

Getting It Right: Building Effective Civilian Review Boards to Oversee Police

*Udi Ofer**

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I. INTRODUCTION

Americans' scrutiny of policing practices peaks whenever high profile cases of police brutality capture the national attention. In the 1990s it was the beating of Rodney King and the killing of Amadou Diallo, and in the 2000s the shooting deaths of Sean Bell and Oscar Grant. Today, the police shooting of Michael Brown in Ferguson, Missouri, and subsequent shootings of unarmed Black men have sparked yet another reevaluation of police use of force and of police practices in communities of color.¹

* Executive Director of the American Civil Liberties Union (ACLU) of New Jersey. This Article is dedicated to all of the people who have worked to build police accountability across our nation. In particular, I would like to thank the staff and

The regimes currently in place to hold police officers accountable for wrongdoing have faced particular scrutiny, as frustrations have grown over their failures to hold police officers accountable for wrongdoing.² While there are many governmental agencies with the jurisdiction to oversee police departments—including local prosecutors, internal affairs bureaus, civilian review boards, and state attorneys general—there is a growing feeling that these institutions have too often failed when it comes to overseeing police departments.

An August 2014 poll conducted by *USA Today* and the Pew Research Center found that 65% of Americans believe that police departments nationwide do a poor or fair job of holding police officers accountable when misconduct occurs, compared with 30% who say they do an excellent or good job.³ A separate 2014 poll found that while a large majority of Americans (78%) have a favorable view of the

members of the ACLU of New Jersey, New York Civil Liberties Union, Newark Communities for Accountable Policing, Communities United for Police Reform, and all of the activists and community members who have worked tirelessly to build police accountability in Newark, New York City, and beyond. Working with community partners to create the New York City Police Department (NYPD) Inspector General's Office and the Civilian Complaint Review Board in Newark helped me form my vision of police accountability. A special thank you to my ACLU of New Jersey and Gibbons PC colleagues who worked to create Newark's Civilian Complaint Review Board, including Ari Rosmarin, Ed Barocas, Jasmine Crenshaw, Larry Lustberg, Ana Munoz, Alex Shalom, Allison Peltzman, and Rashawn Davis, as well as the movement's grassroots leaders, including Ingrid Hill, Rick Robinson, Emily Turonis, John Smith, Laquan Thomas, Milly Silva and Mary Cruz. I also want to thank Seton Hall Law Professor Linda Fisher and the students in her Civil Litigation Clinic—Natasha Beckford, Jessica Maxwell, Brian McDonough, and Dennise Mejia—who provided valuable research for this Article.

¹ While shootings of unarmed Black men are at the forefront of this current conversation, the spectrum of practices under review run the gamut of policing practices—from a reevaluation of all use of excessive force to stop-and-frisk practices and civil asset forfeiture. The current conversations also come in the context of a much broader one on mass incarceration and bipartisan momentum to fix the nation's broken criminal justice system.

² See, e.g., Ross Jones, *Many Civilian Review Groups Have Limited Power to Resolve Allegations of Police Misconduct*, SCRIPPS NEWS (Nov. 16, 2015), <http://www.wptv.com/news/national/many-civilian-review-groups-lack-the-power-to-resolve-allegations-of-police-misconduct> (reporting how strained police-community relations have put a new spotlight on ineffective civilian oversight of police); Matt Pearce, *Ferguson Plan for Police Oversight Board is Derided as 'Insulting'*, L.A. TIMES (Sept. 11, 2014, 6:17 PM), <http://www.latimes.com/nation/la-na-0911-ferguson-review-board-20140912-story.html> (citing residents and policing experts criticizing Ferguson citizens' review board as "weak" and "insulting").

³ Susan Page, *Poll: Whites and Blacks Question Police Accountability*, USA TODAY (Aug. 26, 2014, 4:42 AM), <http://www.usatoday.com/story/news/nation/2014/08/25/usa-today-pew-poll-police-tactics-military-equipment/14561633/> (discussing poll taken soon after the death of Michael Brown, which found that Americans, by a 2-1 margin, believe that police departments do not treat racial groups equally).

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police, only 46% believe that police officers are held accountable for wrongdoing.⁴

How can it be that with so many accountability regimes in place, Americans still believe that the police oversight system is broken? The answer is that these institutions, which range tremendously in scope and power, have often times failed to adequately oversee local law enforcement agencies, and that many of these regimes were rigged to fail in the first place given their limited mandates and authorities. For example, my research has found that of the top fifty largest police departments in the nation, only six have civilian review boards with some form of disciplinary authority.⁵

There are at least three gaps that exist when it comes to holding police officers and their departments accountable for wrongdoing. First, and most importantly, there is a need to hold police officers accountable for the unjustified use of deadly force against civilians. Police officers are afforded extraordinary powers not only to deprive individuals of their liberties, but, in extreme circumstances, to deprive them of their lives. When these powers are abused, they lead to tragic consequences. Unfortunately, there are inconsistent and often times inadequate mechanisms in place to hold police officers accountable for these actions.

Second, there is the need to hold police officers accountable for day-to-day transgressions that normally go unaccounted for and lead to resentments growing in communities most impacted by such practices, mainly low-income communities of color. These police behaviors, which may include discourtesy, an illegal stop and/or search, or an offensive slur, may appear minor when compared to cases involving police shootings or use of force. But when these behaviors are compounded thousands of times a year, the impact can be severe.

⁴ *Reason-Rupe Poll: April 2014 National Telephone Survey*, REASON.COM (Apr. 3, 2014, 9:00 AM), <https://reason.com/poll/2014/04/03/april-2014-national-telephone-survey>. The same poll also found a split in Americans' views on whether police misconduct cases are increasing (41%) or have stayed about the same (48%).

⁵ *See infra* app.

Take, for example, stop-and-frisk practices,⁶ which in certain communities can take place thousands, if not tens of thousands of times a year, as have been documented in cities such as New York City,⁷ Newark,⁸ and Philadelphia.⁹ In these cities, innocent people have been

⁶ For an example of the impact of stop-and-frisk practices on individuals, see this description by Nicholas Peart about his numerous encounters with the NYPD: “These experiences changed the way I felt about the police. After the third incident I worried when police cars drove by; I was afraid I would be stopped and searched or that something worse would happen. I dress better if I go downtown. I don’t hang out with friends outside my neighborhood in Harlem as much as I used to. Essentially, I incorporated into my daily life the sense that I might find myself up against a wall or on the ground with an officer’s gun at my head. For a black man in his 20s like me, it’s just a fact of life in New York.” Nicholas K. Peart, *Why is the N.Y.P.D. After Me?*, N.Y. TIMES (Dec. 17, 2011), <http://www.nytimes.com/2011/12/18/opinion/sunday/young-black-and-frisked-by-the-nypd.html>.

