in the United States*, 3-4; King, "Effectively Implementing Civilian Oversight Boards"

³² Los Angeles County Office of the Inspector General, <https://oig.lacounty.gov/>, Los Angeles County Oversight Commission, <https://coc.lacounty.gov/>

AUDITOR/MONITOR-FOCUSED MODEL
Potential Strengths
Can be effective in identifying strengths and weaknesses in how complaints are handled, identifying areas of weakness, particularly bias, in investigations.
Better equipped to spot gaps in training and policy and supervision within law enforcement departments.
May be instrumental in providing opportunities for dialogue and understanding between law enforcement, individuals and groups within the community, assessing the effectiveness of early warning systems, and determining whether discipline is consistent and fair.
Often have more robust public reporting practices than other types of oversight.
Generally, less expensive than full investigative models, but more expensive than review-focused models.
May be more effective at promoting long-term, systemic change in law enforcement departments.
Potential Weaknesses
This model is often charged with collecting data and reporting trends. Because they are almost always complaint driven, it often takes many months to collect data that is reflective of a "trend."
Problems that exist within the law enforcement agency may be systemic but underreported. For example, individuals working in sex trades or involved in gangs are not likely to report even the most egregious law enforcement misconduct. Unless there is the staff and time to track the outcomes of criminal prosecutions, the oversight agency may not be aware of cases that are not filed, dismissed or where evidence is suppressed due to law enforcement misconduct.
Auditor/monitor models tend to focus on examining broad patterns rather than individual cases.
Significant expertise is required to conduct systematic policy evaluations. The hiring of staff without relevant experience may cause tension between the oversight agency and law enforcement.
Most auditors/monitor models can only make recommendations and cannot compel law enforcement to make systemic changes.

Hybrid Model: Jurisdictions throughout the country are increasingly adopting oversight structures that encompass different components of the traditional review-focused, investigation-focused, and auditor/monitor-focused models. This is accomplished by combining functions of each model to fit the needs of the jurisdiction. An agency may primarily focus on one oversight function while also performing other functions (such as reviewing investigations and auditing). Or a single jurisdiction may have multiple agencies overseeing the same department, such as an independent investigative agency and an IG, or a monitor agency and a civilian board acting in an advisory capacity to the law enforcement agency.

Agencies assuming hybrid forms are increasingly common, but several jurisdictions have also created multiple agencies responsible for performing different oversight functions of the same law enforcement department.³³ These oversight systems can manifest themselves as investigation or auditor/monitor-focused consisting of professional staff who receive feedback from Oversight Boards or commissions representing the community. In such cases, the Oversight Board or commission often evaluates the other oversight entity, in addition to addressing local law enforcement matters of community concern.

CASE IN POINT

All of the oversight entities examined within California for this report encompassed models with hybrid features, to include the City of Oakland, City and County of San Francisco, Bay Area Rapid Transit, Los Angeles County, City of San Diego, and Sonoma County.

HYBRID MODEL

Potential Strengths

Oversight is not a one-size-fits-all proposition, in that “options of authority” are more effective when they are tailored to each jurisdiction’s needs.

The powers and authorities granted to an Oversight Board can be combined in a manner that works best for each individual community. This allows a jurisdiction to achieve the most sustainable and effective structure.

Hybrid models tend to create flexible structures that focus on root-cause analyses, and proactive and preventative efforts to address individual instances of law enforcement misconduct.

The involvement of community and stakeholder perspectives allow for the balance of interests to be considered more effectively through the refinement and growth of the hybrid model.

³³ Civilian Oversight of Law Enforcement, *Report on the State of the Field and Effective Oversight Practices*, Michael Vitoroulis, Cameron McElhiney, Liana Perez, 2021

Potential Weakness
May be the most expensive option depending on the organizational structure and level of authority granted to the oversight entity.

Prevalence & Distribution of Models: With the exception of the hybrid model, the prevalence and distribution of these models, according to a NACOLE survey encompassing 157 oversight entities, is outlined in the tables below.³⁴

Prevalence of Oversight Models in the United States		
Model Type	Frequency	Percentage
Review-Focused	97	61%
Investigation-Focused	29	19%
Auditor/Monitor-Focused	31	20%
Number of Agencies	157	100%

As previously noted, the hybrid model has become more prevalent and widespread throughout the country. It is difficult to pinpoint the exact percentage given that the three more common models incorporate hybrid features. However, a 2018 report from the Major Cities Chiefs Association suggests that approximately 30% of the larger law enforcement agencies surveyed use some form of a hybrid model or two separate bodies with oversight authority; as an example, an Oversight Board and an IG.³⁵

While review-focused models remain by far the most common, the auditor/monitor-focused model has recently surpassed the investigation-focused model as the second most common form of oversight. The table below reflects the relative share of each oversight model from 1990 to 2019.

Distribution of Civilian Oversight Models			
Year	Review Focused	Investigation Focused	Auditor/Monitor-Focused
1990	56%	27%	16%
2010	65%	19%	15%
2019	62%	18%	20%

³⁴ Source: Compilation of civilian oversight agencies produced by Jillian Aldebron, JD, Howard University, for the National Institute of Justice W.E.B. DuBois Program of Research on Race and Crime, Grant No. 2016-R2-CX-0055, *Do DOJ Intervention and Citizen Oversight Improve Police Accountability?*, with additions made by NACOLE researchers.

³⁵ *Civilian Oversight of the Police in Major Cities*, Stephens, Darrel W., Ellen Scrivner and Josie F. Cambareri, Washington, DC: Office of Community Oriented Policing Services, 2018

OVERSIGHT CHARACTERISTICS & SCOPE AUTHORITY: Both scholars and practitioners of civilian oversight in this country have attempted to classify various approaches to oversight in relation to their most common functions, legal authority, organizational features, and practices. However, there are almost no two oversight entities that are exactly alike given that practices can vary widely depending on the jurisdiction.

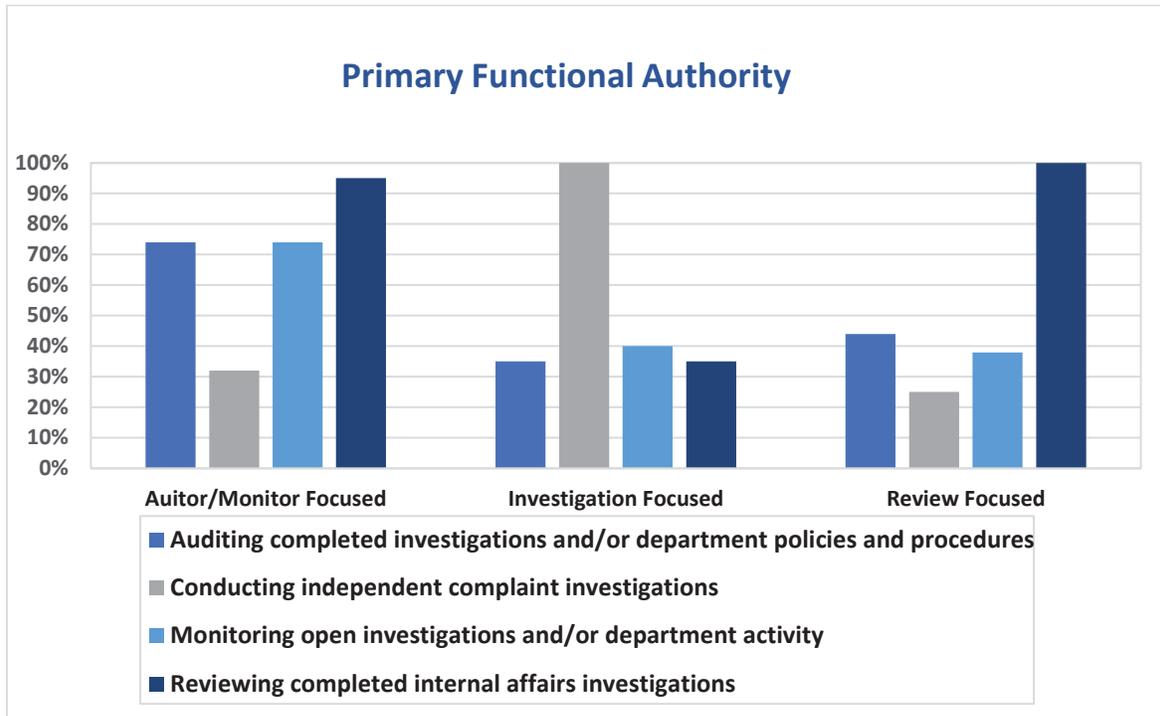
At a more granular level, the following charts reflect characteristics of the three more common types of oversight models.³⁶ Note that although all three models focus on specific areas, they all incorporate aspects beyond their primary functions – making them somewhat hybrid in nature. This means that most models include full-time permanent staff who conduct this work, either as a separate body or as a part of their structure.

Common Characteristics & Scope of Authority			
	Investigation Focused	Review Focused	Auditor/Monitor-Focused
Receive complaints from the community	Frequently	Frequently	Frequently
Decide how a complaint is handled	Frequently	Rarely	Sometimes
Review police complaint investigations for completeness, accuracy, etc.	Sometimes	Frequently	Frequently
Conduct independent fact-finding investigations	Frequently	Rarely	Sometimes
Perform data-driven policy evaluations	Sometimes	Sometimes	Frequently
Recommend findings on investigations	Frequently	Sometimes	Frequently
Recommend discipline	Sometimes	Rarely	Sometimes
Attend disciplinary hearings	Sometimes	Rarely	Sometimes
Hear appeals	Sometimes	Sometimes	Rarely
Paid professional staff	Frequently	Sometimes	Frequently
Staffing and operational costs	Most Expensive	Least Expensive	Intermediate

Oversight Model Functions: The following chart reflects the primary focus of most oversight

³⁶ Civilian Oversight of Law Enforcement, *A Review of the Strengths and Weaknesses of Various Models*, Joseph De Angeles, Richard Rosenthal, Brian Bucher

models based on responses from approximately 90 entities who participated in a survey administered by NACOLE.



Oversight Agencies Overseen: As shown in the table below, municipal police departments account for 82% of the law enforcement agencies subject to civilian oversight and county sheriffs constitute 15%. Other types of law enforcement agencies are gradually being subjected to civilian oversight as well. Beginning in 2011, within California, the BART Police Department was subjected to oversight from the BART Office of the Independent Police Auditor and the BART Police Citizen Review Board. Civilian oversight has also been established for university police; for example, the University of California, Davis Police Accountability Board was created in 2014 to oversee the university’s police force.

