

# SURVEY SAYS: THE DEVELOPMENT OF CIVILIAN OVERSIGHT OF LAW ENFORCEMENT SKYROCKETS IN THE WAKE OF GEORGE FLOYD'S KILLING

SHARON R. FAIRLEY\*

## ABSTRACT

In a mere matter of months following the killing of George Floyd, dozens of cities across the country, large and small, have created new and enhanced forms of civilian oversight for law enforcement. The unnecessarily tragic incident sparked intense debate and created a burgeoning sense of urgency behind police reform efforts. The resulting activism has driven the momentum necessary to spur city leaders who had been previously considered implementing civilian oversight to actually move forward. The most recent police reform activism has also caused cities that already had at least some form of civilian oversight to reassess and revamp their approach.

Based on a review of the oversight entities proposed and launched in the year following Floyd's death, a trend toward the creation of multi-tiered, multi-functional oversight systems that preceded the Floyd incident has continued as many of the larger cities have established two or more civilian-based entities to provide various forms of law enforcement oversight. Review boards continue to be the most prevalent form of oversight. Among cities that have initiated oversight in this past year, most have either created a review board or a review board that oversees an agency that conducts or

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\* Professor from Practice, University of Chicago Law School; Former Prosecutor, U.S. Attorney's Office, Northern District of Illinois; Former Chief Administrator, City of Chicago, Independent Police Review Authority & Civilian Office of Police Accountability. Special thanks to Myra Bajwa and Angel Lockhart for their dedicated research assistance. Thanks also to Mark Iris and Samuel Walker for their insightful comments and suggestions.

reviews police misconduct investigations. Many larger cities, with more established civilian entities, have introduced measures intended to enhance their scope and power.

This paper documents and summarizes the developments in civilian oversight implemented in the 100 largest U.S. cities in 2020 and 2021.

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#### I. INTRODUCTION

The nationwide protests against police brutality and racial injustice, ignited by the May 2020 killing of George Floyd,<sup>1</sup> were historic in their ubiquity across American cities. In the months that followed, activism erupted on city streets as diverse groups of individuals representing a range of ethnicities, ages, and cultures came together to demand change.<sup>2</sup> Importantly, the activism that played out in street protests occurring nationwide has since translated into political action at all levels of government as the shockingly brutal incident generated a tipping point in the politics of police reform. The U.S. House of Representatives passed the

<sup>1</sup> John Felipe Acevedo, *Reclaiming Black Dignity*, 99 TEX. L. REV. ONLINE 1, 2 (2020).

<sup>2</sup> Rachel Ramirez, *Police Reform Was a Big Winner This Election*, VOX (Nov. 13, 2020, 5:20 PM), <https://www.vox.com/21562565/ballot-measures-policing-first-step> [<https://perma.cc/VER6-HWR2>].

George Floyd Justice in Policing Act of 2020.<sup>3</sup> Legislatures in blue states as well as red passed police reform measures, many of which had previously languished due to lack of political support.<sup>4</sup> Cities and counties of all shapes and sizes re-examined policies and practices in search of ways to address the over-policing and unconstitutional policing of individuals and communities of color.<sup>5</sup>

Civilian oversight has emerged at the front and center of reforms adopted in the months following Floyd's killing.<sup>6</sup> Dozens of cities have either established new forms of civilian oversight or enhanced the scope and powers of existing civilian oversight structures.<sup>7</sup>

This article seeks to document the significant developments in civilian oversight that have been achieved following the death of George Floyd. Part II of the article documents the increased prevalence of civilian oversight and its various forms based on research among the 100 most

<sup>3</sup> George Floyd Justice in Policing Act of 2020, H.R. 7120, 116th Cong. (2020); Nicholas Fandos, Katie Edmondson & Karen Zraick, *The House Passes a Policing Overhaul Bill Named for George Floyd, Whose Death Spurred Nationwide Protests*, N.Y. TIMES (Mar. 4, 2021), <https://www.nytimes.com/2021/03/04/us/george-floyd-act.html> [<https://perma.cc/W6KUUCT6>].

