

CIVILIAN OVERSIGHT OF POLICING
Lessons from the Literature

Joel Miller
With the assistance of Cybele Merrick
Vera Institute of Justice

Global Meeting on Civilian Oversight of Police
Los Angeles, May 5-8, 2002

Executive Summary

This paper reviews the English language literature on the civilian oversight of police. Key findings are as follows:

- Arguments for oversight have often focused on the effectiveness of oversight in addressing complaints, misconduct or broader police policy. However, the *appearance* to the community that complaints, misconduct or police policy are addressed in a transparent and fair way is also an important argument for oversight. Civilian oversight of policing can also be seen as consistent with democracy, particularly given the significant power the police hold over citizens.
- Most civilian oversight mechanisms have been concerned with complaints against the police. At one end of a spectrum are those organizations that take primary responsibility for receiving and investigating complaints. At the other end of the spectrum are those bodies that do not investigate complaints but are involved in the review, monitoring, and auditing of investigations.
- Approaches to police misconduct by oversight agencies also include a proactive focus on identifying and addressing underlying systemic problems within police organizations. However, a proactive approach to police misconduct is often neglected in the activities of civilian oversight mechanisms, though there are some good examples where this approach has been embraced.
- There are a range of other types of civilian oversight which are not exclusively concerned with misconduct issues. These involve civilian influence and control over broader areas of police policies, for example by controlling appointments, or by helping establish policing priorities.
- Establishing and sustaining mechanisms for civilian oversight is often a difficult process. There are certain factors that can help or hinder the development of civilian oversight of policing. These include:
 - political support;
 - police cooperation;
 - activist support;
 - resources;
 - management and leadership;
 - public attitudes.

- There are a number of criteria that can be used for assessing the success of oversight agencies which can be measured using methods such as audits, reviews and surveys. These include:
 - integrity (whether the complaints process is fair, thorough, and objective);
 - legitimacy (how the complaints processes are perceived);
 - learning (feedback from the process contributes to improvements).

- The report identifies some lessons for those wishing to promote oversight, including:
 - winning the argument for oversight;
 - identifying opportunities for creating oversight mechanisms;
 - influencing key actors;
 - effectively targeting oversight efforts;
 - implementing professional leadership and management;
 - monitoring and improving on success.

Table of Contents

Introduction	1
Is civilian oversight important?	2
The effectiveness of oversight	2
Public confidence through oversight.....	2
The democratic significance of oversight.....	3
Types of civilian oversight.....	3
Oversight of complaints	4
Proactive approaches to police misconduct	5
Oversight of broader police policy	7
Models of civilian oversight mechanisms.....	8
Establishing and sustaining civilian oversight	10
Political support.....	11
Police cooperation.....	11
Activist support	12
Resources	13
Management and leadership	13
Public attitudes.....	14
Evaluating the success of civilian oversight agencies	16
Conclusions.....	18
Key lessons for promoting oversight	18

Introduction

“Civilian oversight” involves people from outside the police taking a role in calling the police to account for their actions, policies and organization. Most civilian oversight mechanisms have been particularly concerned with complaints against the police.¹ However, civilians can, and do, hold the police accountable in ways that extend far beyond individual complaints, potentially covering broad areas of police practice and policy.

This paper looks at the English language research on civilian oversight. Inevitably, this literature is focused primarily on English speaking countries, notably the United States, Canada, Australia, and the United Kingdom, in which the development of civilian oversight is a somewhat recent phenomenon. In the United States, early attempts at civilian oversight bodies emerged in various forms as early as the 1940s, but it was only in the 1970s and onwards that these successfully started to take hold.² In Australia, the United Kingdom, and Canada, civilian oversight mechanisms emerged in the 1970s and 1980s.³ And in the 1990s, the literature reveals that other countries such as India, South Africa, and Brazil also began to incorporate civilian oversight processes as part of police reforms.⁴

The literature on oversight consists largely of descriptions of the development, functions, and achievements of oversight agencies. Formal evaluations of oversight mechanisms or developed theories of oversight are less common. This no doubt reflects the fact that the empirical development of oversight is a relatively recent phenomenon. Inevitably, these limitations affect this review.

In exploring the English language literature, this paper aims to:

- consider the value of civilian oversight;
- describe different types of oversight;
- highlight obstacles and opportunities in establishing oversight;
- identify the characteristics of successful oversight.

¹ For example: Samuel Walker, *Police Accountability: The Role of Citizen Oversight* (Belmont, CA: Wadsworth, 2001). Colleen Lewis, *Complaints Against the Police: The Politics of Reform* (Annandale: Hawkins, 1999). Andrew Goldsmith and Colleen Lewis, eds., *Civilian Oversight of Policing: Governance, Democracy and Human Rights* (Portland: Hart, 2000), 331. Douglas W. Perez, *Common Sense about Police Review* (Philadelphia: Temple University Press, 1994) 322.

² *Police Accountability: The Role of Citizen Oversight; Civilian Oversight of Policing: Governance, Democracy and Human Rights.*

³ *Complaints Against the Police: The Politics of Reform.*

⁴ *Civilian Oversight of Policing: Governance, Democracy and Human Rights.*

Is civilian oversight important?