Types of Law Enforcement Agencies Overseen				
	Investigation Focused	Review Focused	Auditor/Monitor-Focused	All Agencies
Municipal Police Departments	85%	90%	67%	82%
County Sheriff	12%	13%	25%	15%
Campus Law Enforcement	3%	8%	4%	5%
Special Police Agency	6%	3%	4%	4%
Probation	3%	0%	4%	2%
Total Number of Agencies	34	39	24	97

Access to Records: The chart below reflects the type of records accessible to 58 agencies, from throughout the country, according to NACOLE's Civilian Oversight Agency Directory.

Types of Law Enforcement Records Accessible to Oversight Agencies				
Record Type	Investigation Focused	Review Focused	Auditor-Monitor Focused	All Agencies
Open Internal Affairs Files	55%	56%	81%	65%
Closed Internal Affairs Files	75%	88%	100%	88%
Early Warning System Records	55%	31%	67%	53%
Computer-Aided Dispatch Records	85%	63%	71%	74%
Personnel Records	50%	38%	71%	53%
Body-Worn/In-Car Video	90%	94%	95%	93%
Stop Records	80%	69%	91%	81%
Use of Force Reports	90%	75%	95%	88%
Issue Subpoenas (Including sworn officers)	60%	41%	33%	45%
Issue Subpoenas (Excluding sworn officers)	10%	6%	5%	70%
Total Number of Agencies	20	17	21	58

OVERSIGHT BOARD MEMBERSHIP: The enabling legislation (AB 1185) does not delineate who is allowed to serve on an oversight body, other than those not defined as civilian, i.e., current sworn law enforcement personnel. A review of entities from throughout the country indicates that most jurisdictions do not expressly limit who may be considered, but rather impose a requirement that the oversight body must be diverse, inclusive, and reflective of the community.

For purposes of this discussion, it's important to reiterate and differentiate between an Oversight Board and an oversight system or body. An Oversight Board typically consists of volunteer unpaid civilians, while an oversight system or body can encompass an ***Oversight Board and a separate independent investigative agency, such as an OIG, or a monitoring/auditing agency consisting of professional paid staff who directly conduct investigations, audits, etc., and a civilian board acting in an advisory capacity to the law enforcement agency or other civilian oversight agency.***

In assessing the qualifications of those considered for membership on the Oversight Board, it is worth reinforcing an obvious point, and that is, the need to ensure that the membership is not only reflective of the community, but that the Oversight Board be comprised of a cross-section of individuals with life and professional experiences and credentials which, together, complement and build upon each other in furthering the goals of oversight for Alameda County. This means individuals with expertise in fields such as the criminal justice system, mental health, custody operations investigations, research, conditions of confinement and so forth.

Equally important, the Oversight Board should be comprised of individuals with a demonstrated history of balance and impartiality, ***despite their personal or political leanings***. Although this may be an attribute that is subjective and difficult to measure, it is nevertheless an important factor that should be considered in the selection process. As one of the stakeholders indicated during a focus group interview of Alameda County community stakeholders, more weight needs to be given to an Oversight Board member candidate's ability to be unbiased, rather than making assumptions about their ability to be fair and balanced simply because of "***where they came from***," i.e., justice-involved versus retired law enforcement.

Major Cities Survey: According to a 2018 major cities survey³⁷ administered through a collaboration between the Office of Community Oriented Policing, Major Cities Chiefs Association, and NACOLE, qualifications for membership encompassed the following factors:

- 35% incorporated at least one qualification for Oversight Board members, while two agencies reported that the qualifications for members were "none."
- Qualifications most frequently cited were recommendation/appointment by a city official (30%) and residency (32%) within the jurisdiction being served.
- 8% of agencies indicated that Oversight Board members must include former law enforcement officers, while 11% indicated they may not serve if currently serving as a law enforcement officer.
- 3% exclude membership for those with family members in law enforcement.
- 8% indicated Oversight Board members had to complete some training requirement in order to serve.

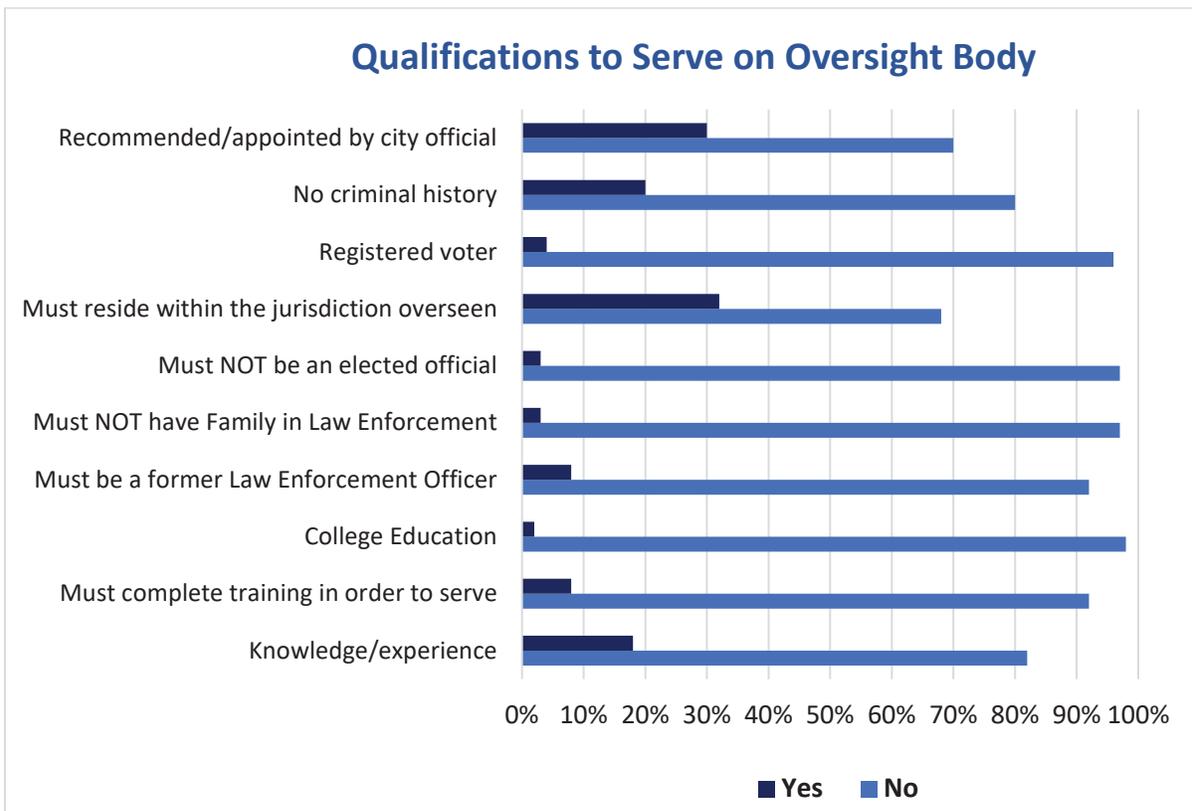
With respect to the different models, generally:

- Investigative-focused or review-focused models incorporated more qualifications for members of their civilian oversight bodies.
- Among investigative-focused models, the most frequently cited qualifications were

³⁷ *Civilian Oversight of the Police in Major Cities*, Stephens, Darrel W., Ellen Scrivner and Josie F. Cambareri, Washington, DC: Office of Community Oriented Policing Services, 2018

residency and recommendation/appointment.

- Among review-focused Oversight Boards, the most frequently cited qualifications were recommendation/ appointment, no criminal history, and residency requirements.
- Among auditor/monitor-focused agencies, the most frequently cited qualification was knowledge/ experience.
- For agencies that indicated “other” for model type, the most frequently cited qualification was recommendation/appointment.



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Former Law Enforcement & Justice-Involved Individuals on Oversight Boards: Although research suggests there is a general consensus with respect to membership on an *oversight body*, there are two categories of individuals who are sometimes topics of debate for membership on an *Oversight Board*; retired or former law enforcement personnel and justice-involved individuals. The perception is that both categories may have a proclivity for leanings that are biased to one side or the other as a result of their direct experience with the criminal justice system.

³⁸ *Civilian Oversight of the Police in Major Cities*, Stephens, Darrel W., Ellen Scrivner and Josie F. Cambareri, Washington, DC: Office of Community Oriented Policing Services, 2018

However, two important points are worth mentioning which were further reinforced by practitioners and some community members.

- **Former or Retired Law Enforcement.** This category of individual brings a perspective to the forefront that cannot be matched by individuals without practical line-level and management experience in this line of work, and who have never worked “in the trenches” and seen the “first-hand” impact of law enforcement policies and practices in a confined setting and/or in the community. Given their experience, they are in a position to answer questions with respect to the operation of the law enforcement agency and/or help other members of an Oversight Board to formulate the appropriate questions and/or areas of focus based on their expertise. Facilitating an Oversight Board’s understanding of law enforcement operations is crucial to their ability to be more proficient in carrying out their duties.
- **Justice-involved Individuals.** Those who have experienced the criminal justice system from the other end of the spectrum also bring an equally valuable perspective. As the “receiver” of the policies, practices and programs of the criminal justice system, they are in a unique position to speak to the impact, not only upon themselves, but their families as well.

Some individuals opine that if sworn personnel are allowed to sit on the Oversight Board, they should have a “cooling off” period before they are eligible to apply. Again, the same argument applies to justice-involved individuals – particularly if the goal is to eliminate perceived or actual bias based upon personal experiences. However, in considering these perspectives, it would appear that “recent experience,” whether positive or negative, would bring more value to this body, than the perspective of individuals who may have no knowledge of how the system has changed or its impact, particularly during these times where reforms continue to be incorporated into our justice system.

Case in Point: In February 2022, I interviewed Executive Director Brian Williams, Esq., Civilian Oversight Commission, Los Angeles County. He noted that both categories (former/retired law enforcement and justice-involved individual) should be considered for membership on an Oversight Board in that the “*appropriate individuals*” can be an invaluable resource to the function of oversight in a jurisdiction. The appropriate individuals are those who are balanced and who strive for impartiality and fairness in the administration of justice. Within Los Angeles County, a retired Sheriff’s Lieutenant from the Los Angeles County Sheriff’s Department, with 35 years of experience, currently serves on the Civilian Oversight Commission. Mr. Williams noted that this individual is one of the most valuable members given his expertise of the internal operations of the LACSD, both at a line level and management levels, and the impartiality, balance and the insight he is able to provide to the other members of the Commission.

Mr. Williams also noted that although a justice-involved individual does not currently serve on the Commission, he felt this was an important element that is currently missing that would bring great value to the collective work of this body.