<sup>4</sup> For example, based on an electoral map published by 270 to Win, among the red states: Alabama enacted a statute that requires the State Peace Officers' Standards and Training Commission to create a database that contains some disciplinary information relating to officers; Kentucky passed a measure governing the use of no-knock warrants; and Arkansas passed a law requiring training on the duty to intervene in incidents of excessive force. *Electoral Map: Blue or Red States Since 2000*, 270TOWIN, <https://www.270towin.com/content/blue-and-red-states> [<https://perma.cc/WJG2-B9GH>]; see also H.B. 411, 2021 Reg. Sess. (Ala. 2021); S.B. 4, 2021 Gen. Assemb., Reg. Sess. (Ky. 2021); H.B. 1965, 93rd Gen. Assemb., 2021 Reg. Sess. (Ark. 2021). Blue states were quite active as well: Illinois passed a major criminal justice and police reform bill, and Washington passed several police reform measures. H.B. 3653, 101st Gen. Assemb., Reg. Sess. (Ill. 2021); H.B. 1054, 67th Leg., 2021 Reg. Sess. (Wash. 2021); H.B. 1267, 67th Leg., 2021 Reg. Sess. (Wash. 2021); H.B. 1310, 67th Leg., 2021 Reg. Sess. (Wash. 2021).

<sup>5</sup> A few examples include Indianapolis, Indiana; Urbana, Illinois; and Los Angeles and Sacramento, California. Justin L. Mack, *Comparing IMPD's New and Old Use-of-Force Policies: What's Changed*, INDYSTAR (July 29, 2020, 1:31 PM), <https://www.indystar.com/story/news/crime/2020/07/29/indianapolis-police-use-force-whatschanged-new-policy/5535742002/> [<https://perma.cc/2WSJ-XS8J>]; Del Quentin Wilber & Kevin Rector, *There's No National Use-of-Force Policy, and That's Trouble for Police Reform, Experts Say*, L.A. TIMES (Apr. 30, 2021, 1:16 PM), <https://www.latimes.com/politics/story/2021-04-30/momentum-growing-to-enact-national-standard-for-police-use-of-force> [<https://perma.cc/KX2H-S75Y>]; *Use of Force Revision*, CITY URBANA, <https://www.urbanaindinois.us/UOFpolicy> [<https://perma.cc/9HEK-A4G9>]; *Sacramento Officials Approve Use-of-Force Policy Changes for Police*, KCRA NEWS (May 5, 2021, 6:57 PM), <https://www.kcra.com/article/sacramento-approve-use-of-force-recommendation/36335492> [<https://perma.cc/X4BC-VYG6>].

<sup>6</sup> Safia Samee Ali, *Voters Around the U.S. Approve Local Police Reform Measures*, NBC NEWS (Nov. 4, 2020, 5:46 PM), <https://www.nbcnews.com/politics/2020-election/voters-around-u-s-approve-local-police-reform-measures-n1246500> [<https://perma.cc/6MQ6-9LFG>].

<sup>7</sup> See *infra* Parts III and IV.

populous U.S. cities. Part III provides an overview of the newly established civilian oversight entities within those 100 cities. Part IV examines the enhancements that dozens of cities have made to existing civilian oversight structures. Lastly, Part V highlights the many cities that continue to work toward new and improved civilian oversight.

The recent snapshot of the state of civilian oversight in the United States, upon which this article is based, confirms that communities continue to value this important accountability mechanism as an effective way to incorporate community input into policing policies and operations. This survey, documented herein, also demonstrates a continuing trend toward the creation of multi-tiered, multi-functional oversight systems comprised of two or more oversight entities. Moreover, the survey illustrates how communities are working to instill oversight entities with greater power to influence policing policy and disciplinary outcomes.

As with this author's prior survey conducted in 2019,<sup>8</sup> this article focuses on the civilian oversight entities that have been established in the 100 most populous cities in the United States based on 2018 U.S. Census Data.<sup>9</sup> Information collected on the civilian oversight movements and entities discussed herein was gathered from a variety of sources, including state statutes, municipal ordinances or other applicable legislation, online information and documentation such as government websites, oversight entity rules and policy statements, and local news articles. In some cases, the oversight entities were contacted for additional information. Based on the information gathered through this search methodology, the author compiled information related to each of the entities identified as operating within the 100 cities, including, but not limited to, the entity's name, a description of its responsibilities, whether the entity wields subpoena power, whether the entity exists in the form of an agency or board. The data and information that follow are based on this compiled information.