⁷ See *Stop-and-Frisk Data*, N.Y. CIV. LIBERTIES UNION, <http://www.nyclu.org/content/stop-and-frisk-data> (last visited Apr. 14, 2016) (documenting stop-and-frisk practices from 2002–2015, including millions of stops of innocent people); Editorial, *Racial Discrimination in Stop-and-Frisk*, N.Y. TIMES (Aug. 12, 2013), <http://www.nytimes.com/2013/08/13/opinion/racial-discrimination-in-stop-and-frisk.html> (noting that of the 4.4 million stops between January 2004 and June 2012, “only 6% resulted in arrests and 6% resulted in summonses,” meaning that the vast majority of those stopped were not engaged in criminal behavior).

⁸ See Udi Ofer & Ari Rosmarin, *Stop-and-Frisk: A First Look, Six Months of Data on Stop-and-Frisk Practices in Newark*, AM. CIV. LIBERTIES UNION N.J. (Feb. 2014), https://www.aclu-nj.org/files/8113/9333/6064/2014_02_25_nwksnf.pdf (providing first-ever documentation of stop-and-frisk practices in Newark, which found that Newark Police officers use stop-and-frisk with great frequency, in a manner that leads to racial disparities, and that the vast majority of people stopped were not engaged in criminal behavior). From July to December 2013, police officers made ninety-one stops per 1000 Newark residents—nearly one person stopped for every ten residents—exceeding the rate in New York City of eight stops per 1000 residents over the same period in 2013. *Id.* at 5. Black Newarkers make up 52% of the population, but they represented 75% of all stops. *Id.* at 8. The analysis also found that of those stopped in Newark, 75% were innocent and walked away without receiving a summons or being arrested. *Id.* at 10. See also Dan Ivers, *Newark Stop-and-Frinks Fall Under Baraka, Though Blacks, ‘Innocents’ Still More Likely to be Targeted*, NJ.COM (Jan. 28, 2015, 2:43 PM), http://www.nj.com/essex/index.ssf/2015/01/newark_stop-and-frisks_fall_under_baraka_though_bl.html (including latest data available on stop-and-frisk in Newark, showing that in 2014, of the 17,726 stops the police department recorded, 11,903, or 67%, were African-American, 79% of people stopped were not arrested or ticketed for wrongdoing, and that Newark police were making more than seventy stops per 100,000 people, a rate more than thirty times higher than New York City’s rate); Monique O. Madan, *U.S. Inquiry Reports Bias by the Police in Newark*, N.Y. TIMES (July 22, 2014), <http://www.nytimes.com/2014/07/23/nyregion/inquiry-of-newark-police-cites-a-pattern-of-bias.html> (citing a three-year federal investigation finding that the Newark Police Department engaged in a pattern of unconstitutional stop-and-frisk practices, including that the vast majority of pedestrian stops were unjustified, and that Newark police officers stopped Blacks at a considerably higher rate than Whites and underreported the use of force by officers).

⁹ See *Philadelphia Police Continue to Stop Tens of Thousands Illegally*, AM. CIV.

stopped-and-frisked, and few have had the ability to seek redress. Most attorneys have little incentive to take an individual stop-and-frisk case, as there is little available in money damages. Prosecutors will not get involved unless the stop rises to a criminal violation of rights. A victim can file a complaint with a police department's internal affairs office, but few do so since they lack confidence in filing a complaint against the police with the police. And while some municipalities have a civilian review board to adjudicate these complaints, the vast majority serve only in an advisory role¹⁰ or are not even equipped to independently investigate complaints, as this Article explains in further detail. There is a clear need to hold police officers accountable for these behaviors before the problem becomes so widespread that it triggers a class action lawsuit or a United States Department of Justice investigation.

Third, there is a need for the establishment of agencies, or units within existing entities, charged with reviewing patterns in policing practices that may reveal broader problems. This responsibility often falls on an inspector general, a position that is part of good government practices overseeing large government entities, including law enforcement agencies such as the Federal Bureau of Investigations and the Department of Homeland Security. Yet relatively few police departments are monitored through an inspector general dedicated solely to them.¹¹ Large police departments should be overseen by an inspector general to review whether the problem of police misconduct

LIBERTIES UNION PA. (Feb. 25, 2015), <http://www.aclupa.org/news/2015/02/24/philadelphia-police-continue-stop-tens-thousands-illegally> (finding that “despite having almost four years to improve its stop and frisk practices, the [Philadelphia Police Department] continued to illegally stop and frisk tens of thousands of individuals”).

¹⁰ Take, for example, New York City's civilian review board. While it has wide authority to accept complaints and possesses subpoena authority to investigate allegations of wrongdoing, final disciplinary authority still lies with the Police Commissioner. New York City CCRB Rules, §§ 1-02(c), 1-45(a) (2013), http://www.nyc.gov/html/ccrb/downloads/pdf/ccrb_rules.pdf (“The findings and recommendations of the Board, and the basis thereof, regarding case investigations and administrative prosecutions shall be submitted to the Police Commissioner The Police Commissioner shall retain in all respects the authority and discretion to make final disciplinary determinations.”).

¹¹ There are exceptions. For example, New York City recently established an inspector general dedicated solely to reviewing NYPD practices (I helped draft the legislation creating the agency and helped shepherd it through the New York City Council). J. David Goodman, *City Council Votes to Increase Oversight of New York Police*, N.Y. TIMES (June 27, 2013), <http://www.nytimes.com/2013/06/27/nyregion/new-york-city-council-votes-to-increase-oversight-of-police-dept.html>. Numerous review boards have the authority to make recommendations regarding policy and practices, but do not appear to use that authority with regularity.

is an isolated one or part of a larger policy or set of practices emanating from police headquarters.

This Article focuses on creating a model of police accountability that fulfills the second and third gaps identified above.¹² This model is a variation of an old one, a civilian complaint review board,¹³ but avoids the pitfalls of previous review boards by bestowing it with the powers necessary to aggressively investigate police misconduct, to ensure that discipline sticks when wrongdoing is found to have occurred, and to keep an eye out for systemic problems within policing. The model that this Article proposes would be independent not only from the police department, but also from politics by having a fixed budget and a board membership that is majority nominated by civic and community organizations. Such a structure also ensures community voice and perspective in discipline and in reviewing police policies and practices. A variation of this proposed model is currently being attempted in Newark, New Jersey.¹⁴

Given the growing momentum to rein in police abuses, now is the time to think creatively on all three of the needs previously identified.