Where oversight mechanisms have been established they have rarely emerged because of a consensus among police, government, and advocates about their value. More often, they are the product of struggles and compromises made between those who support oversight and those who resist it, and between those with competing visions of what oversight should look like. Indeed, the police themselves have variously supported or opposed oversight mechanisms in different times and locations. In this context, it is useful to consider some of the arguments that might be made for civilian oversight. Three types of arguments are discussed below.

The effectiveness of oversight

One set of arguments claims that complaints and misconduct, or other areas of policy, are addressed more effectively when civilians are involved in the process than when police deal with such issues on their own. This issue has dominated much of the discussion about the merits of oversight. Focusing on complaint review, Walker highlights a number of arguments of this kind.⁵ For example, there are claims that oversight ensures more thorough and fair investigations, that more complaints are sustained, or that they result in more disciplinary actions and, as a result, more police misconduct is deterred. Similar types of arguments could be constructed for other areas of police policy. For example, it could be argued that police policies and priorities are more effective and more responsive to the community when civilians are involved than when the police make decisions without civilian input.

Arguments about effectiveness are probably most compelling in contexts where internal systems of review are conspicuously poor or absent, where there are clear and widespread abuses by police, or where police organizations are very poorly managed and organized. This may be the case, for example, in countries undergoing transitions to democracy, which have historically lacked accountability.

However, as Walker points out for the United States, arguments for and against oversight that rely on questions of effectiveness draw on assumptions that are largely untested and unproven. Furthermore, these assumptions can be very difficult to test empirically. For example, it is extremely difficult to judge whether the sustain rate of complaints is different with or without oversight, because oversight may impact on the kinds of complaints received. No doubt the difficulty of resolving such issues is likely to be a feature of other countries besides the United States.

⁵ *Police Accountability: The Role of Citizen Oversight.*

Public confidence through oversight

Beyond questions about the effectiveness of oversight is the broader issue of police legitimacy. Perez argues that it is important for a community to have faith in its public institutions, particularly the police.⁶ Significantly, the *appearance* to the community that complaints are dealt with in a transparent and fair way can be seen as a goal in its own right. Based on research within the United States, Perez argues that some form of civilian oversight is probably the best way to achieve legitimacy with the community, regardless of whether internal systems for dealing with police complaints might also be effective. Similar arguments can also be made for transparency in relation to misconduct or police policy more generally.

Civilian oversight does not guarantee legitimacy, and certainly there are examples where oversight agencies have not enhanced confidence in the police—for example, when oversight is not seen as independent or when it is perceived as ineffectual. However, the question of legitimacy is an important one to consider, over and above the question of effectiveness.

The democratic significance of oversight

Finally, a case for civilian oversight can also be made by a direct appeal to the democratic idea that citizens should have influence over their governance. Arguably, this is particularly important in relation to the police, given their significant power over the daily lives of citizens. Jones et al. have argued, for example, that the police are the most central public service in a modern state.⁷ While (in democracies at least) they exist to protect the fundamental freedoms of citizens, their powers also provide the potential for severe abuse of these freedoms. These powers include, for example, the power to detain and to use force against citizens. Oversight mechanisms may provide an important way in which policing can become more directly responsive to citizens. Again, this consideration is an important one to consider in addition to concerns simply about the effectiveness of oversight.

Types of civilian oversight

There are a variety of different roles that civilians can play in overseeing the police. As already noted, these are very often concerned with complaints. However, issues of police misconduct more generally and broader areas of policy also feature.

⁶ *Common Sense about Police Review*.

⁷ Trevor Jones, Tim Newburn, and David J. Smith, “Policing and the Idea of Democracy.” *British Journal of Criminology*. 36, no. 2 (1996): 182-198.

Oversight of complaints

The nature of civilian involvement in the complaints process varies substantially between oversight agencies. While some organizations take primary responsibility for receiving and investigating complaints, it is more common to find that civilian oversight bodies do not carry out full investigations of all complaints. Rather, they have some involvement in overseeing or reviewing complaint investigations, and may carry out some investigations. In other cases, bodies have no investigative mechanisms of their own, and are simply involved in the review, monitoring, and auditing of complaints and their investigation. Box 1 highlights this range of possibilities, using the examples of the Police Ombudsman for Northern Ireland, the South African Independent Complaints Directorate, and the San Jose Auditor in the United States.

Box 1: Involvement in complaints by three different oversight agencies

Full investigation by the Police Ombudsman for Northern Ireland

The Police Ombudsman for Northern Ireland, an office formed in 2000, takes full responsibility for receiving and investigating complaints against the police, and Ombudsman investigators have the same legal powers as police officers. If the Ombudsman feels there is sufficient evidence against an officer, she will recommend that the Director of Public Prosecutions prosecute the officer, or will recommend to the police that the officer receive disciplinary action.⁸

Selective investigation by the South African Independent Complaints Directorate

The Independent Complaints Directorate will investigate more serious offences—notably deaths in custody or by police action—as well as some complaints involving serious criminal offences by police officers. However, the remaining complaints are referred to the police for investigation. Where this occurs they are subject to monitoring by the Directorate.⁹

Review and audit of complaints by San Jose Auditor (California, United States)

Complaints may be received by the San Jose Auditor, but they are always investigated by the San Jose Police Department. However, the Auditor reviews details of the investigations during the case and after it has been closed and will make a determination as to whether it agrees with the finding or not. Additionally, the Auditor conducts audits of the Police Department's investigation of citizen complaints and deaths related to police actions.¹⁰

⁸ Police (Northern Ireland) Act 1998 Elizabeth II. Chapter 32. HMSO: London. Police Ombudsman for Northern Ireland website (www.policeombudsman.org).