With respect to former/retired law enforcement, a review of the research suggests that approximately 16% of respondents to an ongoing survey from NACOLE (out of approximately 90 jurisdictions from throughout the county), allow current or former sworn personnel to apply for membership on the Oversight Board. With respect to Bay Area, research indicates that most allow former law enforcement to serve, although they may not be currently serving.

- Oakland Police Commission
- Richmond Office of Professional Accountability
- Berkeley Police Review Commission
- Bay Area Rapid Transit Police Citizen Review Board
- City & County of San Francisco's Department of Police Accountability

LEGAL REPRESENTATION: According to the respondents of a NACOLE survey, in most jurisdictions, slightly more than 70% of Oversight Boards reported being represented by the municipality's city attorney, corporation counsel or similar (county counsel). Investigation-focused models are most commonly reported as being represented by independent legal counsel.

Legal Representation of Civilian Oversight agencies				
Type	Review Focused	Investigation Focused	Auditor/Monitor Focused	Average
None	5.8%	0%	4.8%	3.4%
City Attorney, Corporation, Counsel or Similar (County Counsel)	82.4%	65%	66.7%	70.7%
Independent Legal Counsel	11.8%	35%	28.6%	25.9%
Total Number of Agencies	21	20	17	58

Advocates of independent legal counsel opine that given that the city attorney or county counsel represent law enforcement and the Oversight Board, it creates the potential for a conflict of interest. However, proponents opine that there are internal measures that prohibit an attorney who represents law enforcement from also advising the Oversight Board. Conversely, others argue that the appearance of conflict alone is likely just as damaging to the public trust as an actual conflict. Yet from a budgetary standpoint, the assumption is that if independent legal

counsel is provided to a civilian Oversight Board, then for purposes of impartiality, independent legal counsel should be provided to all boards and commissions.

BUDGET & STAFFING: According to a NACOLE survey, one trait shared by most oversight agencies is that their budgets rarely exceed 0.5% percent of the budget of the law enforcement agencies they oversee. Of the 58 respondents to a NACOLE survey, nearly 70% reported budgets less than or equal to 0.5% of the subject law enforcement agency's budget. Approximately 9% reported budgets exceeding 1%, of which most are investigation-focused models.

A growing number of jurisdictions have enacted legislation that sets their oversight agency's budgets as a fixed percentage of the overseen law enforcement agency's budget.³⁹ This establishes a floor for oversight agency budgets and ensures that resources for the oversight body increase or decrease relative to the size of the law enforcement agency. Percentage-based budgets also isolate oversight agencies from politically motivated budget cuts, thereby strengthening their independence. Cities that have passed such legislation typically set their oversight budgets as a percentage of the personnel and salaries line item of the overseen law enforcement agency, essentially tying it to the number of officers and personnel employed by the law enforcement agency.

Ultimately, regardless of how the budget and staffing are allocated, it must be flexible enough to allow for year-to-year adjustments to account for the duties of the oversight system that is chosen.

³⁹ Civilian Oversight of Law Enforcement, *Report on the State of the Field and Effective Oversight Practices*, Michael Vitoroulis, Cameron McElhiney, Liana Perez, 2021

PRESENTATION OF OPTIONS & PRELIMINARY DIRECTION FROM THE ALAMEDA COUNTY BOARD OF SUPERVISORS & THE PUBLIC PROTECTION COMMITTEE

ORGANIZATION OF THIS SECTION: This section of the report is intended to provide a detailed synopsis of the background information that has been presented to the BOS and the PPC from October 2021 to July 2023, to include options and recommendations from the RAJ Project Manager, and preliminary direction from members of the BOS and the PPC as of July 18, 2023.

Although this section is somewhat lengthy, it reflects the totality of factors that should be considered in the final decision, to include, but not limited to the following:

- Oversight Configuration & Structure
- Oversight Model Types
- Legal Representation
- Inspector General
- Oversight Board
- Executive Director
- Budget and Staffing
- County Ordinance
- Independent Evaluation
- Recommended Configuration Options
- Recommendations from the RAJ Project Manager
- May 23, 2023, Preliminary direction from members of the Alameda County Board of Supervisors
- June 23, 2023, Preliminary direction from the Public Protection Committee
- July 12, 2023, Final direction from the Alameda County Board of Supervisors

BACKGROUND: The exploration of whether Alameda County should establish an oversight system has been explored, by the RAJ Project Manager, since October 2021, with the first public meetings occurring in December 2021. Since then, many activities, as outlined in the main body of this report, have been pursued in an effort to fully inform this report and recommendations therein.

In developing recommendations and options, numerous factors were considered, to include the cost-benefit of different oversight system options, fiscal prudence, the need for oversight

independence, and civil rights issues related to the Santa Rita Jail. Consideration was also given to the need to consider the goals of the community and what is being asked of the oversight system created. Specifically, what level of funding and what authority should be given to the system to allow it to carry out its identified task ... **and be successful**. Equally important, consideration was also given to the level of trust (or mistrust) within the community based upon the feedback received by the PPC, BOS, and the RAJ Project Manager during numerous public meetings that have been held since 2021.

Furthermore, feedback from the community and the array of issues with the Santa Rita County Jail, to include the provision of mental health services, high rate of deaths and suicides, and class action lawsuits brought by detainees, suggests that the ACSO could benefit from the accountability and transparency offered through oversight.

To that end, the following subsections provide a synopsis of options related to various aspects of oversight, recommended options, preliminary direction from the BOS and PPC, and feedback from the community.

A. OVERSIGHT CONFIGURATION & STRUCTURE: The structure of an oversight model/system can vary and encompass a variety of entities commonly referred to by slightly different titles having similar functions. *For purposes of this section and for consistency, the discussion related to the different aspects of an oversight system will be referred to by the following titles:*

- **OIG**, led by an IG, with the authority to conduct independent investigations, issue subpoenas, review policies, procedures, internal affair reports and processes, etc.;
- **Oversight Board** consisting mainly of civilian volunteers, and an
- **Executive Director** to act as a liaison between the Oversight Board and an OIG, and to provide administrative support to the Oversight Board.

The oversight system could consist of an OIG or an OIG, Oversight Board and Executive Director, or any combination thereof. The scope of authority, for either configuration can encompass select attributes from each of the first three common oversight models (hybrid) noted below, thus allowing for the function of oversight to be performed more effectively by combining features and authority in a way that complements each other based on the needs of Alameda County.

B. OVERSIGHT MODEL TYPES: Throughout this country, four oversight model types have been established, with the fourth (hybrid) consisting of attributes from the other three model options, as noted below:⁴⁰

⁴⁰ [Models of Oversight - National Association for Civilian Oversight of Law Enforcement \(nacole.org\)](https://nacole.org)

- **Investigation-focused Model:** May consist of professional civilian investigators who are responsible for conducting independent investigation of complaints against law enforcement officers. Investigation reports may be reviewed by a separate civilian Oversight Board or commission.
- **Review-focused Model:** Typically consists of a civilian Oversight Board or commission comprised of community volunteers who review the results of internal affairs investigations and/or the law enforcement agencies compliance with their own policies, procedures and practices.
- **Auditor/monitor Model:** Focuses on data, trends and patterns, rather than individual complaints, as a means by which to identify needed systematic changes to departmental policies, procedures and training.
- **Hybrid Model:** Consists of select attributes from the preceding three models and typically based upon the unique needs of the jurisdiction.

It should be noted that jurisdictions throughout the country have increasingly adopted oversight structures that encompass different components of the first three models by combining functions of each model to fit the needs of the jurisdiction.

Furthermore, through the adoption of the expansive authority of a hybrid model, Alameda County would retain the flexibility to tailor the oversight system to its unique needs, as needed.

C. LEGAL REPRESENTATION: Approximately 26% of the 58 agencies who responded to a NACOLE survey reported that their Oversight Board has access to independent legal counsel, with the highest percentage within investigative-focused oversight models.⁴¹ It should be noted that in most circumstances, legal counsel is a part of the structure of the entire oversight body. For example, a hybrid oversight system may include an Oversight Board and an investigatory arm. Access to independent counsel would apply to both arms of the structure. In these structures, the individuals responsible for the operational activity of the oversight entity are also the full-time professional staff responsible for conducting the activities necessary to facilitate that oversight and support the Oversight Board.

In some circumstances, when independent counsel is assigned to Oversight Boards, it is only in designated circumstances and/or with the advance approval of the legislative body. For example, to obtain advice and counsel on a specific case or issue(s).

Independent legal counsel for the Oversight Board was a primary topic area that was addressed, on numerous occasions, by the public during each of the community engagement

⁴¹ Civilian Oversight of Law Enforcement, *Report on the State of the Field and Effective Oversight Practices*, Michael Vitoroulis, Cameron McElhiney, Liana Perez, 2021

meetings and during *earlier* presentations to the BOS or PPC in 2022. The community opined that if the BOS establishes the Oversight Board, it should grant the Oversight Board the ability to retain independent legal counsel.

It appears that the primary reason for this opinion is community perception of a conflict of interest. For example, under State general and case law, the County Administrative Code, and the county Charter, County Counsel is the official legal advisor to the BOS and all County agencies and department. However, the perception of a conflict of interest stems from the fact that County Counsel represents the ACSO. Given that the Oversight Board is a body created by the BOS, County Counsel would also be responsible for advising the Oversight Board on matters involving the ACSO.

Furthermore, a question that should be considered is that given that the Oversight Board would not be an independent body, but rather, a body that exists at the discretion of the BOS, why would it need its own counsel?

To that end, to address the issue of legal counsel, there were several options that were posed to the BOS and PPC, which have also been employed by different oversight bodies throughout the country, to include oversight entities of cities and local agencies in Alameda County and throughout California.

- **Assigned County Counsel:** A senior level attorney in the Office of the County Counsel is an option in which this individual would be responsible for providing legal counsel to the Oversight Board and the OIG. To maintain a level of integrity and create an ethical wall or screen, this attorney (and others in the Office advising on IG/OIG issues) would not represent or advise the ACSO in legal matters.
- **External Legal Counsel:** This option would provide the Oversight Board with the ability to access independent counsel, for a specific purpose, and when approved by the BOS on a case-by-case basis. However, there is concern that if BOS grants external independent legal counsel to the Oversight Board, on a case-by-case basis, then in all likelihood, other boards and commissions appointed by the BOS might also request a similar accommodation.
- **Preapproved Pro Bono Counsel:** This option would allow the Oversight Board to utilize this alternative at will.