¹² As stated earlier, the need to hold police officers accountable for the unjustified use of deadly force is the most pressing priority.

¹³ This Article uses the terms “oversight board” and “review board” interchangeably.

¹⁴ On March 16, 2016, the Newark Municipal Council passed legislation creating one of the nation’s strongest police civilian review boards. David Porter, *Newark OKs Strong Police Review Board; Union Vows Fight*, AP (Mar. 16, 2016, 8:43 PM), <http://bigstory.ap.org/article/a4867d7361a24653ab5a3bc13e727d2a/newark-ok-strong-police-review-board-union-vows-fight>. This review board will have the power to investigate complaints of misconduct lodged by civilians against Newark police officers. It will be comprised of eleven civilian members: one will be appointed by the mayor, three by the Municipal Council, and seven nominated by community and civil rights organizations. The board will have subpoena authority to compel the production of documents and the testimony of witnesses and have the authority to make discipline stick when wrongdoing is found to have occurred. A pre-negotiated disciplinary matrix will decide the discipline doled out. In addition, the board will have inspector general powers to audit policies and practices. And it will have vast and unprecedented public reporting requirements, not only on its operations but also on policing practices in Newark, including arrests, summonses, stop-and-frisk, use of force, etc. The legislation creating the Newark civilian review board, however, does not guarantee a fixed income source, which weakens its independence and may prove to be a fatal flaw if future mayoral administrations decide to defund it. Advocates and community members fought for the inclusion of this provision but failed. *See generally* City of Newark, N.J., Ordinance Amending Title II, Chapter 2, Office of the Mayor and Agencies of the Revised General Ordinances of the City of Newark, New Jersey 2000, as Amended and Supplemented, by Creating and Establishing a Civilian Complaint Review Board 16-0276 (Mar. 16, 2016), <https://newark.legistar.com/LegislationDetail.aspx?ID=2573481&GUID=13232B4A-53F9-4E99-8440-8FE11FB761B2&Options=&Search=&FullText=1> [hereinafter Newark Ordinance].

The model proposed in this Article is just one solution towards the goal of providing an avenue to hold police officers accountable for wrongdoing that normally would go unaccounted for. Implementing this proposal will lead to a significant reshaping of policing practices while also giving civilians a meaningful voice in decisions over officer discipline. Such a rethinking of the disciplinary process will lead to changes in the relationships between community members and their police departments.

Some who read this proposal may have already lost faith in civilian complaint review boards, particularly as they have proliferated across the nation yet have failed in many circumstances to hold police officers accountable for wrongdoing. I share this frustration. It is important, however, to separate frustration over the current models from rejecting the idea of independent civilian oversight altogether. Many civilian review boards have failed across the nation because they were rigged to fail—they lacked adequate authority and resources to achieve their missions. What this Article proposes has been largely untried and is meant to remedy those very inadequacies that have led to a loss of faith in civilian review boards.

II. OVERVIEW OF CIVILIAN REVIEW BOARDS

The concept behind a civilian review board is a simple one: civilians and not police personnel should have the power to investigate and make findings on police officer wrongdoing. Having police officers police themselves presents obvious conflicts of interest, while having civilians conduct these investigations provides an external check on the police. The hope is that if civilians handle the investigatory process, it will be a fairer and more effective one than if the police were charged with policing themselves.¹⁵ Civilian oversight also furthers democratic principles by allowing civilians to have more control over their police departments.¹⁶

For purposes of this Article, I use the following definition of a civilian review board, a variation of a definition used by police accountability expert professor Sam Walker¹⁷: an agency staffed with

¹⁵ Joel Miller, *Civilian Oversight of Policing: Lessons from the Literature*, VERA INST. JUST. 2 (May 5–8, 2002), http://vera.org/sites/default/files/resources/downloads/Civilian_oversight.pdf [hereinafter Vera Institute].

¹⁶ *Id.* at 3.

¹⁷ Professor Walker's definition is: "an agency or procedure that involves participation by persons who are not sworn officers (citizens) in the review of citizen complaints against the police and/or other allegations of misconduct by police officers." Samuel Walker, *The History of the Citizen Oversight*, in CITIZEN OVERSIGHT OF LAW ENFORCEMENT AGENCIES 1, 2 (Justina Cintron Perino ed., 2006),

civilians, and not sworn officers, charged with investigating civilian complaints of misconduct by police officers.¹⁸ In my definition, I emphasize the investigative component of a civilian review board and therefore disqualify those boards that review the findings of internal police investigations.

A. History of Civilian Review Board

Civilian complaint review boards have existed since the 1940s. The first one, Washington D.C.'s Complaint Review Board, was established in 1948 in response to concerns about police brutality and followed lobbying by the Urban League and National Conference of Christians and Jews.¹⁹ The board was largely ineffective and disbanded in 1973, only to be reestablished in 1982 and further strengthened in 2001.²⁰ New York City established its first Civilian Complaint Review Board in 1953 in response to a United States Department of Justice investigation that found police brutality and a broken system unable to hold police officers accountable for misconduct; this board was dismantled in 1966 following intense lobbying by the police union.²¹

In the 1960s, the concept of civilian review of the police began to take hold as the civil rights movement challenged police brutality and

http://apps.americanbar.org/abastore/products/books/abstracts/5330089samplech_abs.pdf.

¹⁸ This Article has a narrower definition of civilian review than used historically by others. I do so purposefully. When the public calls for independent investigations of police misconduct, I believe they are calling for investigations to be conducted by civilians and in an agency that is independent from the police department. In contrast, some review boards, while separate from the police department, do not conduct their own investigations but rather review those internal investigations conducted by the police. For example, Boston's Community Ombudsman Oversight Panel is empowered to review Boston Police Department internal investigation cases appealed by complainants. Yet it has no subpoena authority, and is explicitly prohibited from interviewing witnesses or conducting its own independent investigations. See City of Bos., Mass., Exec. Order, Mayor Thomas M. Menino, Establishing a Community Ombudsman Oversight Panel and Complaint Mediation Program, City of Boston (Mar. 14, 2007), https://www.cityofboston.gov/images_documents/exec_order_tcm3-9873.pdf. Other boards, like the Citizens Advisory Board in Phoenix, do not even review internal police investigations but are only charged with helping to "[c]reate a climate of trust between the community and the Phoenix Police Department" and to "[p]rovide a forum where the Phoenix Police Department can actively listen actively" to the public." See City of Phoenix, *Citizen Advisory Boards*, CITY PHX., <https://www.phoenix.gov/police/neighborhood-resources/citizen-advisory-boards> (last visited Apr. 15, 2016). When the public calls for independent investigation of police misconduct, I do not believe they have either one of these options in mind.