## II. THE INCREASED PREVALENCE OF CIVILIAN OVERSIGHT

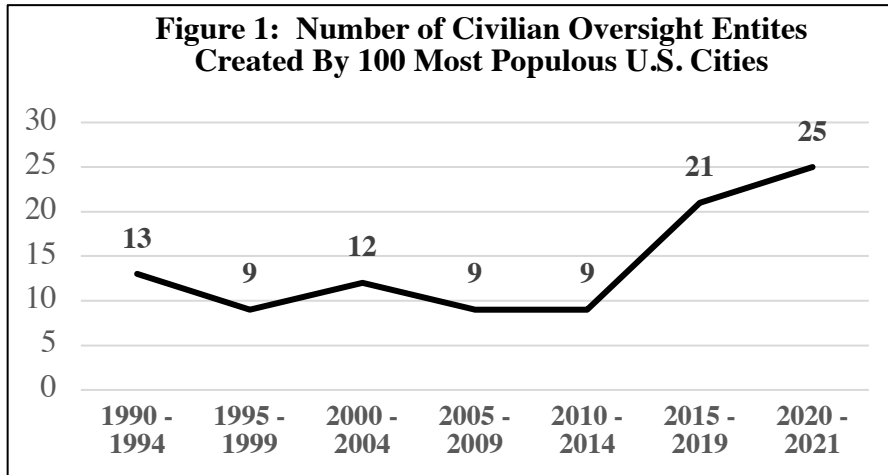
There was a significant increase in the number of civilian oversight entities established in 2020 and 2021 relative to prior years. As depicted in Figure 1, there were twenty-five civilian oversight entities created within the 100 most populous U.S. cities in 2020 and 2021 compared to twenty-

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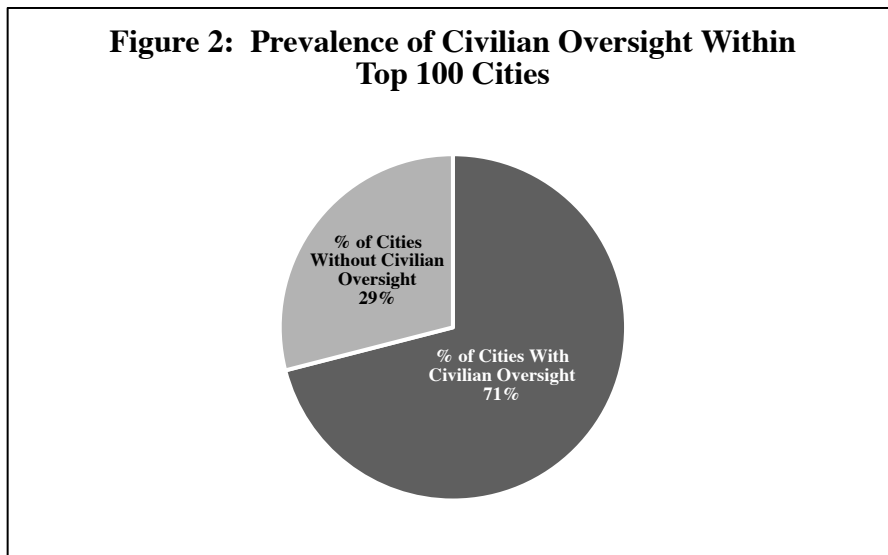
<sup>8</sup> Sharon R. Fairley, *Survey Says?: U.S. Cities Double Down on Civilian Oversight of Police Despite Challenges and Controversy*, 2020 *CARDOZO L. REV. DE NOVO* 1 (2020).

<sup>9</sup> Table Showing Annual Estimates of Resident Population Change for Incorporated Places of 50,000 or More in 2018, U.S. CENSUS BUREAU (2019), <https://www2.census.gov/programs-surveys/popest/tables/2010-2019/cities/totals/SUB-IP-EST2019-ANNCH.xlsx> (ranked by percentage change from July 1, 2018, to July 1, 2019).