NOTE: *During the May 23rd BOS Special meeting, members of the Board, based on advice from County Counsel, preliminarily indicated an intent to provide funding for an assigned senior level attorney in the Office of the County Counsel to the oversight system with a budget estimate of ½ time for that attorney.*

D. INSPECTOR GENERAL: Regardless of the configuration of an oversight system, if it includes an IG, he/she typically reports directly to the legislative body that created the

position for this purpose. Given the significant role of this position, it can be classified as either an independent contractor or a classified employee in the civil service system, with both categories subject to appointment and termination by the legislative body, i.e., BOS.

RESPONSIBILITIES: Under a hybrid system, the IG could be responsible for any of the following functions, regardless of the configuration:

- **Audit, Investigations & Inspections:** Conduct an audit, investigation, or inspection requested by the BOS, initiate an investigation or audit of the ACSO, without prior authorization of the BOS, or at the request of the Oversight Board. If the OIG does not agree with the Oversight Board's request, it could be forwarded to the PPC or the BOS for a decision.
- **Oversee the Operations of the ACSO:** Facilitate the BOS' responsibility to supervise the ACSO, without obstructing the Sheriff's law enforcement functions, as outlined in Government Code section 25303 and 25303.7.
- **Investigative Arm of the Oversight System:** Serve as the Oversight System's investigative arm as it relates to ACSO policies, practices and procedures, to include in-custody deaths, use of force, program services, conditions of confinement, related complaints from the community, and employee discipline.
- **Independent Oversight & Monitoring of ACSO Operations:** Provide independent and comprehensive oversight and monitoring of the ACSO, and report to the BOS, ACSO and/or the public on the ACSO's operations, to include conditions of confinement of persons in the Sheriff's custody or detention facilities, ACSO's responses to complaints related to its operations, investigations, provision of services to inmates, to include medical, pharmaceutical, and mental health services, compliance with civil rights laws, etc.
- **Conduct Investigations.** Investigate matters involving the ACSO, its employees or any other entity or service providers providing services to the ACSO.
- **Attend meetings, reviews and proceedings.** Participate in meetings regarding ACSO incidents, operations, investigations, disciplinary matters, and corrective actions, unless the OIG's presence would obstruct an ongoing criminal investigation or is otherwise prohibited by law.
- **Conduct Reviews.** Conduct reviews of the ACSO's use-of-force patterns, trends, and statistics, to include the ACSO's investigations of use of force incidents and allegations of misconduct, and disciplinary decisions, the quality of the ACSO's internal audits and inspections, and individual grievances/grievance system.
- **Communicate Findings:** Regularly communicate with the BOS, ACSO, and the Oversight Board, as appropriate, regarding OIG findings.
- **Work Collaboratively:** Collaborate with and support the Oversight Board and Executive

Director in carrying out their functions.

- **Power to Subpoena:** Issue subpoenas for records, documents, information, or testimony when appropriate and when consistent with Government Code section 25303.7(b).
- **Publish Reports:** Prepare and present regular reports to the BOS and the Oversight Board. These reports would be public, unless exempt from disclosure under applicable state or federal law.
- **Manage Staff:** Hire, train, supervise, discipline, discharge, transfer, and direct the activities of civil service employees in the OIG.

MINIMUM QUALIFICATIONS: In recruiting for the IG position, the following minimum qualifications should be considered for incorporation into the job specification:

- A Juris Doctorate degree from an accredited university
- Licensed to practice law in the state of California
- Ten years of management experience in the role of a practicing attorney in matters related to criminal and/or civil law, conditions of confinement and law enforcement practices
- Five years of experience in the policy formulation, researching, investigating, analyzing, and reporting on complex issues related to law enforcement operations
- Strong written and oral communications skills, and the ability to listen to a variety of viewpoints openly
- Experience in the areas of civil and human rights, specifically in law enforcement and community relations

DESIREABLE QUALIFICATIONS: Although not mandatory, the following desirable qualifications should also be considered.

- Other than a Juris Doctorate, an advanced degree in human services, public administration, criminal justice, or a similar discipline
- Experience in establishing and maintaining relations with community stakeholders, governmental agencies, law enforcement, and the public in highly sensitive programs
- Knowledge of rules of evidence, constitutional rights related to laws of arrest, search, and seizure, and service of legal process, conditions of confinement and detention operations, investigative strategies and techniques, including use of warrants, interrogations, surveillance, evidence preservations and gathering, crime scene processing, forensics, and interviewing, internal investigations, including administrative and criminal investigations, Public Safety Officers Procedural Bill of Rights, public employment law,

interrogation laws and techniques, criminal law and procedures, peace officer training and techniques, including proper tactics regarding legal use of force, state and federal civil rights laws and due process.

- IG Certification through the Association of Inspectors General and the Professional Certification Board.⁴² This certification could be obtained in advance of appointment and/or must be completed and maintained while holding the position of IG for the County of Alameda.

DISQUALIFYING FACTORS: The credentials and background of the IG are critical and in that the individual chosen must possess essential personal qualifications, including integrity, initiative, dependability, good judgment, and the ability to work cooperatively with others. As such, in addition to possessing the minimum qualifications, the candidate chosen should be free of the following:

- Felony conviction, including by a guilty plea or a plea of nolo contendere
- Discharge from the military after adjudication by a military tribunal for committing an offense that would have been a felony if committed in California, whether or not the person received a criminal conviction for the offense
- Conviction of crimes of dishonesty or conduct in another jurisdiction that would have constituted one of those crimes if committed in California. The listed crimes include, but are not limited to, bribery, corruption, perjury, falsifying evidence, witness tampering, forging or falsifying government records, and tampering with a jury or the jury selection process.

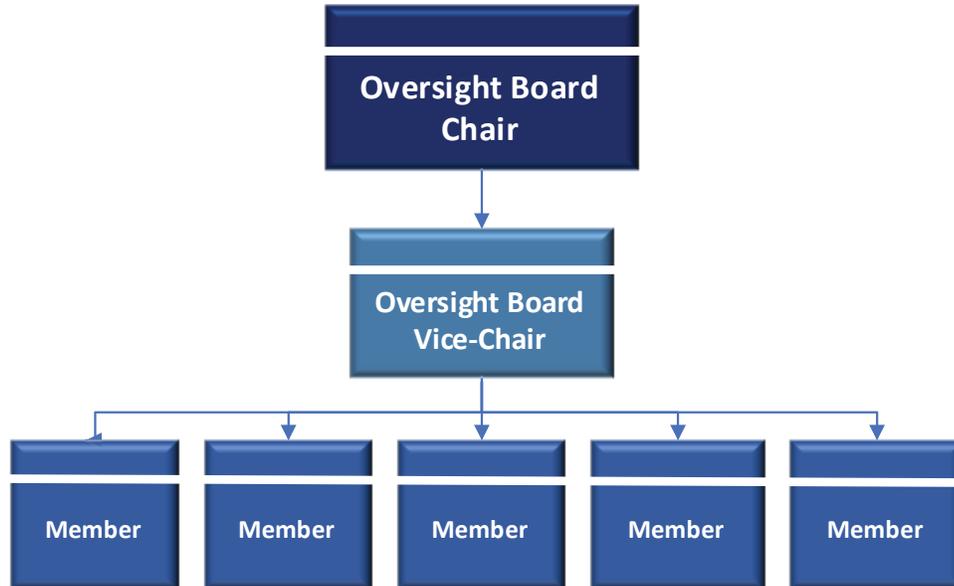
E. OVERSIGHT BOARD: A seven-member Oversight Board is an option that is recommended. Research indicates there isn't much consistency across Oversight Boards and systems in terms of the number of members. Every jurisdiction is unique from the standpoint of culture, politics, demographics, and so forth, and no two oversight systems are typically alike.

Based on a comprehensive research and outreach to other jurisdictions throughout California and the nation, a seven-member Oversight Board would seem appropriate for Alameda County. This option would ensure representation from each of the individual supervisorial districts through five direct appointments, and representation based upon community input through the two at-large appointments.

The seven-member Oversight Board would consist of a Chair appointed by the BOS, with input from the members of the Oversight Board. A Vice-Chair would be appointed by the Oversight Board for a two-year term. All members of the board would have equal voting authority and could be provided a \$100 per meeting stipend to cover general expenses. A

⁴² Association of Inspectors General, <http://inspectorsgeneral.org/institutes/institute/>

maximum \$1,200 annual stipend is recommended for each member.⁴³



APPOINTMENT OF OVERSIGHT BOARD: An issue that oftentimes impacts the legitimacy of an Oversight Board is the public perception that members of the Oversight Board are beholden to the political will of the body that appointed them. However, pursuant to Government Code 25303.7, ***“the members of the sheriff Oversight Board shall be appointed by the board of supervisors. The board of supervisors shall designate one member to serve as the chairperson of the board.”*** As such, the appointing power cannot delegate this responsibility, but rather, they can balance their authority, with the common interests of the community, through the process adopted to appoint members.

In general, Oversight Board members are typically appointed in one of four ways:

- By a city mayor and/or city council, board of directors, or BOS who review, interview and select candidates through a pre-established application process;
- Through a selection panel consisting of members of the community who screen applications at the forefront of the selection process and submit a list of candidates to the city mayor and/or city council, board of directors, or BOS for final selection and appointment;
- Through a selection panel consisting of members of the community who screen applications at the forefront of the selection process and submit a list of candidates to the city mayor and/or city council, board of directors, or BOS for final selection and

⁴³ Payment of a stipend triggers training requirements for sexual harassment and abusive conduct. Gov't Code Section 53237(b).

appointment;

- Through a process in which a designated number of appointments are made by the city mayor and/or city council, board of directors, or BOS and a community selection panel, e.g., five appointments by the BOS and two appointments by a community selection panel.

OVERSIGHT BOARD APPOINTMENT PROCESS: Given that one of the primary objectives of the Oversight Board is to maximize its effectiveness through the trust and cooperation that ensues when there is transparency and collaboration with the community at the forefront, the members of the Oversight Board could be appointed by the BOS utilizing a standard application process. It would consist of one appointee from each of the Supervisorial Districts and two at-large appointments. The at-large appointments would be filled utilizing an Advisory Selection Panel (Panel) consisting of five community members. Each Supervisor would select one of Panel members. The Panel would be responsible for recruiting and canvassing potential applicants, reviewing applications and submitting a designated number of nominees to the BOS for interview, final selection, and appointment. The Panel would be expected to meet as a group, in advance of submitting the names of nominees to the BOS, to ensure that the nominees consist of a pool of individuals who are diverse and reflect the socio and economic demographics of the county.