¹⁹ Vera Institute, *supra* note 15, at 10.

²⁰ *Id.*

²¹ *Id.* at 14.

began to call for civilian oversight of the police. But, it was not until the 1970s, when public attitudes towards the police began to change,²² that civilian review boards began to be adopted across the nation. In 1973, Berkeley, California became the first city to establish a Police Review Commission with the independent authority to investigate complaints of police misconduct.²³ Since then, more than 100 civilian review boards have been established throughout the nation.²⁴

Today, there are four kinds of civilian oversight entities. The most active ones, which are the focus of this Article, investigate civilian allegations of police misconduct and either recommend discipline to the police chief or have some variation of authority to independently discipline police officers. A second type reviews the findings of internal investigations conducted by the police and make recommendations to the police chief on whether or not to follow the recommendations of those reviews. A third type allows civilians to appeal the findings of internal police investigations, with the review board reviewing the internal police process and making recommendations of its own findings to the police chief based on the internal police investigation. Finally, some civilian boards serve a limited auditor function, investigating the process by which police departments accept and investigate civilian complaints of misconduct.²⁵

B. *Civilian Review in the Nation's Top Fifty Police Departments*²⁶

A review of the nation's top fifty police departments²⁷ and their civilian review board structures demonstrates some of the deficiencies in these oversight systems, as well as the lack of any review boards to oversee many police departments. Collectively, these departments

²² Walker, *supra* note 17, at 7–8.

²³ *Id.* at 4.

²⁴ *Id.*

²⁵ See PETER FINN, U.S. DEP'T JUST., CITIZEN REVIEW OF POLICE: APPROACHES AND IMPLEMENTATION vii (Mar. 2001), <https://www.ncjrs.gov/pdffiles1/nij/184430.pdf>.

²⁶ Working with Seton Hall Law students at Professor Linda Fisher's Civil Litigation Clinic, we reviewed the composition of the civilian oversight agencies of the top fifty police departments in the nation. This included review of the civilian oversight agencies' legal authority, membership, scope of jurisdiction, investigatory and disciplinary powers, and budget. The students who worked on the project were Natasha Beckford, Jessica Maxwell, Brian McDonough, and Dennise Mejia. Research is on file with the author.

²⁷ The top fifty police departments were chosen according to the number of full-time sworn personnel in 2013 according to the Justice Department. Brian A. Reeves, *Local Police Departments, 2013: Personnel, Policies, and Practices*, U.S. DEP'T JUST. 14 tbl.2 (May 2015), <http://www.bjs.gov/content/pub/pdf/lpd13ppp.pdf>.

represent civilian populations of close to fifty-two million residents and police departments with close to 147,000 officers.

Of the top fifty largest police departments, twenty-six have no civilian review board as defined by this Article.²⁸ While some do include a form of civilian oversight, such as in Los Angeles,²⁹ most of these departments have no civilian oversight beyond the normal structure of city government. The departments without a civilian review board represent more than twenty-three million residents who do not have an avenue to file complaints against the police that will be adjudicated independently by civilians (outside of traditional avenues, such as civil litigation).

Of the remaining twenty-four departments, all but nine are overseen by a review board that is majority nominated and majority appointed by the mayor (or in combination with the head of the police), thus minimizing the independence of such boards.³⁰ For example, New York City's Civilian Complaint Review Board is comprised of thirteen members, but the mayor and police commissioner appoint eight of the thirteen members.³¹ The nine civilian review boards that are led by a majority of non-mayoral nominees are Dallas, Miami-Dade, Las Vegas, Detroit, Atlanta, Indianapolis, Miami, Newark, and Albuquerque. Detroit has a Police Commission led by eleven members, seven of whom are elected by the people of Detroit, a model that exists in no other review board among the top fifty police departments.³²

Subpoena authority appears to have become more common among the civilian review boards overseeing the nation's largest departments, with nineteen boards being empowered with subpoena authority, including the boards overseeing the nation's two largest

²⁸ See *infra* app.

²⁹ Los Angeles has a complicated civilian oversight model, but has no independent entity charged with investigating civilian complaints of police officer misconduct. The Police Commission is technically the head of the Los Angeles Police Department. The Commission hires and fires the police chief and can make final decisions on all departmental policies. But it cannot impose discipline. *The Function and Role of the Board of Police Commissioners*, L.A. POLICE DEP'T, http://www.lapdonline.org/police_commission/content_basic_view/900 (last visited Apr. 15, 2016). Then there is Los Angeles Inspector General who is empowered to conduct investigations, such as audit of internal affairs. It can accept civilian complaints, but will turn those over to the Police Department to investigate. See *Office of the Inspector General*, L.A. POLICE DEP'T, http://www.lapdonline.org/police_commission/content_basic_view/1076 (last visited Apr. 15, 2016).

³⁰ See *infra* app.

³¹ *Id.*

³² *Id.*

police departments, New York City and Chicago.³³ But there are some glaring exceptions. Houston, the fifth largest police department in the nation, has a police oversight board with no subpoena authority.³⁴ Baltimore's civilian review board also has no subpoena authority, despite overseeing the ninth largest police department in the nation.³⁵

On the other hand, some form of disciplinary authority remains relatively rare, with only six civilian review boards having it—Chicago, Washington, D.C., Detroit, Milwaukee, San Francisco, and Newark.³⁶ This is the most revealing finding of this analysis and at the core of the frustrations felt by the public on the deficiencies of current oversight models. For all of the structures and supposed independence of the review boards, eighteen of the twenty-four are subject to the whim of the police department when it comes to final decision-making on discipline.

Finally, nineteen review boards are explicitly authorized to review and make recommendations related to departmental policies and practices, although it is unclear how many of these boards actually exercise these authorities.³⁷ In the nation's largest police department, the New York City Police Department (NYPD), a newly formed Inspector General focuses solely on auditing NYPD policies and practices.³⁸ It is unclear, however, how many of the boards with explicit policy review authority actually utilize it.

Of the nation's fifty largest police departments, the only review board that has a leadership structure that is not majority nominated by the mayor and that is empowered with subpoena, disciplinary, and policy review authorities, is Detroit's. Newark's review board will also have these features once it is built.

III. KEY COMPONENTS OF EFFECTIVE CIVILIAN REVIEW

Based on my review of the existing civilian review board models as well as conversations with colleagues, advocates, and community members from across the nation who have all experienced these various models in their respective cities, I propose the following features as necessary to create an effective civilian review board. The proposed features are meant to address the weaknesses in current

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ *See infra* app.