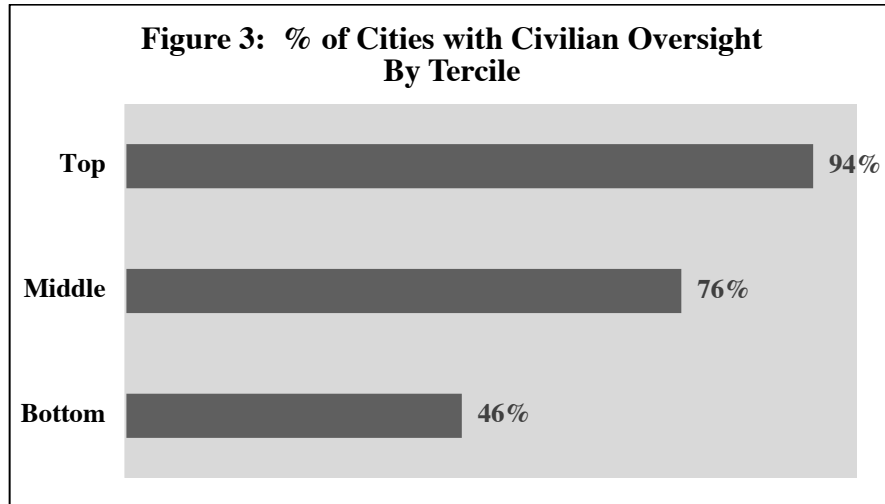
one entities created in the preceding five-year period (2015–2019). As will be discussed in Part V, because efforts to create civilian oversight are ongoing in many cities, the proliferation of civilian oversight is expected to continue in the near term.



Based on information from the sources reviewed, as depicted in Figure 2, among the 100 most populous cities, there were seventy-one cities with at least one civilian oversight entity with jurisdiction over a municipal police agency.



As noted in Figure 3,<sup>10</sup> the prevalence of civilian oversight continues to be higher among larger cities. Civilian oversight is almost universal among and can be found in approximately 94% of the top tercile (most populous third) of the 100 cities. However, significantly, civilian oversight has also been established in almost one-half (46%) of the bottom tercile (least populous) U.S. cities.



Consistent with the protocol used in this author's 2019 survey, based on the information gathered, each oversight entity was classified as providing one of the following primary oversight functions:<sup>11</sup>

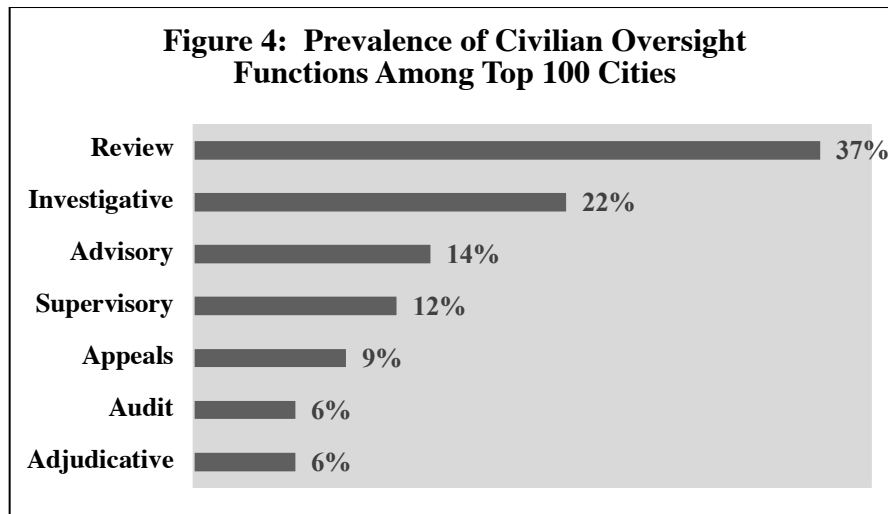
1. **Investigative:** an entity that investigates police incidents independently from the police department and that employs at least one professional investigator;
2. **Review:** an entity that reviews or monitors investigations of police incidents being conducted by the police department;

<sup>10</sup> The prevalence of civilian oversight within each of the three terciles among the 100 cities was obtained by counting the number of cities with at least one civilian oversight entity within each of the top (thirty-three most populous cities), middle, and bottom terciles (thirty-three least populous cities).

<sup>11</sup> Although many oversight entities perform more than one function, the author assigned a "primary" function to each entity based on which function was given greatest emphasis in the description of the entity's powers and duties. This determination was solely based on the author's judgment and experience.