⁹ Bronwen Manby, "The South African Independent Complaints Directorate" in *Civilian Oversight of Policing: Governance, Democracy and Human Rights*, eds. A. Goldsmith and C. Lewis (Portland: Hart, 2000). N. Melville, *The Taming of the Blue: Regulating Police Misconduct in South Africa* (Pretoria: HSRC, 1999).

¹⁰ *Police Accountability: The Role of Citizen Oversight*.

Proactive approaches to police misconduct

The particular focus on complaints among civilian oversight bodies probably in part reflects a faith in a “deterrence”-based approach to police misconduct. In this view, the punishment of officers identified for their unethical behaviour will have the broader effect of reducing misconduct and improving police organizations. This has obvious parallels with the view that crime in general can be reduced by the effective operation of the criminal justice system in bringing individual offenders to justice.

However, as is true for crime generally, deterrence is only one of a number of ways to deal with misconduct. Other approaches include a more proactive focus on identifying and resolving underlying systemic problems within police organizations. These problems might include, for example, deficiencies in police policies, management, supervision, or training. As Walker has noted, this can involve a “problem-oriented” approach, in which complaints and other kinds of data are analyzed with a view to identifying the underlying causes of misconduct, and to addressing these causes directly.¹¹ This approach potentially draws on the principles of problem-oriented policing, which are more typically applied to problems of crime and disorder, as expounded by Goldstein.¹²

Table 1 highlights the contrasting themes of reactive and proactive approaches to dealing with police misconduct.¹³

Table 1 Reactive and proactive approaches to police misconduct	
<p style="text-align: center;">Reactive approach</p> <ul style="list-style-type: none"> • Responds to individual complaints • Emphasis on legalistic rules • Use of adversarial, administrative process • Imposes sanctions on individual officers • Reliance on deterrence 	<p style="text-align: center;">Proactive approach</p> <ul style="list-style-type: none"> • Explores problems proactively (e.g. investigations, collection and analysis of data) • Identifies underlying problems and causes • Focus on organization as a whole • Concern with reduction and prevention of misconduct • Develops recommendations for organizational change

Some authors have argued that in both practice and research, proactive approaches to police misconduct have been neglected.¹⁴ However, there are some good examples of

¹¹ Ibid.

¹² Herman Goldstein, “Improving Policing: A Problem-Oriented Approach.” *Crime and Delinquency* 25, no 2 (1979): 236-58.

¹³ Adapted from: Paul Quinton. (1992) *Evaluation of the New Police Misconduct Procedures* (London: Home Office, 1992).

civilian oversight that have embraced this role. For example, Walker highlights the role of Merrick Bobb as a “special counsel” to Los Angeles County Sheriff’s Department. Bobb was appointed voluntarily by the department to investigate and monitor the performance of the department in managing the risk of misconduct. Box 2, below, describes his contribution to policy changes addressing a high number of police shootings in one part of the department.

Box 2 Proactive civilian oversight in Los Angeles County Sheriff’s Department

A significant contribution to police department policy made by the Special Counsel monitor was an investigation into high numbers of shootings by officers assigned to the department’s Century Station. This involved a review of documentation, interviews with staff, and observations. He found that there was a mismatch between the experience of officers, their levels of supervision, and the demands placed on them. He noted that shootings often occurred during foot and automobile pursuits. And he noted that a third of the shootings involved trainees. This led to recommendations for tightening standards for pursuits and changes in the organization of training for new officers so that they were spread more evenly across the department.¹⁵

In a different context, the Police Auditor of São Paulo, Brazil, made a number of recommendations based on his oversight of police complaints investigations, which were accepted by the police. These included a change in policy from “shoot to kill” from “shoot to disable,” which may have contributed to a substantial drop in police killings which occurred over the period.¹⁶ In Queensland, Australia, the former Criminal Justice Commission, as well as dealing with complaints, has a Research and Prevention Division (RPD) which uses data generated by complaints, as well as carrying out other forms of data collection. In this capacity, RPD has identified patterns and problems underlying complaints and has been directly involved in training police officers.¹⁷

In a slightly different example, within the United States some monitors have been judicially appointed for a limited period to oversee specific, legally binding reforms within police departments, such as when “consent decrees” are agreed between the police department and state or federal government. These typically originate from specific allegations about misconduct. For example, in Pittsburgh a monitor was appointed to

¹⁴ *Police Accountability: The Role of Citizen Oversight, Complaints Against the Police: The Politics of Reform.*

¹⁵ *Police Accountability: The Role of Citizen Oversight.*

¹⁶ R. Neild, “Confronting a Culture of Impunity: The Promise and Pitfalls of Civilian Review of Police in Latin America” in *Civilian Oversight of Policing: Governance, Democracy and Human Rights*, eds. A. Goldsmith and C. Lewis (Portland: Hart, 2000).