³⁷ *Id.*

³⁸ As mentioned earlier, I helped draft the legislation creating the NYPD Inspector General and pass it through the New York City Council.

models, including the lack of direct community input in the leadership structure, inadequate investigatory and discipline authorities, the lack of authority to audit and make recommendations for overall police policies and practices, the lack of stable and robust financial support, and the lack of transparency in policing practices.

A. Board Majority Nominated by Civic Organizations

The make-up of the leadership of the review board sets the tone for the entire operation of the board. While professional staff trained in investigative and fact-finding techniques will conduct most of the work of the board, board members are the ones who will make decisions to move forward with investigations and discipline.

This Article proposes a board composition model where the majority of the board is nominated by civic organizations that have an interest in the safety of the city and in the civil rights of community members, with the rest nominated by the mayor and lawmakers. This will ensure the independence of the board and its legitimacy in the eyes of city residents. Nominees to the board should have expertise in a relevant field in order to be appointed, such as a legal, civil rights, or law enforcement background.³⁹ The nominees should have a demonstrated commitment to the well-being of the city where they live, and a strong understanding of the importance of upholding civil rights and civil liberties in policing. They should also believe in a police department that operates in a transparent and accountable manner. No member of the board should be a current or former employee of the police department that the board oversees, and a majority of board members should not have a law enforcement background.

In Newark, the newly established civilian review board will be composed of eleven members, seven of whom will be nominated by civil rights, immigrants' rights, and community-based organizations.

³⁹ In my review of the civilian review models, I came across several that disqualified those with a criminal record from being appointed to the board. For example, in Austin, the Citizen Review Panel requires that panel members have no felony convictions or indictments. *Citizen Review Panel*, AUSTINTEXAS.GOV, <http://www.austintexas.gov/department/citizen-review-panel> (last visited Apr. 15, 2016). In Miami, the Civilian Investigative Panel disqualifies individuals with a felony conviction record. *Members*, CITY OF MIAMI CIVILIAN INVESTIGATIVE PANEL, <http://www.miamigov.com/cip/pages/Members/cipmembers.asp> (last visited Apr. 15, 2016). I strongly recommend against such prohibitions. A person's past convictions should not be the sole determinative factor of his or her ability to responsibly review complaints of officer misconduct; it should not be an automatic disqualification. Moreover, given the racial disparities associated with arrest and incarceration rates, disqualifying people based solely on their criminal records will have a disproportionate and unfair impact on communities of color.

The nominees are presented to the mayor, who then appoints the board members subject to the advice and consent of the Municipal Council. The following organizations and entities have nominating authority: American Civil Liberties Union of New Jersey; National Association for the Advancement of Colored People (NAACP) of New Jersey; People's Organization for Progress; La Casa de Don Pedro; Ironbound Community Corporation; Newark Anti-Violence Coalition; and a representative of the clergy community.⁴⁰ The mayor is obligated to appoint Newark's Inspector General to the board, and the Municipal Council nominates three members to the board.⁴¹

In my review of the boards for the top fifty largest police departments, I could only find one example, in addition to the review board recently created in Newark, of a review board that empowers a civic organization with the authority to nominate civilian review board members. The Atlanta Citizen Review Board is led by eleven members. Four are appointed by civic organizations: Gate City Bar Association, Atlanta Bar Association, League of Women Voters, and Atlanta Business League.⁴² While not giving them direct authority, Baltimore has non-voting members on the Civilian Review Board, including representatives from the ACLU, NAACP, and the Fraternal Order of Police.⁴³

B. Broad Scope to Review Complaints

Since the very purpose of the civilian review board is to provide an avenue for individuals to seek redress for misconduct that would otherwise go unaddressed, the scope of complaints that the review board adjudicates must be broad. The range, at the very least, should include adjudication of cases involving excessive use of force, abuse of authority, unlawful arrest, unlawful stop, unlawful searches, discourtesy or disrespectful behavior, use of offensive language, theft, and discriminatory behavior.

Many of the misbehaviors that would fall under the jurisdiction of the board would otherwise go unaddressed if not for the review board. Years of such unaddressed misconduct have been a significant factor in the deterioration of police-community relations. While a wrongful

⁴⁰ Newark Ordinance, *supra* note 14, at Part I.2 (a).

⁴¹ *Id.*

⁴² *About Us*, ATLANTIC CITIZEN REVIEW BD., <http://acrbgov.org/about-us/> (last visited Apr. 15, 2016).

⁴³ *See Baltimore City Office of Civil Rights and Wage Enforcement: Board Members*, CITY OF BALT., <http://civilrights.baltimorecity.gov/civilian-review-board/commission> (last visited Apr. 15, 2016).

stop-and-frisk is nowhere as egregious as a police shooting, the fact is that the former offense is committed with much more frequency—in some cities tens of thousands of times a year—and with fewer people paying attention. A civilian review board that is performing its functions correctly will provide community members with the opportunity to seek redress for each and every one of these illegal stops.

C. Independent Investigatory Authority

A civilian complaint review board will be only as strong as its authority to conduct independent investigations, and at the heart of such authority must be the ability to subpoena witnesses and documents, including internal police disciplinary documents, medical records, surveillance footage, and other materials relevant to an investigation. Subpoena authority will also allow the board to order a person to testify before it.

Subpoena authority has become more common in the civilian review boards that oversee large police departments, but is still not standard practice even among large cities. The review of the civilian oversight systems of the top fifty police departments revealed that only nineteen have civilian review boards with subpoena authority.⁴⁴

Independent subpoena authority is particularly important given the historic difficulties of compelling police officers who have witnessed wrongdoing to testify against their fellow officers.⁴⁵ The unwritten rule, the “blue wall of silence,” sometimes even encourages police officers to refuse to cooperate in investigations.⁴⁶

⁴⁴ See *infra* app.

⁴⁵ See Radley Balko, *Why Cops Aren't Whistleblowers*, REASON.COM, <http://reason.com/archives/2011/01/25/why-cops-arent-whistleblowers> (last visited Apr. 15, 2016) (documenting examples of retaliation against police officers who try to expose or testify against police misconduct) (“It may be true that abusive cops are few and far between, as police organizations typically claim. The problem is that other cops rarely hold them accountable . . . For all the concern about the ‘Stop Snitchin’” message within the hip-hop community, police have engaged in a far more impactful and pernicious Stop Snitchin’ campaign of their own. It’s called the Blue Wall of Silence.”).