Appointment of the at-large candidate(s) nominated by the Panel would be by vote of the BOS. As the at-large seats become vacant, the same Panel selection and nomination and BOS appointment process would be used to fill the vacant seats. This process would give the community a voice, while allowing the BOS to maintain its decision-making autonomy.

OVERSIGHT BOARD STRUCTURE & PARAMETERS: For the Oversight Board to be effective, it must be free from, whether real or perceived, the influence of others, including law enforcement, politics and those with special interests. Equally important, it must have features and a level of authority that is commensurate with its hybrid core oversight functions.

Although not an exhaustive list, it is recommended that the following features be considered for incorporation into Alameda County's Oversight Board structure and duties, further defined within its enabling ordinance:

- **Authority.** Must have sufficient authority and support from the BOS to accomplish Oversight Board goals, and adequate authority to allow them to achieve goals and be responsive to the community.
- **Adequate funding and administrative support.** Should have sufficient funding and administrative support to enable it to fulfill its mission.
- **Access to all critical information.** Includes all necessary information, to include law enforcement policies, procedures, training and systematic issues, as permitted by law.

- **Regular access to relevant decision-makers.** Includes access to the BOS, ACSO, OIG, PPC, Community Corrections Partnership, etc.
- **Authority to issue subpoenas.** The Oversight Board and OIG should have subpoena powers which would be used consistent with Government Code Section 25303.7(b) and in circumstances where good faith efforts have failed.

OVERSIGHT BOARD RESPONSIBILITIES: The Oversight Board would accomplish its oversight role by facilitating community engagement opportunities, and ongoing analysis and oversight of the operations of the ACSO, either on its own or at the request of the BOS or ACSO, without interfering with the Sheriff's investigative and prosecutorial functions. It would be responsible for carrying out the following duties:

- **Recommendations.** At the request of the BOS, Sheriff, or community, make recommendations to the BOS and/or ACSO on ACSO operational policies and procedures that affect the community, to include recommendations to create additional operational policies and procedures affecting the community.
- **Investigations.** Utilizing the OIG, request investigations on ACSO-related issues or complaints affecting the community.
- **Reports.** Prior to publishing reports or making recommendations, whether verbally or in writing, to the BOS, the Oversight Board would be required to seek feedback from the OIG and the ACSO.
- **Monitor.** Only at the request of the BOS and through the Office of the Inspector General, monitor the implementation of settlement provisions in litigated matters.
- **Request of the Sheriff:** At the request of the Sheriff, conduct a review of a specific policy and/or program issue.
- **Community Outreach.** Through community meetings and other outreach efforts, obtain community feedback on the use of force, detention conditions and other civil right matters and complaints involving the ACSO, and convey these concerns to the ACSO, either on its own or through the OIG.
- **Function as a Bridge.** Function as a bridge between the ACSO and the community by providing the community additional means of providing input and obtaining answers, on concerns related to ACSO operations, practices and activities.
- **Advisory Role.** Serve in an advisory capacity to the BOS, without the authority to direct the activities of the ACSO, its employees or the imposition of discipline.
- **Public Meetings:** Conduct public meetings, a minimum of 12 annually, in accordance with the Brown Act (Government Code Section 54950, et seq.).

OVERSIGHT BOARD CHARACTERISTICS: The Oversight Board should be comprised of individuals with expertise in areas that would complement each other in furthering the goals

of oversight within Alameda County. This means an Oversight Board comprised of individuals with expertise in areas such as the criminal justice system, legal, mental health, investigations, research, education, conditions of confinement, environmental health and safety, juvenile justice and so forth.

In determining who should serve on the Oversight Board, consideration should also be given to the following factors:

- **Inclusion of Retired Sworn Personnel & Justice-Involved Individuals:** The membership of current or former sworn personnel on Oversight Boards is a controversial issue with some individuals, with advocates arguing that the perceived or actual bias inherent in sworn personnel would tarnish their opinion and influence on this body, as well as compromise the credibility of the Oversight Board in the view of the community. However, the same argument can be applied to the idea that justice-involved individuals should be allowed a seat on the Oversight Board because of their experience with the justice system.

Conversely, opponents opine that if the Oversight Board is going to reflect the diversity and views of the community, it must be inclusive of those who reside in it, regardless of current or prior professional affiliation or experience. They also argue that participation by those with sworn experience would allow the Oversight Board to benefit from individuals who have “walked the line” and who have first-hand practical knowledge and experience in law enforcement operations and culture, and the application of related policies, procedures and practices.

Both arguments bring a valid perspective to the forefront. As such and accounting for the views of the community and the need to create a system that is inclusive, balanced and reflective of diverse perspectives, it is recommended that former sworn personnel, from outside of the county or who have never served with the ACSO in a sworn capacity, be allowed a seat on the Oversight Board, as well as a justice-involved representative.

- **Subjective Factors:** There are other factors the BOS could consider, in making their selections, that are somewhat subjective and more difficult to measure, but nevertheless, important to consider. These desirable factors include such things as:
 - ♦ demonstrated ability to work well with others of opposing viewpoints,
 - ♦ history of collaborative problem solving,
 - ♦ demonstrated high level of personal accountability and integrity,
 - ♦ ability to maintain a big picture perspective, and
 - ♦ a demonstrated commitment to justice, fairness and civil rights issues.

- **Desirable Qualifications:** The desirable qualifications of Oversight Board members should include consideration of the following:
 - ♦ Expertise in a related field that would contribute to an oversight function (e.g., criminal justice system, law enforcement, mental health, juvenile justice, custody, investigations, research, education, financial, academic, legal, victim rights, business, financial, auditing, conditions of confinement, environmental health and safety), including active participation in a community organization actively addressing justice issues
 - ♦ Knowledge of community issues within Alameda County
 - ♦ Able and willing to invest the time necessary to perform the duties of an Oversight Board member
 - ♦ Agreement to complete a Live Scan inquiry conducted by the Alameda County Human Resource Services Agency prior to appointment on the Oversight Board
 - ♦ Agreement in writing to follow and adhere to state and county policies regarding ethical principles, conflict of interests, and code of conduct established by the County for Oversight Board members
 - ♦ Agreement to complete a training and orientation program within 60 days of appointment, and ongoing training within 30 days of verbal or written notification from the Executive Director
 - ♦ Agreement in writing to maintain absolute confidentiality of privileged and sensitive information

- **Disqualifying Factors:** The following factors should serve to disqualify an applicant.
 - ♦ Non-residents of the following counties: Alameda, San Francisco, Santa Clara, San Mateo, Contra Costa, San Joaquin and Stanislaus⁴⁴
 - ♦ Current employees of Alameda County
 - ♦ Current employee of any law enforcement agency, including local, county, state or federal agencies
 - ♦ Former sworn employee of the ACSO
 - ♦ Current employees or contractors of Alameda County
 - ♦ Anyone involved in active litigation against the ACSO or serving in the role of court-appointed monitor

⁴⁴ Alameda County Board of Supervisor's Standard 's Operating Procedures indicate that appointees to Alameda County Boards and Commissions require that members be residents of the county unless waived by a majority vote of the BOS.

- ◆ Practicing attorneys who handle or are members of firms or entities that currently handle criminal or civil litigation matters involving Alameda County

Candidates should also be required to submit a statement of interest and an Oversight Board member application prior to consideration for appointment.

OVERSIGHT BOARD TERMS & COMPENSATION: It is recommended that the Oversight Board be appointed to staggered terms, with a maximum of two appointments, unless waived by the BOS. The terms would be staggered in four and two-year increments, in which four members are appointed to an initial term of four years, and three to two-year terms. Upon reappointment, the opposite would occur. This would allow new appointees to learn from seasoned Oversight Board members through the overlap that automatically occurs between outgoing and incoming appointees.

Furthermore, it is recommended that members not receive a salary or benefits, but rather, a stipend of \$100 per meeting to cover general expenses related to meetings, not to exceed \$1,200 annually per member.

F. EXECUTIVE DIRECTOR: In addition to autonomy and support from the OIG, if an Oversight Board is created it must have the resources necessary to direct and conduct activities commensurate with their responsibilities. As such, it is recommended that the Oversight Board be supported by a full-time Executive Director, who is an employee in the classified civil service, and selected and appointed by the BOS, with the advice of the Oversight Board and the OIG.

RESPONSIBILITIES: The Executive Director should report to the IG, and be responsible for providing leadership, technical and administrative support to the Oversight Board, to include the following:

- Act as a liaison between the Oversight Board and the BOS, OIG, ACSO and the community
- Organize, plan and coordinate Oversight Board-related activities, to include community outreach in the form of town halls, Oversight Board meetings, social media engagement, etc.
- Prepare reports for the Oversight Board to the BOS and/or ACSO
- Carry out the directives of the Oversight Board and advise them on procedures related to its review of investigations, public meetings, etc.
- Manage the budget of the Oversight Board, and coordinate appointments and training for the Oversight Board members

MINIMUM QUALIFICATIONS: In recruiting for this position, the following minimum qualifications should be incorporated into the job specification and announcement:

- Management experience in managing human resources, monitoring and controlling expenses and budgets, planning and strategic goal setting, leveraging resources to ensure timely submission of initiatives and major tasks, and hiring, training and coaching staff
- Experience in establishing and maintaining relations with community stakeholders, governmental agencies, law enforcement, and the public in highly sensitive programs
- Strong written and oral communications skills, and the ability to listen to a variety of viewpoints openly

DESIRABLE QUALIFICATIONS: Given the complex role of the Executive Director, it is recommended that desirable qualifications include:

- Experience in the areas of civil and human rights, specifically in law enforcement and community relations
- Experience facilitating the effective functioning of community or volunteer committees
- Demonstrated understanding and success working with a diverse population, including various ethnic communities, homeless individuals and families, and residents with mental illness
- Strong diplomatic skills, and the knowledge to effectively set and meet goals and manage staff
- Knowledge of general legal principles and statutory law, practices, and procedures related to law enforcement investigations or investigations of a related field, and administrative hearings
- Knowledge of the rules and regulations governing Sheriff operations, organization, and administration
- Demonstrated experience in establishing and maintaining relations with community stakeholders and governmental entities
-

G. BUDGET & STAFFING: Regardless of the oversight configuration chosen, the budget and staffing must be commensurate with the duties and authority of the oversight system for it to be effective. This means ensuring the Year 1 budget takes into consideration one-time expenses associated with initial start-up costs. Thereafter, the budget should be based on demonstrated need with the assumption that as the budget of the Sheriff grows, so do the number of law enforcement officers and potential for increased issues which may drive the need for additional funding.