¹⁷ *Complaints Against the Police: The Politics of Reform.*

oversee compliance with a consent decree specifying measures to monitor potentially problematic officer behaviour and the re-organization of the police complaints process.¹⁸

Oversight of broader police policy

In addition to the issue of police misconduct, which dominates civilian oversight mechanisms, there are a range of other types of civilian oversight which are not exclusively concerned with misconduct issues. In practice, these have often received less attention in the civilian oversight literature.

One model is the example of Police Authorities in England and Wales, which exert control across a range of areas (see Box 3 below). Another is the Los Angeles Board of Police Commissioners, which has the role of setting the overall policy for the department and participating in appointing the police chief.¹⁹

Box 3 Oversight of police policy by Police Authorities in England and Wales

Each police force in England and Wales is directly accountable to a parallel Police Authority. These agencies have a range of powers. Notably, they appoint the Chief Constable of the force and approve annual plans setting out policing priorities and the police budget. They are also obliged to consult with the community about local policing priorities, which inform these plans. While they take some role in overseeing complaints, this role is primarily carried out by a separate body. Members of the police authority include local politicians, magistrates, and independent figures.²⁰

Another example of accountability to civilians which is concerned with broader policy is embodied in “community policing.” One of the best documented examples of community policing is in Chicago in the United States, though variations on community policing can be found in countries and jurisdictions across the world, including countries in North America, Latin America, Europe, Africa, and Asia.²¹ Within some models of community policing accountability to civilians may be embodied in mechanisms of consultation between local police and communities about police priorities. This takes place, for example, in the beat meetings police officers regularly hold with local community residents. However, the extent to which members of the public may genuinely hold power of the police through such meetings is likely to vary. For example,

¹⁸ United States of America v. City of Pittsburgh, Bureau of Police and Department of Public Safety. Consent Decree. April 1997.

¹⁹ Office of the Inspector General LAPD website (www.ci.la.ca.us/oig).

²⁰ Association of Police Authorities web site (www.apa.police.uk).

²¹ Welsey G. Skogan and Susan H. Hartnett, *Community Policing, Chicago Style* (New York: Oxford University Press, 1997), 258.

Bull and Stratta note that in case studies of police-community consultation committees within Australia and England, community influence on policing can be restricted, for example by limiting the agendas to issues that do not provide significant opportunities for the public to challenge or influence police policies.²²

Models of civilian oversight mechanisms

We have seen that there are a range of ways in which civilians can oversee policing. It is possible to classify, at least crudely, this variety in terms of certain models of oversight agencies. Walker offers a range of categories, based primarily on the U.S. experience of dealing with complaints and misconduct issues.²³ In his first category, responsibility for investigating individual complaints is given to an agency external to the police department, and civilians carry out the initial fact-finding investigations. In a second category, citizen complaints are investigated by the police department, and civilians are involved in reviewing investigative complaints. In a third category, citizen complaints are received, investigated, and disposed of by the police department. However, if complainants are not satisfied with their treatment, they can appeal to the oversight agency. Finally, a fourth category is reserved for arrangements where police departments investigate complaints, but an auditor is authorized to review, monitor, or audit the departments complaints process.

These categories probably work reasonably well for international purposes, too. As with the United States, though, there will clearly be examples of bodies that do not fit neatly into one category or another. Importantly, however, Walker's categories exclude examples of oversight agencies already discussed that are not primarily concerned with complaints or misconduct, but take responsibility for broader areas of police policy, an area of oversight that should not be neglected. Table 2 provides a brief outline of some examples and characteristics of this range of civilian oversight mechanisms, covering the wide range of oversight.

²² David Bull and Erica Stratta, "Police Community Consultation: An Examination of its Practice in Selected Constabularies in England and New South Wales, Australia." *The Australian and New Zealand Journal of Criminology* 27, no. 3 (1994): 237-249.

²³ *Police Accountability: The Role of Citizen Oversight*.