⁴⁶ In 1970, New York City’s Commission to Investigate Alleged Police Corruption, also known as the Knapp Commission, documented this practice extensively. Police officer Frank Serpico testified about the so-called “Blue Curtain” where reporting on a fellow officer was considered betrayal. See *Report Says Police Corruption in 1971 Involved Well Over Half on the Force*, N.Y. TIMES, Dec. 28, 1972, at 22.

D. *Ensure Discipline Sticks*

An independent investigation will be meaningful only if its findings then form the basis for deciding whether and to what extent to discipline an officer. Yet it is at this phase of the review process where even strong civilian review boards fail, such as New York City's, where the police commissioner has full discretion to ignore the board's fact-finding or to impose no discipline even when the board has found that wrongdoing occurred.⁴⁷ In 2012, for example, the NYPD imposed no discipline in more than 40% of cases recommended by the CCRB and followed the CCRB's recommendation in only 9.7% of cases.⁴⁸

Under this proposed model, once the civilian review board's professional staff completes its thorough investigation and the board substantiates an allegation of misconduct, the board's findings of fact will be binding on the head of the police department, who will then determine discipline based on those facts and guided by a pre-negotiated disciplinary matrix.⁴⁹ Such a matrix will determine the range of discipline options for the misbehavior and will ensure that

⁴⁷ In 2012, the NYPD followed the New York City Civilian Complaint Review Board's (CCRB's) recommendation in only 25 of 258 cases (9.7%). Officers received no discipline in 104 cases (40.3%). Specifically, the New York City CCRB received 5741 complaints, and 258 complaints against NYPD officers were substantiated. The CCRB recommended charges in 175 cases, command discipline in 70 cases, and instructions in 12 cases. Of the 175 cases in which the CCRB recommended an officer be charged, the NYPD sought charges only in seven. Officers received no discipline in seventy-six of these cases. Of the seventy cases that the CCRB recommended command discipline, in thirty-five cases the officer was only given instructions. Officers received no discipline in twenty-four such cases. Kathleen Horan & Noah Veltman, *Police Officers Rarely Disciplined by NYPD for Misconduct*, WNYC (Aug. 27, 2014), <http://www.wnyc.org/story/nypds-poor-track-record-meting-out-discipline-officer-misconduct/>.

Under the new city and CCRB leadership, the percentage of cases where the NYPD adopts the CCRB's recommendation has grown significantly. During the first half of 2015, the discipline rate increased to 91% for cases substantiated by the CCRB involving a penalty recommendation of command discipline or instructions. This was the highest rate since the creation of the present-day CCRB in 1993. Press Release, Civilian Complaint Rev. Board, NYC Civilian Complaint Rev. Board Issues 2015 Mid-Year Report: Complaints are Down, Substantiation are Increasing and Video Evidence is Increasingly Paramount to Investigations (Sept. 7, 2015), <http://www.nyc.gov/html/ccrb/downloads/pdf/news-2015-midyear-report-released.pdf>.

⁴⁸ In 2012, the New York City CCRB made recommendations in 258 cases, and the NYPD followed those recommendations in only 25 of the cases. Police officers received no discipline in 104 of the 258 cases, representing 40.3% of all cases where the CCRB made a recommendation. Horan & Veltman, *supra* note 47.

⁴⁹ A disciplinary matrix is a chart that lists all of the various offenses for which a police officer may be disciplined and then lists potential punishments for each offense, taking into consideration the police officer's past disciplinary record.

discipline will always take place.

The head of the police department makes the final decision on discipline but is bound by the independent factual investigation of the civilian review board and the range of punishment included in the pre-negotiated disciplinary matrix. This formula not only ensures discipline when the civilian review board finds that wrongdoing has occurred, but it also creates transparency and predictability in the process, allowing the public to know ahead of time what type of discipline will be faced for which type of misbehavior.

Narrow exceptions can be made for when the head of the police department may depart from the factual findings of the review board, but such exceptions must be carefully drawn and should only capture those situations where an obvious error had been made in the board's factual investigation. For example, the board established in Newark creates an exception for when a "clear error" was made in the civilian review board's investigation and defines clear error as: "[W]hen the CCRB's [Civilian Complaint Review Board's] findings of fact are based upon obvious and indisputable errors and cannot be supported by any reasonable interpretation of the evidence."⁵⁰ Therefore, under Newark's model, the police director will make the final decision on whether or not there is a clear error in the CCRB's findings of fact. If there is no clear error, then the board's findings of fact will determine the police director's punishment of the officer based on a disciplinary matrix.

E. Audit Policies and Practices

The authority of the oversight board must not be limited to investigating individual allegations of misconduct. It should also have the ability to review the underlying policies that may lead to individual rights violations. This will ensure that the review board will be able to expose potential problems that are bigger than any one individual act of misconduct and prevent future wrongdoing.

The board's auditing authority should be broad and include all civil rights and public safety concerns. For example, if the review board begins to receive a high number of stop-and-frisk complaints, it could be indicative of a policy or practice to set quotas on police officers to perform a certain number of stops per shift.⁵¹ Therefore, when the

⁵⁰ Newark Ordinance, *supra* note 14, at Part V.E. § 1-17(b).

⁵¹ See, e.g., Joseph Goldstein, *Stop-and-Frisk Trial Turns to Claim of Arrest Quotas*, N.Y. TIMES (Mar. 20, 2013), <http://www.nytimes.com/2013/03/21/nyregion/stop-and-frisk-trial-focuses-on-claim-of-arrest-quotas.html> (reporting on the testimony delivered by NYPD officer Adhyl Polanco on the "20 and 1" rule, where the NYPD leadership

civilian review board notices a pattern of many complaints, or a rise in the number of complaints involving a pedestrian or vehicular stop, it should charge its auditing unit with investigating whether there was a broader policy decision or unwritten practice that led to these actions by individual police officers.

Other examples of potential reviews include an audit of the impact of a “broken windows” policing philosophy⁵² on civil rights and civil liberties, racial disparities in the enforcement of low-level offenses, or problems with 911 call response times in certain neighborhoods.

By including an inspector general authority within a review board charged with accepting complaints of individual misconduct, the board will have a firm grasp of any developing trends.

Once the auditing unit of the board completes its investigation, it should have the authority to make formal recommendations of policy reforms to the mayor, head of the police department, and city council.⁵³ The findings and recommendations of the auditing unit

and police unions expected each officer to make twenty summonses and one arrest a month).