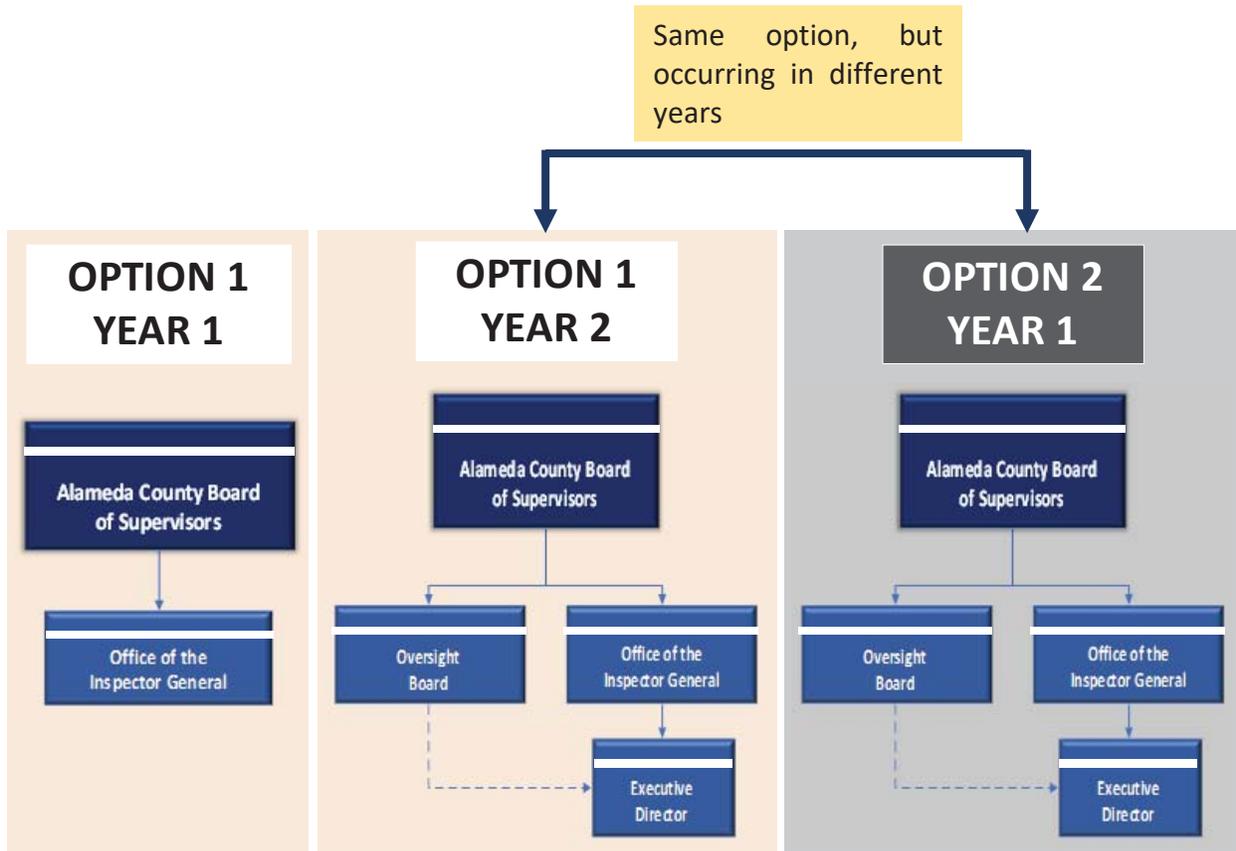
The budget should also be based on demonstrated needs, with future years based upon a Maintenance of Effort budget. Technical adjustments thereafter would be made in collaboration with the County Administrator and Auditor-Controller through the normal budgetary process.

H. COUNTY ORDINANCE: Charter Section 12(e) requires the Board "provide," by ordinance, for the creation of offices, boards and commissions." Therefore, the parameters of the oversight system, must be incorporated into an ordinance and adopted by the BOS.

I. INDEPENDENT EVALUATION: An evaluation of the oversight system should be conducted by an independent third party, every three years or more often, if deemed appropriate by the BOS. It should include an evaluation of strengths and challenges, and recommendations for improving the oversight system's effectiveness. A Request for Proposal should be released to enable the county to determine different approaches by which to accomplish this objective.

Ultimately, the evaluation should include, as one component, a survey to gauge Oversight Board member's and staff's morale and internal perceptions of management, operations, processes, and procedures. Surveys of this nature can be an effective tool in assessing how an oversight system is functioning given that those closest to the system are most familiar with the day-to-day operations and are thus acutely aware of how management and operations affect the ability of the oversight system to achieve its goals. The surveys should be completed anonymously and submitted to the third-party evaluator to compile responses and present findings to the BOS.

RECOMMENDED CONFIGURATION OPTIONS: During the May 23rd, June 22nd and July 12th public meetings, the RAJ Project Manager presented three hybrid options to the BOS and PPC. It should be noted that the two options on the right side of the chart on the following page reflect the same configuration – but implemented at different times.



AUTHORITY: It was recommended that the proposed oversight system, regardless of which option chosen was chosen, should include hybrid in nature and have the authority to:

- Conduct independent oversight and monitoring,
- issue subpoenas;
- audit, investigate and inspect operations;
- review policies, procedures and trends, and;
- prevent civil right violations and litigation by proactively identifying patterns and practices.

INDIVIDUAL ROLES: Under option 1, year 1, the OIG would have the authority to carry these functions through the utilization of its staffing resources and authority. Albeit the OIG would be limited in its ability to carry out an array of extensive functions given its limited staffing.

However, under option 1, year 2 or option 2, year 1, the oversight system would be better equipped to carry out these functions given the increase in staffing resources through the use of an OIG, Oversight Board and Executive Director. Under this configuration the overarching objective of the Oversight Board would be to review the policies, practices and actions of the ACSO in the interest of providing accountability and improving practices, and to effect positive change intended to not only impact the community, but the ACSO as well. The Executive Director would be responsible for facilitating the functions of the Oversight Board by providing direct and full-time technical administrative support, and by acting as a liaison with the OIG. The IG would report to the BOS, and work collaboratively with the Oversight Board. Additionally, the OIG would serve as the investigative arm of the oversight structure and have full subpoena power.

BUDGET & STAFFING: The key for the asterisks in the two charts on the following page reflect whether the classification is an existing or equivalent Alameda County position or classification from an external agency. It should be noted that priority was given to incorporating existing or equivalent Alameda County classifications.

* Existing Alameda County Classification Equivalent
** Existing Los Angeles County Classification Equivalent
*** Existing CDCR Classification Equivalent
(####) Indicates Position # of Alameda County Classification Equivalent

Under the option 1, year 1 option, the OIG would be tasked with significant and complex oversight responsibilities requiring an annual financial allocation. Given the nature of this office, the totality of expenses cannot be fully itemized with full accuracy until such time as this OIG is in full operation.

To account for these factors, if this option is chosen, it is recommended that the OIG be allocated a year 1 budget allocation with the caveat that adjustments be made every year thereafter based upon the changing needs of this Office. The same recommendation is made for option 2, year 1 or option 2, year 1.

The budget could be based either on a percentage of the ACSO's budget, 0.5% up to 1%, or on demonstrated need, with future years based upon a Maintenance of Effort budget. The initial budgetary allocation and technical adjustments thereafter could be made in collaboration with the County Administrator and Auditor-Controller through the normal budgetary process.

An initial assessment of costs, taking into consideration salaries, benefits and indirect costs, is reflected in the chart on the following two pages for both configurations and is current as of May 2023.

It should be noted that given the Sheriff's fiscal year 2022/23 budget of \$597.5 million, the salaries, benefits and indirect costs of option 1, year 1 equates to approximately \$2.7 million on the low range or .45% of the sheriff's budget, or \$3.5 million or .6% of the Sheriff's budget at the higher range of the salaries, benefits and indirect costs spectrum.

For option 1, year 2 or option 2, year 1, the cost is estimated to be \$ 3.23 million or .5% on the low end of the salary, benefits and indirect cost scale and a little over \$4.3 or .69% on the higher end.

Option 1, Year 1			
Office of the Inspector General Only			
Position Title	Total Positions	Low Range Annual Salary + Benefits	High Range Annual Salary + Benefits
** Inspector General	1	\$289,830	\$424,474
** Assistant Inspector General	1	\$230,976	\$346,963
** Community & Public Relations Officer	1	\$147,034	\$171,405
*** Ombudsman	1	\$142,886	\$205,363
* Senior Management Analyst (0207)	2	\$285,075	\$382,054
* Senior Investigator II (8581)	1	\$255,656	\$310,170
* Management Analyst (0206)	2	\$271,622	\$363,814
* Investigator II (8577)	1	\$166,931	\$205,437
* Secretary II (1220)	1	\$116,813	\$138,477
* Administrative Secretary II (1227)	1	\$128,128	\$152,555
* Senior Deputy County Counsel	0.5	\$131,466	\$175,289
INDIRECT COSTS:		\$541,605	\$719,000
TOTALS:		12.5	\$2,708,023
		\$3,595,002	

Option 1, Year 2 OR Option 2, Year 1
Office of the Inspector General, Oversight Board & Executive Director

Position Title	Total Positions	Low Range Annual Salary + Benefits	High Range Annual Salary + Benefits
Oversight Board Members (Volunteers - Stipend Only)	7	N/A	N/A
SUBTOTALS:	7	N/A	N/A
* Executive Director (0256)	1	\$183,106	\$279,152
* Senior Management Analyst (0207)	1	\$142,538	\$191,027
* Secretary I (1215)	1	\$86,766	\$103,272
INDIRECT COSTS:		\$103,102	\$143,363
SUBTOTALS:	3	\$515,512	\$716,814
** Inspector General	1	\$289,830	\$424,474
** Assistant Inspector General	1	\$230,976	\$346,963
** Community & Public Relations Officer	1	\$147,034	\$171,405
*** Ombudsman	1	\$142,886	\$205,363
* Senior Management Analyst (0207)	2	\$285,075	\$382,054
* Senior Investigator II (8581)	1	\$255,656	\$310,170
* Management Analyst (0206)	2	\$271,622	\$363,814
* Investigator II (8577)	1	\$166,931	\$205,437
* Secretary II (1220)	1	\$116,813	\$138,477
* Administrative Secretary II (1227)	1	\$128,128	\$152,555
* Senior Deputy County Counsel	0.5	\$131,466	\$175,289
INDIRECT COSTS:		\$541,605	\$719,000
SUBTOTAL:	12.5	\$2,708,023	\$3,595,002
CUMULATIVE SUBTOTALS		\$3,223,535	\$4,311,816
OVERSIGHT BOARD ANNUAL STIPEND:		\$8,400	\$8,400
TOTALS:	22.5	\$3,231,935	\$4,320,216

RECOMMENDATIONS FROM THE REIMAGINE ADULT JUSTICE PROJECT MANAGER

Establish a Hybrid System Consisting of an Oversight Board, Executive Director and OIG: The BOS should adopt a hybrid system consisting of an Oversight Board, Executive Director and an OIG as outlined in option 1, year 1. Under this configuration, the Executive Director would report to the IG and support both the Oversight Board and OIG. The Oversight Board and OIG would report directly to the BOS. All parties would be expected to work collaboratively to support the hybrid oversight system.