Table 2 Different models of civilian oversight mechanisms		
Oversight mechanism	Examples	Features
Independent investigation	<ul style="list-style-type: none"> • Northern Ireland—Police Ombudsman • Minneapolis, U.S.—Civilian Review Authority • New York, U.S.—Civilian Complaint Review Board • Oakland, U.S.—Citizens’ Police Review Board 	<ul style="list-style-type: none"> • Fully independent from police • Receives complaints from the public • Investigations conducted by non-officers • Reports findings to police
Police investigation, with citizen review or appeal to civilian authority	<ul style="list-style-type: none"> • England/Wales—Police Complaints Authority • South Africa—Independent Complaints Directorate • Victoria, Australia—Deputy Ombudsman • Ontario, Canada—Commission for Public Complaints against the Royal Canadian Mounted Police • San Diego, U.S.—Citizens’ Review Board on Police-Community Relations 	<ul style="list-style-type: none"> • Civilian authority or police receives complaints • Police conduct investigation • Civilian authority reviews investigative reports • Civilian authority may call for further investigation if it does not agree with police report
Inspectors general, auditors and human rights commissions	<ul style="list-style-type: none"> • India—Human Rights Commission • San Jose, U.S.—Independent Police Auditor • Los Angeles County Sheriffs, U.S.—Special Counsel • São Paulo, Brazil—Auditor 	<ul style="list-style-type: none"> • Broad mandate to investigate and make recommendations on the complaints process and on underlying conditions leading to police abuses • May investigate individual cases of alleged abuse
Other kinds of civilian oversight	<ul style="list-style-type: none"> • Chicago, U.S.—Beat meetings with residents • England/Wales—Police Authorities • Los Angeles—Board of Police Commissioners 	<ul style="list-style-type: none"> • Consultation and control over broader policing policy and objectives ²⁴

²⁴ Police Ombudsman for Northern Ireland website. National Association for Civilian Oversight of Law Enforcement website (www.nacole.org). *Civilian Oversight of Policing: Governance, Democracy and Human Rights*. Thomas E. Perez, “External Governmental Mechanisms of Police Accountability: Three Investigative Structures.” *Policing and Society*, 10, no. 1 (2000): 47-77. Association of Police Authorities website. *Community Policing, Chicago Style*.

Establishing and sustaining civilian oversight

History tells us that establishing and sustaining mechanisms for civilian oversight is often a difficult process. It is one that faces significant challenges from the very beginning and can be continuously threatened by organizational and political developments. The case of Washington, D.C. provides an example of how a number of challenges and setbacks can obstruct the development of civilian oversight repeatedly over many years (Box 4).

It is important to understand the factors that can help or hinder the development of civilian oversight of policing. This is particularly important for those looking to establish or develop oversight mechanisms. In practice, across countries and police departments, the kinds of obstacles and opportunities that influence the success of civilian oversight efforts are surprisingly similar.

Box 4 Setbacks for civilian oversight in Washington DC

Washington formed its first Complaint Review Board in 1948, following lobbying by the Urban League and National Conference of Christians and Jews in response to concerns about police brutality. However, the board had little visibility, handled few cases, and was criticized for its ineffectiveness. In 1965 it expanded its membership from three to five people and adopted more formal legal procedures. However, criticisms continued, and it was ultimately disbanded in 1973 when its members resigned.

In 1979, the mayor and the police department's first African-American police chief responded to criticisms about complaint investigation by proposing a new Civilian Complaint Review Board. Despite the objections of many members of the police department, it was established in 1980 with exclusive jurisdiction over complaints of excessive force, harassment, and demeaning language. In practice, however, fiscal problems delayed the opening of the board until 1982.

In 1987, it emerged that there was a backlog of nearly one thousand cases. After a succession of high profile incidents of alleged police abuse, and riots, emergency legislation was passed in 1992 to expand the panel from seven to 21. However, a substantial backlog remained. Facing a severe financial crisis, the city abolished the Civilian Complaint Review Board in 1995, citing its ineffectiveness as a key reason.

Legislation passed in 1998 created a new board, the Office of Citizen Complaint Review, with power to resolve complaints more informally. This finally opened in 2001.²⁵

²⁵ Ibid.

Political support

Ongoing political support is crucial for establishing and sustaining effective civilian oversight. This issue is relevant to the wide range of examples where attempts at oversight have been both successful and unsuccessful. For example, in Columbia, the role of the Commissionado Nacional para la Policia established by legislation in 1993, under President Gaviria, was dismantled in 1997 by his successor, President Samper, who was less sympathetic to the office of Commissionado.²⁶ In the United States, civilian oversight agencies were often established by incoming mayors looking to improve police accountability (for example in New York and Philadelphia). In other cases, such as in Britain and Australia, commissions and inquiries instigated by politicians have led to the establishment of enhanced civilian oversight mechanisms.²⁷

There are also some important examples where fundamental political shifts have created conditions favorable for the development of civilian oversight. This is true, for example, for Northern Ireland, where the Ombudsman was established as part of wide-ranging police reforms that were central to the peace process over the last decade. It is also true in South Africa, where peace accords, and a changed political structure, led to police reforms involving establishment of the Independent Complaints Directorate.²⁸ Similarly, in El Salvador, peace accords in 1992 provided a blueprint for police reform, leading to the creation of a Human Rights Ombudsman.²⁹

Police cooperation

Hostility by police departments and police officers to civilian oversight is probably one of the most significant factors that helps explain the failures and underperformance that have afflicted civilian oversight agencies. For example, police unions in North America have often battled against the introduction of police oversight.³⁰ In some instances, campaigns by police unions have led directly to the demise of existing oversight agencies, such as in Philadelphia in the 1960s when two successive lawsuits by police unions significantly weakened the formal powers of the Police Advisory Board and then suspended its activities, after which it was not reactivated. In other contexts, police leadership has an important role in weakening the power of civilian oversight. For example, in Ontario in 1997, legislation to abolish the Office of Public Complaints Commissioner, and to replace it with weaker mechanisms of police accountability, was a

²⁶ Andrew Goldsmith, "Police Accountability Reform in Colombia: The Civilian Oversight Experiment" in *Civilian Oversight of Policing: Governance, Democracy and Human Rights*, eds. A. Goldsmith and C. Lewis (Portland: Hart, 2000).