⁵² Broken windows policing was first introduced in a 1982 Atlantic article. George L. Kelling & James Q. Wilson, *Broken Windows: The Police and Neighborhood Safety*, ATLANTIC, <http://www.theatlantic.com/magazine/archive/1982/03/broken-windows/4465/> (last visited Apr. 15, 2016). The article argued that because community members care deeply about public order, the appearance of disorder breaks down community controls and leads to community members feeling less committed to their neighborhoods, thus allowing for the introduction of criminal elements into the community. Therefore, according to the theory, law enforcement agencies should focus on responding aggressively to any public offense that may appear disorderly, no matter how minor. Kelling and Wilson recognized that police officers responding aggressively to the appearance of public disorder and minor offenses (even those that are not criminal) raises Fourth Amendment and racial profiling concerns. They recognized that Black and Latino residents may be disproportionately targeted by these policies and practices, but ultimately they largely ignored these concerns. Broken windows policing has been widely criticized. See e.g., Benjamin Bowling, *The Rise and Fall of New York Murder: Zero Tolerance or Crack's Decline?*, 39 BRIT. J. CRIMINOLOGY 531, 531 (1999) (attributing the decrease in homicide rates in the 1990s to the decrease of the crack cocaine epidemic, which had begun before the implementation of broken windows policing); Bernard E. Harcourt, *Policing Disorder: Can We Reduce Serious Crime by Punishing Petty Offenses?*, BOS. REV., <http://bostonreview.net/archives/BR27.2/harcourt.html> (last visited Apr. 15, 2016) (originally published in Apr./May 2002 issue of Boston Review) (criticizing the lack of an adequate definition of disorder—suggesting that what proponents of broken windows policing might call disorder may be perceived entirely differently by another segment of the population and may actually mean strong community bonds (graffiti is one example)—and presenting alternative theories for the decline in crime in New York City).

⁵³ While the policy recommendations of the board will not be binding, they are an important mechanism to highlight deficiencies within the department and to drive a public conversation that would otherwise be ignored. A recommendation by the board can also legitimize concerns that had previously been raised by community

should always be published as a report to the public.

F. Secure Funding

For the oversight board to be free from political manipulation that could weaken it, its funding must be both secure and sufficiently robust. Otherwise, a hostile administration could deprive the board of its ability to perform its duties by simply cutting its funding.

To insulate the oversight board from cuts to funding due to politically unpopular decisions, the board's budget should be tied to a fixed percentage of the police department's non-capital budget. Thus, if the police department's operating budget increases due to the hiring of additional police officers, so will the review board's budget and staff, and the opposite will happen if the police department lays off officers.

The percentage of a police department's budget committed to the review board should be fixed by law. That percentage must be enough to cover the hiring of professional staff to run the board, including an executive director, investigators, attorneys to prosecute the complaints, and analysts to audit departmental policies and practices. The budget should also be enough to fund accessible office locations and hours, outreach, and public education materials.

In Newark's newly created Civilian Complaint Review Board, the board's budget is not fixed to the police department's budget, thus weakening its independence.

G. Due Process Protections for Police Officers

Police officers who are accused of wrongdoing must be fully protected from false accusations and must enjoy the full range of due process protections in all stages of the investigatory and disciplinary process, including the right to counsel and a hearing.

Prior to any discipline being imposed, a police officer must be able to contest the civilian allegations and the findings of investigators. Police officers must be allowed to access the evidence being used against them, provide testimony, and offer responses and defenses to the allegations of misconduct. If the review board substantiates a civilian's complaint, the police officer should have the right to appeal the substantiation or the discipline. Throughout the process, police officers should retain their rights as civil servants.

H. Public Access/Reporting

For the review board to adequately serve the community, residents should be able to easily file complaints. This should include the filing of complaints online through the board's website, but also in-person and by e-mail, phone, or fax. Moreover, to allow for the in-person filing of complaints, the board's office should be located in a central location and remain open during hours that are accessible to people who work or study full-time. Thus the review board should be open during evening hours at least once a week and on a weekend at least once a month. The board should also hold monthly public meetings to report to community members on its activities, summarize its findings, and have an open session to allow residents to ask questions and raise concerns.

Finally, the board should publish quarterly reports on its website summarizing its activities. The reporting should include the number of complaints the board received, the types of complaints it received, the basic facts of the complaints (without releasing personally identifiable information), the disposition of those complaints, and any discipline issued. The board should also issue an annual report summarizing its work for the year and identifying any trends. Further, the board should work collaboratively with the police department to report basic data on policing practices, such as stop-and-frisk practices, searches, use of force, arrests, and summonses. This will further strengthen transparency and accountability.

Newark's board has broad, even unprecedented, reporting obligations. These obligations include quarterly reporting the following information on its website: (1) the number of complaints received, disaggregated by demographic information on the complainant; (2) the basic facts and the disposition of the complaints; (3) the number of stops made by police officers during the previous quarter, including data disaggregated by date, time, location, demographics of the person stopped, and reason and disposition of the stop; (4) the number of use of force incidents by the police, including data disaggregated by the demographics of the civilian, description of the force used, reason for the force, and whether any injuries resulted; (5) the number of arrests made by the police, including data disaggregated by date, time, location, demographics of the arrestee, the offense charged, and how the arrest came about; and finally, (6) the amount of money Newark expended in settlements or judgments to resolve claims filed against the police department and

the basic facts associated with those claims.⁵⁴ The board is also mandated to publish an annual report, compiling statistics and including any trends or areas of concern.⁵⁵

IV. CONCLUSION

Building an effective civilian review board is no easy task. It requires a groundswell of community support and a sophisticated understanding of the nuances of civilian oversight. It helps to have a willing mayor, city council (or at least a majority of the council), and police chief. And it takes money and time to get it right.

As a consequence, all too often even well-meaning policymakers and activists settle for less—a review board that has subpoena authority but no power to make discipline stick, or a board that has access to review internal police investigations but cannot conduct any of its own independent ones. Arguably, a weak civilian review board is worse than no civilian review board because it gives the illusion of independent accountability but actually provides little to no accountability. A weak civilian review board can lead to an increase in community resentment, as residents go to the board to seek redress yet end up with little.

It is my hope that this Article will provide a clearer roadmap for how to achieve an effective review board. Spending several years, even decades as with Newark, to get it right is more important than moving quickly and getting it wrong.

⁵⁴ Newark Ordinance, *supra* note 14, at Part V.F. § 1-21(a)–(b).

⁵⁵ *Id.* at Part V.F. § 1-21(c).