Establish a Seven-Member Oversight Board: The BOS should establish a seven-member Oversight Board. Each Supervisor would select one member with all members appointed by the Board. The two remaining at-large candidates would be nominated by an Advisory Selection Panel consisting of members of the community and subject to approval by the BOS.

Establish a Diverse Oversight Board Consisting of Members of the Community: To maintain a balanced perspective and ensure the Oversight Board has the benefit of a diverse set of opinions and knowledge, Oversight Board members should include individuals with expertise in areas that would further Alameda County's oversight objectives. Additionally, Oversight Board members should be diverse and reflect the socio and economic demographics of the County.

Establish a Hybrid System with Expansive Authority: The hybrid oversight system should have the authority to conduct independent oversight and monitoring; issue subpoenas; audit, investigate and inspect operations; review policies, procedures and trends, and; made recommendations to prevent civil right violations and litigation by proactively identifying patterns and practices.

Establish a Civil Service IG Position to Direct the OIG: The OIG should be led by an IG with a Juris Doctorate degree, licensed to practice law in California, with experience in matters related to criminal and civil law, conditions of confinement and law enforcement practices. The IG should be an classified position in the civil services system appointed by the BOS.

Establish an Executive Director to Provide Support to the Oversight System: The Oversight Board should be provided direct technical and administrative support by a full-time Executive Director who reports to the IG and provides services to the Oversight Board and the OIG. The Executive Director should have the requisite skills to work effectively with the multicultural community, and a wide array of professional and elected stakeholders.

Allocate a Sufficient Budget to Allow the Oversight System to Carry Out its Functions

Effectively: The Oversight Board and OIG should be allocated sufficient resources to enable each to carry out their functions effectively. Annual adjustments should be made to ensure their resources remain commensurate with their authority and duties. The initial budgetary allocation and technical adjustments thereafter should be made in collaboration with the County Administrator and Auditor-Controller through the normal budgetary process.

Appoint a Dedicated Legal Counsel for the Oversight Board: The Oversight Board and OIG should be supported by a senior level attorney in the Office of the County Counsel.⁴⁵

Enact the Oversight System Through an Ordinance: As required by the County Charter, the establishment of the Alameda County Sheriff's oversight system should be enacted through a county ordinance.

Conduct Periodic Evaluations to Measure the Oversight System's Effectiveness:

Alameda County's oversight system should be periodically evaluated to determine its effectiveness. The evaluation should be conducted by an independent third party with expertise in oversight within multiple jurisdictions.

⁴⁵ It is County Counsel's opinion that the Office of the County Counsel, based on county charter and government code is the only entity that can provide legal counsel for the proposed function. The BOS requested a legal opinion on this issue.

MAY 23, 2023, PRELIMINARY DIRECTION FROM THE ALAMEDA COUNTY BOARD OF SUPERVISORS

Preliminary Direction #1: Adopt option 1, year 1, with the option to add an Oversight Board and Executive Director in Year 2, if deemed necessary. The OIG shall include an Ombudsman to act as a liaison between the OIG and the community.

Preliminary Direction #2: Establish a hybrid oversight system to allow Alameda County to build a system that is tailored to the needs of Alameda County. The system shall, minimally, have the authority to conduct independent oversight and monitoring; issue subpoenas; audit, investigate and inspect operations; review policies, procedures and trends, and; make recommendations to prevent civil rights violations and litigation by proactively identifying patterns and practices.

Preliminary Direction #3: Create and hire an IG classification to lead the OIG.

Preliminary Direction #4: If an Oversight Board is established in the future, it should consist of members who are volunteers from the community. Prior or retired law enforcement personnel would not be prohibited from being considered for membership.⁴⁶

Preliminary Direction #5: The OIG should be staffed and funded (approximately) as outlined in the option 1, year 1 chart at the top of page 59. The initial budgetary allocation and future technical adjustments shall be made in collaboration with the County Administrator and Auditor-Controller through the normal budgetary process.

Preliminary Direction #6: A senior level attorney in the Office of the County Counsel should provide legal support to the hybrid oversight system, including the Oversight Board and the OIG.

Preliminary Direction #7: Establish the oversight system through the enactment of a county ordinance drafted by the Office of the County Counsel consistent with BOS direction.

Preliminary Direction #8: Prior to the adoption of any of the preceding seven items, obtain concurrence from the PPC and the community's feedback through a public forum.

JUNE 22, 2023 & JULY 18, 2023 PRELIMINARY DIRECTION FROM THE PUBLIC PROTECTION COMMITTEE & THE ALAMEDA COUNTY BOARD OF SUPERVISORS

At the conclusion of the June 22, 2023, meeting and after extensive discussion, the PPC supported the preliminary direction from the BOS, with the exception of #1. Given the historical issues at the Santa Rita Jail and after listening to extensive feedback from the community, the PPC opted to support the adoption of option 2, consisting of the establishment of an OIG, Oversight Board and Executive Director in year 1. The PPC directed that this modification be returned to the full Board for final consideration.

In response, on July 18, 2023, a follow up presentation was made to the BOS in which they preliminarily agreed with the PPC's modification, with the caveat that a final decision would be made at the upcoming September 19th Board meeting. A recap of these modifications are outlined below.

MODIFIED REQUEST TO ADOPT THE FOLLOWING ITEMS
Adopt option 2 which includes the establishment of an Office of the Inspector General, Ombudsman, Oversight Board and Executive Officer in year 1.
Establish a hybrid oversight system to allow Alameda County to build a system that is tailored to the needs of Alameda County. The system shall, minimally, have the authority to conduct independent oversight and monitoring; issue subpoenas; audit, investigate and inspect operations; review policies, procedures and trends; and prevent civil rights violations and litigation by proactively identifying patterns and practices.
Create and hire an IG classification to lead the OIG. The classification of the IG shall be a civil service position and subject to removal, at will, by the BOS.
Create an Oversight Board consisting of volunteers from the community. Prior or retired law enforcement personnel would not be prohibited from being considered for membership. Additional discussion will occur at a future BOS meeting regarding the number of Oversight Board members and the composition.
The initial budgetary allocation and future technical adjustments shall be made in collaboration with the County Administrator and Auditor-Controller through the normal budgetary process and shall include the staffing levels outlined in option 2.
A ½ time Senior County Counsel shall be identified and/or established to support the hybrid oversight system, and to provide the OIG and the BOS with dedicated and privileged legal counsel. This position will report to the Office of the County Counsel. ⁴⁷
Establish the oversight system through the enactment of a county ordinance and in collaboration with the Office of the County Counsel.

⁴⁷ It is County Counsel's opinion that the Office of the County Counsel, based on county charter and government code is the only entity that can provide legal counsel for the proposed function. The BOS requested a legal opinion on this issue.

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Appendix A

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Sheriff Civilian Oversight is Now a Law in California. Will it make a difference?

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Appendix B

December 2021 "On the Spot" Community Survey Results			
	Districts 1 & 2	Districts 3 & 4	District 5
1. The Alameda County Board of Supervisors should establish a Sheriff's Oversight Board.			
Strongly Agree	89%	80%	97%
Agree	3%	7%	3%
Neutral	3%	3%	0%
Disagree	3%	4%	0%
Strongly Disagree	3%	7%	0%
2. If you have more information, would it change your position?			
Yes	5%	5%	5%
No	76%	76%	78%
Uncertain	18%	19%	17%
3. If established, what type of Sheriff's Oversight Board model should Alameda County adopt?			
Investigation	16%	19%	16%
Review	6%	10%	2%
Monitor	6%	7%	7%
Hybrid	72%	63%	75%
4. If a Sheriff's Oversight Body is established, should the Alameda County Board of Supervisors also establish an Office of the Inspector General?			
Strongly agree	65%	61%	75%
Agree	21%	17%	9%
Neutral	3%	12%	17%
Disagree	6%	3%	0%
Strongly disagree	6%	8%	0%
5. If you had more information, would it change your position?			
Yes	6%	13%	15%
No	69%	64%	49%
6. If established, the Sheriff's Oversight Board members should consist of civilian volunteers, rather than paid staff/professionals.			
Strongly agree	62%	55%	66%
Agree	18%	27%	17%
Neutral	13%	4%	10%
Disagree	3%	11%	7%
Strongly agree	5%	4%	0%
7. Should retired sworn personnel be eligible for membership on the Sheriff's Oversight Board?			
Strongly agree	8%	14%	2%
Agree	11%	5%	12%
Neutral	8%	8%	16%
Disagree	21%	18%	12%
Strongly agree	52%	55%	58%

JANUARY 2022 ONLINE COMMUNITY SURVEY RESULTS

Appendix C

The following reflects responses received from the 34 members of the public who participated in the January 2022 civilian oversight online survey. Participants were asked to rank the significance of incorporating each element into the subject matter noted in the question, with 1 being the most important.

Question #1
What should the role of the oversight body be?
1. Independence, to include the ability to initiate independent investigations
2. Access to records and facilities, to include investigations, proposed disciplinary actions, citizen complaints, etc.
3. Clearly defined and adequate jurisdiction and authority, to include monitoring/auditing complaints, use of force, etc., and determining policy related matters that the ACSO should investigate further
4. Access to law enforcement executives and internal affairs staff, to include the Office of the IG
5. Power to subpoena records and other relevant documents
6. Adequate funding and operational resources
7. Stipend for Oversight Board members
8. Access to independent counsel
9. Hold public hearings
10. Ability to review Sheriff Department policies, training and other systematic areas, and make recommendations

Question #2
What should the key focus areas for the oversight body be?
1. Jail operations, to include in-custody death, use of force incidents, etc.
2. Reviewing internal affairs investigations and disciplinary actions
3. Citizen complaints
4. Community outreach and engagement
5. Sheriff Department policies and practices
6. Review of relevant reports and documents to determine trends and patterns
7. Working with law enforcement to assess crime prevention strategies and alternatives
8. Program opportunities for those in custody at the jail, to include pretrial and diversion opportunities
9. Avenues for inmates in the jail to have access to their families, i.e., video, in person
10. Effective re-entry connections to supportive services upon release

Question #3

What should the role of the OIG be?