²⁷ *Complaints Against the Police: The Politics of Reform*.

²⁸ "External Governmental Mechanisms of Police Accountability: Three Investigative Structures."

²⁹ "Confronting a Culture of Impunity: The Promise and Pitfalls of Civilian Review of Police in Latin America"

³⁰ *Police Accountability: The Role of Citizen Oversight, Complaints Against the Police: The Politics of Reform*.

product of close consultation between a conservative government and police leaders.³¹ In some cases, a lack of cooperation with a civilian oversight agency by police leaders can undermine its effectiveness and challenge its legitimacy. The Human Rights Ombudsman in El Salvador, for example, cited lack of police cooperation as a factor limiting her ability to investigate complaints.³²

Conversely, in some contexts the engagement of police departments with the process of oversight has been an important basis for their success. It is notable, for example, that police union opposition to oversight has not been a feature in the South African context.³³ And the voluntary appointment of Special Counsel by Los Angeles Sheriff's Department, and the wide access given to this figure, is a key factor explaining the detailed and extensive analysis, recommendations, and reforms that have occurred within the department. Ultimately, effective oversight inevitably requires a reasonable working relationship with police departments, given that receiving, investigating, and overseeing complaints, disciplining officers, and changing policy cannot be carried out by oversight agencies without police cooperation.

Activist support

Community activist organizations, such as those campaigning for human and civil rights, can play an important role in the development of civilian oversight. This is true, for example, in the United States, where the American Civil Liberties Union has often been in the forefront of campaigns to establish civilian review boards. Campaigning by human rights groups was also important to police reform and civilian oversight in Sao Paulo, Brazil (see Box 5 below).

Conversely, a lack of support by such groups has been implicated in the failure of police complaints mechanisms. Goldsmith suggests, for example, that a lack of understanding of the role of Commissionado among human rights groups in Colombia may have been a factor contributing to the ultimate demise of the office.³⁴ In a similar vein, Neild argues that in Argentina, human rights organizations, which have remained focused on demanding accountability for past military crimes, have not monitored or advocated for institutional police reforms.³⁵

³¹ *Complaints Against the Police: The Politics of Reform*. Tammy Landau, "Back to the Future: The Death of Civilian Review of Public Complaints Against the Police in Ontario, Canada," in *Civilian Oversight of Policing: Governance, Democracy and Human Rights*, eds. A. Goldsmith and C. Lewis (Portland: Hart, 2000).

³² "Confronting a Culture of Impunity: The Promise and Pitfalls of Civilian Review of Police in Latin America."

³³ "The South African Independent Complaints Directorate"

³⁴ "Police Accountability Reform in Colombia: The Civilian Oversight Experiment"

³⁵ "Confronting a Culture of Impunity: The Promise and Pitfalls of Civilian Review of Police in Latin America."

Resources

Civilian oversight bodies obviously need sufficient resources to meet their mandate. However, it is common to find that such resources are not forthcoming. This may happen for political reasons, as a way of limiting the powers of oversight agencies, or it may simply occur because resources are scarce in jurisdictions facing fiscal difficulties and crises. Where agencies are under-resourced, this inevitably undermines their effectiveness, and can ultimately harm their support and legitimacy. For example, the failure of the Police Complaints Tribunal that existed in Queensland, Australia, in the 1980s is attributed by Lewis to, among other things, a lack of resources.³⁶ While the tribunal technically had the power to conduct its own investigations, in practical terms it did not have the resources to do so, and had little choice but to resolve that matters brought to its attention would be referred to the police commissioner for investigation. Ultimately, the tribunal failed to detect and address the widespread corruption revealed ultimately by the Fitzgerald Inquiry.³⁷

Conversely, there are examples of well-resourced civilian oversight agencies. Although it is still too early to judge the success of the Northern Ireland Police Ombudsman, it is clear that the agency has been invested with substantial resources, including a staff of 78 (as of March, 2000) for a police service of eight and half thousand officers serving less than 2 million citizens.³⁸

Management and leadership

Effective management and leadership of civilian oversight agencies is also critical to the success of oversight agencies. The continued backlog of complaints that characterized the ill-fated Civilian Complaint Review Board in Washington DC was, at least in part, a product of management failures.³⁹ Effective leadership is also important to securing the confidence of politicians, agencies, and the public in the work of civilian oversight agencies. In Colombia, a long search for an initial candidate for the role of Commissionado and the resignation of that candidate within a few months (citing budget constraints and lack of police co-operation) contributed no doubt to its failure to achieve a high profile and political and public support.⁴⁰ As noted, the Commissionado role was subsequently dismantled.

³⁶ *Complaints Against the Police: The Politics of Reform*

³⁷ Fitzgerald Inquiry, Report of the Commission of Inquiry into Possible Illegal Activities and Associated Police Misconduct (Brisbane: Fitzgerald Report, 1987).