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APPENDIX OF CIVILIAN REVIEW BOARDS⁵⁶ IN FIFTY LARGEST POLICE
DEPARTMENTS⁵⁷

Name of Department	Board Name and Composition	Subpoena Authority?	Discipline Authority?	Policy Review Authority?
New York City Police	Civilian Complaint Review Board: 13 Members (5 appointed by Mayor; 5 by City Council; 3 by Police Commissioner)	Yes	No	NYPD Inspector General
Chicago Police	Independent Police Review Authority: Mayor appoints chief civilian administrator with Council approval Police Review Board: 9 members appointed by Mayor with Council consent	Yes (IPRA)	Yes (PRB 3 person panel may overturn Police Superintendent's decision to not follow IPRA discipline recommendation)	Yes
Los Angeles Police	No Civilian Review Board*			
Philadelphia Police	Police Advisory Commission: 15 members appointed by Mayor	Yes	No	Yes

⁵⁶ A civilian review board is defined as an agency that is staffed by civilians, and not sworn officers, charged with investigating civilian complaints against the police.

⁵⁷ The police departments are listed in size order according to the number of full-time sworn personnel, with the largest police department listed first and the smallest police department (of the top fifty departments studied) listed last.

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Houston Police	Independent Police Oversight Board: 21 members appointed by Mayor and approved by Council	No	No	No
Washington D.C. Metropolitan Police	Office of Police Complaints: 5 nominated by Mayor (1 from police department) and confirmed by Council	Yes	Yes (if police chief rejects recommendation, OPC may overturn chief)	Yes
Dallas Police	Citizens Police Review Board: 15 members, 1 appointed by each Council Member	Yes	No	No
Phoenix Police	No Civilian Review Board*			
Baltimore Police	Civilian Review Board: 9 voting members from each police precinct (nominated by Mayor and confirmed by Council). Also 5 nonvoting members (Fraternal Order of Police, Vanguard Justice Society, Baltimore Police, ACLU of Maryland, and	No	No	No

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	NAACP of Baltimore)			
Miami-Dade Police	Civilian Investigative Panel: 13 members (9 appointed by City Commission; 3 by Mayor; 1 by Police)	Yes	No	Yes
Las Vegas Metropolitan Police	Citizen Review Board: 25 members (13 members appointed by Clark County Board of Commissioners; 12 by Las Vegas City Council Fiscal Affairs Committee)	Yes	No	Yes
Detroit Police	Detroit Police Commission: 11 members (7 elected by residents from each Police District; 4 appointed by Mayor and approved by Council)	Yes	Yes	Yes
Memphis Police	Citizen Law Enforcement Review Board: 9 members (8 appointed by Mayor and approved by Council; 1 Council Member)	No	No	No

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Suffolk County Police	No Civilian Review Board*			
Milwaukee Police	Fire and Police Commission: 7 members appointed by Mayor and confirmed by Council	Yes	Yes	Yes
San Antonio Police	No Civilian Review Board*			
Nassau County Police	No Civilian Review Board*			
San Francisco Police	Office of Citizen Complaints: Director appointed by Police Commission with approval by Mayor and Board of Supervisors Police Commission: 7 civilian members (4 nominated by Mayor (subject to Board of Supervisors approval) and 3 by Board of Supervisors)	Yes	Yes (Police Commission has right to hear appeals from Police Chief's disciplinary decisions and to issue discipline that is longer than a 10-day suspension)	Yes

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Boston Police	No Civilian Review Board*			
Honolulu Police	Honolulu Police Commission: 7 Members appointed by Mayor and confirmed by Council	No	No	Limited – May make recommendations on PD strategic plan
Atlanta Police	Atlanta Citizen Review Board: 11 members (1 appointed by Mayor; 1 by Council; 1 by Council President; 1 by each of the 4 Neighborhood Planning Units; 1 by Gate City Bar Association; 1 by Atlanta Bar Association; 1 by League of Women Voters; 1 by Atlanta Business League)	Yes	No	Yes
Columbus Police	No Civilian Review Board*			
Baltimore County Police	No Civilian Review Board*			
San Diego Police	No Civilian Review Board*			

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Charlotte-Mecklenburg Police	No Civilian Review Board*			
Austin Police	No Civilian Review Board*			
Prince George's County Police	County Citizen Complaint Oversight Panel: 7 members appointed by County Executive and confirmed by Council	Yes	No	Yes
Jacksonville Sheriff's Office	No Civilian Review Board*			
Indianapolis Metropolitan Police	Citizens Police Complaint Board: 12 members (9 civilian voting members (6 appointed by Council and 3 by Mayor); 3 non-voting police officers (1 appointed by Fraternal Order of Police, 1 by Mayor, and 1 by Council))	Yes	No	No
Fort Worth Police	No Civilian Review Board*			
	Civilian Police Review Board:	Yes	No	No

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Cleveland Police	7 members appointed by Mayor and approved by Council			
Denver Police	No Civilian Review Board*			
Kansas City Police	No Civilian Review Board*			
Fairfax County Police	No Civilian Review Board*			
Metropolitan Nashville Police	No Civilian Review Board*			
St. Louis Police	Civilian Oversight Board: 7 members nominated by Mayor from each city district and confirmed by Board of Aldermen	No	No	Yes
Seattle Police	No Civilian Review Board*			
New Orleans Police	No Civilian Review Board*			

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Louisville Police	No Civilian Review Board*			
Montgomery County Police	No Civilian Review Board*			
El Paso Police	No Civilian Review Board*			
Miami Police	Civilian Investigative Panel: 13 Members (9 appointed by City Commission; 3 by Mayor; 1 by Police Chief)	Yes	No	Yes
San Jose Police	No Civilian Review Board*			
Newark Police	Civilian Complaint Review Board: 11 Members (1 appointed by Mayor; 3 appointed by Municipal Council; 1 nominated by ACLU of New Jersey; 1 by NAACP NJ; 1 by People's Organization for Progress; 1 by La Casa de Don Pedro; 1 by Ironbound	Yes	Yes	Yes

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	Community Corporation; 1 by Newark Anti-Violence Coalition; 1 representative of clergy. All subject to Council approval)			
Cincinnati Police	Citizen Complaint Authority: 7 members appointed by Mayor and approved by Council	Yes	No	Yes
Albuquerque Police	Civilian Police Oversight Agency: 9 members appointed by Council	Yes	No	Yes
Dekalb County Police	No Civilian Review Board*			
Tampa Police	No Civilian Review Board*			
Portland Police	Independent Police Review and Citizen Review Committee: IPR Director appointed by Portland City Auditor, advised by 9-member Citizen Review Committee	Yes	No	Yes

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Tucson Police	No Civilian Review Board*
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* No civilian review board as defined by this Article: an agency staffed with civilians, and not sworn officers, charged with investigating civilian complaints of misconduct by police officers.