1. Full-time, independent civilian oversight
2. Independent investigatory power
3. Sufficient budget and resources consistent with its mission
4. Ability to monitor operations and internal investigations to ensure that critical incidents and allegations of misconduct receive thorough, fair and effective investigations and resolutions
5. Ability to receive, review and/or investigate citizen complaints
6. Authority to investigate deaths of individuals in custody, to include use of force incidents in the jail
7. Actively solicit input from the Oversight Body
8. Power to subpoena records and other relevant documents
9. Recommend disciplinary actions to the ACSO
10. Develop and make recommendations to the Sheriff on the use of force policy, internal affairs review processes, critical incidents, etc., to include preparing and submitting reports to the BOS

Question #4

What should the characteristics of the membership of the oversight body be?

1. Proportionate ethnic representation based on Alameda County demographics
2. Proportionate gender representation based upon Alameda County demographics
3. Individuals with current or prior justice involvement
4. Families of individuals with current or prior justice
5. Individuals with expertise in relevant areas impacting the justice-involved population, i.e., mental health, re-entry services, health care services, employment, education and research
6. Diversity

Question #5

What training should the oversight body be provided?

1. Ride-alongs with law enforcement
2. Confidentiality
3. State and local laws that affect a law enforcement officer's rights and privacy, to include laws governing public records and public meetings
4. Case law on stops, detention, search and seizure, the rights of an arrestee, etc.
5. Criminal justice process, to include arrest, booking, arraignment, bail, hearings, and trial
6. Constitutional conditions of confinement
7. Prison Rape Elimination Act
8. Procedures on the investigation and review of shootings and in-custody deaths
9. Policies related to the management of mentally ill individuals and those under the influence of drugs or alcohol
10. Specific oversight operations, procedures and bylaws, including complaint intake

PUBLIC COMMENTS & FEEDBACK

Appendix D

The following reflects synthesized general themes based upon written and verbal feedback from the community during the December 2021 and January 2022 community engagement meetings, and the January 2022 on-line community survey.

COMMUNITY FEEDBACK	
The Oversight Body should:	
✓	Be supported by an OIG
✓	Be a hybrid model which includes different elements of the different types of models that have been established throughout the country
✓	Be staffed by civilian volunteers, with the exclusion of retired sworn personnel
✓	Diverse, inclusive, and empowered through the use of independent legal counsel, independent investigatory powers, subpoena and policymaking powers over operations, and with the authority to assess employee discipline
✓	Include a dedicated funding stream, adequate staffing, access to relevant testimony, records and reports, and auditing and review authority, and with the ability to hold regular public meetings
✓	Include bylaws that speak to how the Oversight Body obtains community input
✓	Be provided relevant training to ensure members of the body have the basic knowledge
✓	Include formerly incarcerated individuals, family members of justice-involved clients and individuals with relevant experience in re-entry and mental health, and/or from specific communities and organizations
✓	Be compensated to allow those with financial limitations to dedicate their time to this function

Other Comments:
The establishment of an Oversight Board and an OIG will help restore imbalance and community trust.
An independent selection panel should be established to make decisions on who serves on the Oversight Board. This type of system would strengthen transparency, credibility and confidence in the process.
Care needs to be given to ensure that individuals on the Oversight Board are not simply using their role as a "stepping stone" to support their political aspirations.
If an Oversight Board had been established years ago, many lawsuits, to include the Babu litigation, could have been averted.
The establishment of an Oversight Board will help rebuild community trust and reduce negative interactions and confrontations with the ACSO and its residents.
Although most participants felt that law enforcement (current or prior) should be excluded from serving on the Oversight Board because of perceived bias and mistrust from the community, there were some comments to suggest that if the purpose of this body is to build a bridge between the community and the ACSO, then the views of law enforcement should be exchanged, deliberated, and used to help build that bridge.
If retired law enforcement personnel are not excluded from membership on the Oversight Board, there should be a "cooling off" period.
Community participation did not reflect diversity of opinion in this county, but rather, a focused group of individuals with good intentions, but not looking to build bridges between the community and ACSO.

BIOGRAPHY OF NATIONAL & ACADEMIC EXPERTS INTERVIEWED

Appendix E

**Professor Michele Deitch,
Juris Doctorate, Harvard Law School
Lyndon B. Johnson School of Public Affairs
University of Texas**

Professor Michele Deitch holds a joint appointment as a distinguished senior lecturer at the Lyndon B. Johnson School and the Law School. She is an attorney with over 30 years of experience working on criminal justice and juvenile justice policy issues with state and local government officials, corrections administrators, judges and advocates. She specializes in independent oversight of correctional institutions, prison and jail conditions, managing youth in custody and juveniles in the adult criminal justice system.

Professor Deitch co-chairs the American Bar Association's (ABA) Subcommittee on Correctional Oversight and helped draft the ABA's *Standards on the Treatment of Prisoners*. Her numerous articles about correctional oversight include a 50-state inventory of prison oversight models and many reports on juvenile justice that have received national attention. Her TEDx talk, "*Why are we trying kids as adults?*" was named a TEDx Editor's Pick in January 2015.

Deitch brings criminal justice policy issues to a broader audience through her frequent commentary in national and local media and has significantly impacted public policy through legislative testimony and work with key legislators, including on Texas's Sandra Bland Act. She also chaired the Travis County (Texas) Sheriff's Advisory Committee on the Women's Jail, which proposed a reimagined, gender-responsive facility for women.

Prior to entering academia, Professor Deitch served as a federal court-appointed monitor of conditions in the Texas prison system, policy director of Texas's sentencing commission, general counsel to the Texas Senate Criminal Justice Committee, and consultant to justice system agencies around the country.

She has won numerous teaching awards, including being named to the 2019 Texas 10 list of the most inspiring professors at The University of Texas at Austin. She has been a Soros Senior Justice Fellow and is the recipient of the 2019 NACOLE Flame Award for significant contributions to correctional oversight.

Professor Sharon R. Fairley
Juris Doctorate, University of Law School

Professor Sharon Fairley is a graduate of the University of Chicago Law School and has taught at the Law School since 2015. She became a Professor from Practice in 2019. Her teaching responsibilities include criminal procedure, policing, and federal criminal law.

Before joining the Law School, Professor Fairley spent eight years as a federal prosecutor with the United States Attorney's Office for the Northern District of Illinois, investigating and trying criminal cases involving illegal firearms possession, narcotics conspiracy, bank robbery/murder, murder for hire and economic espionage, among other criminal acts. She also served as the First Deputy IG and General Counsel for the City of Chicago OIG.

In December 2015, following the controversial officer-involved shooting death of Laquan McDonald, Professor Fairley was appointed to serve as the Chief Administrator of the Independent Police Review Authority, the agency responsible for police misconduct investigations. She was also responsible for creating and building Chicago's new Civilian Office of Police Accountability.

Professor Fairley's academic research and writing focuses on criminal justice reform with an emphasis on police accountability. She graduated *magna cum laude* from Princeton University with a Bachelor of Science degree in Mechanical and Aerospace Engineering and also holds a Master of Business Administration in Marketing from The Wharton School of the University of Pennsylvania.

Cameron McElhiney

Director of Training & Education

National Association for Civilian Oversight of Law Enforcement

Director Cameron McElhiney plays a leading role in developing, coordinating, delivering, and evaluating local, regional, and national training programs for NACOLE. She also provides support to oversight practitioners and advocates across the country.

Director McElhiney's work has led her to assist those wishing to establish or enhance civilian oversight mechanisms whether through training or consultation. She has been able to assist communities throughout the United States, Mexico, the Caribbean, Europe, and Asia in this capacity. Additionally, she served as the project manager and a secondary author on a recent project exploring the state of the field, the thirteen principles, and effective practices for civilian oversight of law enforcement.

Director McElhiney first became involved with civilian oversight in 1998 when she was appointed to the Indianapolis Citizens' Police Complaint Board. She served with this Board for six years, including two as President. Since 2005, she has performed work for NACOLE as a contractor, later transitioning to Operations Coordinator, and eventually becoming the Director of Training and Education.

Beyond her work with NACOLE, she served on the Board of Directors of a local Montessori school and volunteers with local civic organizations where she assists with governance issues, succession planning, budgeting, fundraising and membership drives, and special events.

Director McElhiney received her undergraduate degree in political science from DePauw University.

9/19/23 Agenda
Item 124

September 18, 2023

Alameda County Board of Supervisors
County Administration Building
1221 Oak Street, 5th Floor

Re: Sheriff Oversight on Board Agenda of September 19, 2023

Dear Supervisors:

We are distressed that the Board appears poised to endorse an absolutely weak Sheriff Oversight model. It appears that the Board will direct the County Counsel to write a proposed ordinance that ignores the input of several public Town Hall hearings. Why did the Public Protection Committee of the Board insist on public hearings on the public's views to then ignore them? Supervisor Miley introduced the idea of Sheriff Oversight, but he has continually worked to weaken it.

1. **Independent Legal Counsel.** The community almost unanimously endorsed independent legal counsel. Although County Counsel, Donna Ziegler, claims to have written a secret attorney/client privileged memo explaining why her office needs to represent both parties in any potential litigation she won't even explain how that would work. Would a judge even allow it? Will you allow it?
2. **Former Police Officers Overseeing Police Conduct.** Likewise, the Town Halls were nearly unanimous that former police officers should not be allowed on the any oversight body. It was Sheriff Ahern who kept behind his desk a traitorous black striped flag with the thin blue line representing police opposition to any oversight. He's been voted out office.
3. **City of Dublin representation on an oversight body.** Supervisor Haubert has maintained that the City of Dublin which has a legally binding contract for police services with the ACSO should be allowed a reserved seat on the panel. If Supervisor Haubert believes the City of Dublin should have a seat on an oversight body, he can make that appointment. He should not be allowed more appointments than any other Supervisor by getting a special reserve appointment for the City of Dublin. The City of Dublin has their own oversight based on the fact that they have a contract with ACSO.

We believe that weak oversight is worse than no oversight. If the County Counsel will represent the ACSO over any refusal to comply with a subpoena from an oversight body, how will she direct her employee representing the other side in any such litigation? The public deserves an answer.

The January 6th, 2020 insurrectionists at U.S. Capitol carried black striped flags representing defiance of civil authority by police. We need an unbiased civilian oversight panel.

Please adopt a model of independent sheriff oversight that represents the views of your constituents.

Sincerely,

Bob Britton

Castro Valley, CA