³⁸ Police Ombudsman for Northern Ireland website.

³⁹ *Police Accountability: The Role of Citizen Oversight*.

⁴⁰ "Police Accountability Reform in Colombia: The Civilian Oversight Experiment"

Public attitudes

Public concerns, often fanned by the media, play an important role in prompting both positive and negative developments in civilian oversight. Notably, civilian oversight typically emerges in the context of public reaction to high-profile examples or allegations of police misconduct, often accompanied by a perception that justice against the police officers concerned is not achieved. This was true, for example, in the emergence of the first Civilian Complaint Review board in New York City in 1953, following a Department of Justice investigation highlighting a range of allegations of police brutality, and the failure of the New York City Police Department to discipline officers guilty of misconduct.⁴¹ In Britain, the establishment of a new Independent Complaints Commission follows an inquiry into a bungled police investigation into the racist murder of a black teenager. This inquiry was the outcome of a long campaign by the victim's family.⁴²

However, public attitudes can also play a role in undermining civilian oversight. It is notable, for example, that public fear of crime often goes hand in hand with support for a more aggressive style of policing, and perhaps some sympathy with police brutality against suspects. In New York, for example, it was the public who voted to dismantle the Civilian Complaint Review Board in 1966 following a strong campaign by the police union, playing on fear of crime. This may be a significant issue in countries where public fear of crime is high. Manby suggests that the public sympathies for aggressive policing that exist in South Africa, with its extremely high levels of violent crime, have been an obstacle for the Independent Complaints Commission.⁴³

There can also be problems when an oversight agency is not seen as independent. For example, Manby notes that the media often refers to the Independent Complaints Directorate in South Africa as part of the police service.⁴⁴ This may reflect, in part, the fact that it has been dependent on the police service for some of its resources.

⁴¹ *Police Accountability: The Role of Citizen Oversight*.

⁴² W. Macpherson, *The Stephen Lawrence Inquiry: Report of an inquiry by Sir William Macpherson of Cluny* (London: HMSO, 1999).

⁴³ "The South African Independent Complaints Directorate."

⁴⁴ *Ibid.*

Table 3 Factors which can help and hinder the development of civilian oversight		
	Obstacles	Opportunities
Political support	<ul style="list-style-type: none"> • Politicians may have “law and order” agenda not conducive to oversight. • Politicians may limit oversight powers through legislation or budgets. 	<ul style="list-style-type: none"> • Political shifts (e.g. newly elected officials, peace accords, transitions to democracy) can produce favorable conditions for oversight.
Police co-operation	<ul style="list-style-type: none"> • Campaigning by police unions can challenge oversight agencies. • Lack of cooperation by police departments can undermine effectiveness of oversight. 	<ul style="list-style-type: none"> • Police support and access to facilitates effective investigation and audits. • Responsive police departments will implement recommendations for reform.
Activist support	<ul style="list-style-type: none"> • Deep mistrust of the police (e.g. where they have history of systematic human rights abuses) may deter activists from constructive engagement with police reform. 	<ul style="list-style-type: none"> • Lobbying by community groups can help drive police reforms.
Resources	<ul style="list-style-type: none"> • Limited resources for oversight agencies can result in ineffectiveness and failure. 	<ul style="list-style-type: none"> • Well resourced oversight agencies have a greater chance of meeting their objectives.
Management and leadership	<ul style="list-style-type: none"> • Poor management and leadership can lead to ineffective oversight agencies and unmet public expectations. 	<ul style="list-style-type: none"> • Effective management creates conditions for efficient and effective investigations. • Strong leadership can raise the profile and create political and public support.
Public attitudes	<ul style="list-style-type: none"> • Fear of crime can offset support for police accountability. • Where oversight agencies do not appear independent, they may lose public support. 	<ul style="list-style-type: none"> • Outrage at police abuses can prompt action to improve oversight.

One example where the various factors discussed above were largely favorable to the development of a civilian oversight mechanism was the case of São Paulo in the late 1990s, as described in Box 5 below.

Box 5 Establishing civilian oversight in São Paulo, Brazil

São Paulo, Brazil's largest city, has a strong human rights movement, with over forty active organizations often campaigning against police abuses. This movement demanded and won the creation of a council for the protection of the human person (CONDEP), which recommended greater controls on police behavior. Following the election of a new state governor in 1995, a Police Auditor was created to oversee police investigations. As of 1997, the Auditor had a staff of 25, powers to see any police documents, and the power to make proposals for changes in police policy.

The first auditor, Benedito Domingos Mariano, was a human rights activist who prioritized police killings, torture, abuse of authority, and threats. In practice, it appeared that the police treated seriously the cases he followed. The Auditor received strong political backing from the state governor and legislature, had offices in the Ministry of Public Security, and received favorable media coverage.

Over the first three months of the auditor's office, complaints were received by the auditor in only one in ten cases where police used lethal violence. However, by 1998, almost every case was registered as a complaint with his office. In two and a half years, the office received sixteen thousand complaints, and followed half of these. The auditor also made a number of recommendations, some of which were acted upon by the police.⁴⁵

Evaluating the success of civilian oversight agencies

There is little research that has properly evaluated the success of oversight agencies. Furthermore, as in any comparison of policing, given the many forms and contexts of different oversight agencies, it is not clear how much successes in one context would translate into another. However, it is useful to consider the criteria that might be used to assess the success of individual oversight agencies.

Based on Perez, there are three important criteria for assessing the success of civilian oversight mechanisms in relation to complaints and misconduct, though they can be extended to oversight of broader policy areas.⁴⁶ These are integrity, legitimacy, and learning. Walker has identified a number of strategies for assess whether police and

⁴⁵ "Confronting a Culture of Impunity: The Promise and Pitfalls of Civilian Review of Police in Latin America."

⁴⁶ *Common Sense about Police Review*.

oversight practices meet these standards.⁴⁷ Table 4 summarizes some of the main themes highlighted by Perez and Walker.

Table 4 Judging the success of civilian oversight mechanisms	
Criteria for success	Evaluation strategies
<p>Integrity This refers to whether the complaints process is fair, thorough, and objective. This includes fairness to both complainants and police officers. It relates to whether decision-making is objective in evaluations of facts and statements.</p>	<ul style="list-style-type: none"> • Audits of complaints files. • Audits of training and recruitment of investigators. • Review of management and supervision of investigators. • Assessment of staffing levels for investigations. • Surveys of public awareness of complaints process.
<p>Legitimacy Describes how the complaints processes are perceived, notably by the public, complainants, and the police. The idea of legitimacy can be extended to broader areas of police policy.</p>	<ul style="list-style-type: none"> • Satisfaction surveys of complainants and police officers. • Surveys of public confidence. • Interviews with complainants, police officers, and the public.
<p>Learning Refers to the extent to which the complaints process provides meaningful feedback which contributes to the improvement of the process and the police department generally. This criterion can be extended to organizational responses to other issues besides complaints.</p>	<ul style="list-style-type: none"> • Policy reviews. • Interviews with police officials. • Analysis of data on police activity (e.g. arrests, stops, searches, complaints). • Observations of police practice. • Examining uptake of recommendations for police reforms.

The ideals and methods presented in Table 4 could be useful for those directly engaged in civilian oversight. They provide an important basis for monitoring and evaluating the efforts of agencies. In doing so, they allow agencies to identify their problems and weaknesses, and to identify ways of improving on the success of their efforts.

As a final thought, it is important to realize that civilian oversight is ultimately just one form of accountability among several that contribute to the ideal for democratic policing. As Stone and Ward observe, there exist in practice a number of complementary forms of police accountability, including those to the public, the state and to the police

⁴⁷ *Police Accountability: The Role of Citizen Oversight.*

themselves.⁴⁸ Accountability is probably best achieved when these processes work together and reinforce one another. It is therefore important not to view civilian oversight as providing all the answers to the problem of producing an accountable police service, but as an important element.

Conclusions

This paper has looked at the arguments for oversight, examined the different forms it can take, and explored the factors that contribute to its success. It has shown that arguments for civilian oversight do not always go unchallenged, and that establishment of oversight does not always emerge from agreement across groups. It has shown how oversight has often been preoccupied with reacting to complaints and misconduct issues, and in some cases has neglected more proactive approaches to reforming or influencing police departments. And it has illustrated how establishing and sustaining oversight mechanisms can be a difficult process in which politicians, the police, activists, and the broader community play a critical role.

Key lessons for promoting oversight

Against this backdrop, there are a number of important lessons that can be learned for those engaged in developing oversight mechanisms.

- **Winning the argument for oversight**—The most persuasive case for oversight does not come only from arguments about the effectiveness of oversight at responding to police misconduct or broader areas of police policy. The potential for oversight to enhance the legitimacy of the police in the eyes of the public and its consistency with democratic principles are also important.
- **Identifying opportunities for creating oversight mechanisms**—Important opportunities for promoting oversight may emerge from wider political changes, including the election of new political leaders, transitions to democracy, or other kinds of change or reform.
- **Influencing key actors**—Campaigns for oversight are likely to benefit from actively promoting oversight to actors who have the power to influence the success or failure of civilian oversight efforts. These include politicians and governments, the police, activists, and the public.

⁴⁸ Christopher E. Stone and Heather H. Ward, “Democratic Policing: A Framework for Action.” *Policing and Society* 10, no 1 (2000):11-45.

- **Effective targeting of oversight efforts**—Different contexts may demand and present opportunities for different kinds of oversight. However, in developing the role of oversight, it is important to look beyond simply reactive approaches to complaints. Successful oversight also involves proactivity. This includes analysis of problems, identifying the causes of problems, and proposing solutions. Oversight can also extend beyond misconduct issues into broader areas of police policy.
- **Professional leadership and management**—The development of successful oversight agencies relies on strong leadership and management. This is important for creating a positive profile for an agency and winning support. It is also important if agencies are to properly fulfill their mandate and provide an effective service.
- **Monitoring and improving on success**—In order to measure and improve on the success of oversight agencies, it is important to evaluate their performance. This paper has described a number of approaches to performance evaluation using methods such as audits, reviews, and surveys.