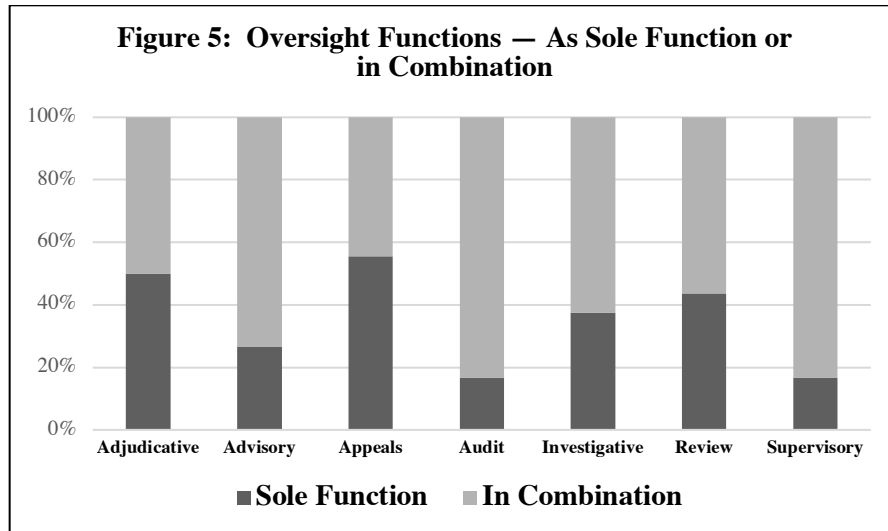
3. **Audit:** an entity that audits investigations of police incidents conducted by the police department. For purposes herein, an auditing entity reviews only a sample of investigations, rather than reviewing all investigations or all investigations of a certain type;
4. **Adjudicative:** an entity that adjudicates specific disciplinary matters by making findings and recommendations at the conclusion of a disciplinary hearing or other proceeding;
5. **Appeals:** an entity that reviews outcomes of disciplinary investigations upon the request of either the complainant or the accused officer;
6. **Supervisory:** an entity that makes high level policy and strategic decisions regarding police department operations, typically characterized as a “police commission;”
7. **Advisory:** an entity that makes recommendations to the police department regarding high level policy and operational strategies.

As shown in Figure 4, the Review function is the most prevalent among the 100 cities, as thirty-seven cities employ an entity that provides the Review form of oversight. The Investigative function is the second-most prevalent form of oversight, found within twenty-two of the cities surveyed.



Many cities employ a combination of two or more forms of civilian oversight. As is observable from Figure 5, some forms of oversight are more likely to be used in combination with other forms of oversight rather than as the sole form of oversight. In particular, the Audit (typically an “Inspector General” office) and Supervisory (typically a police

commission) oversight functions are most often employed with some other form of oversight.



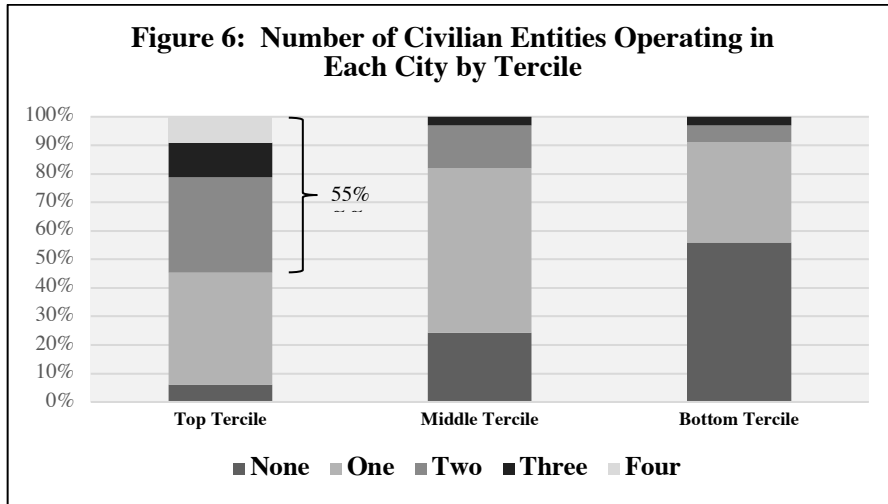
As with the tercile analysis illustrated above in Figure 3, the author documented the number of civilian oversight entities operating in each of the cities within the top, middle, and bottom terciles segmented by population. As is evident from Figure 6, the larger cities are more like to employ more than one civilian oversight entity.

In fact, among the top thirty-three most populous cities, more than half (approximately 55%) of the cities employ two or more oversight entities. This trend towards multi-functional oversight systems was initially identified in the author's 2019 research.<sup>12</sup>

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<sup>12</sup> Fairley, *supra* note 8.



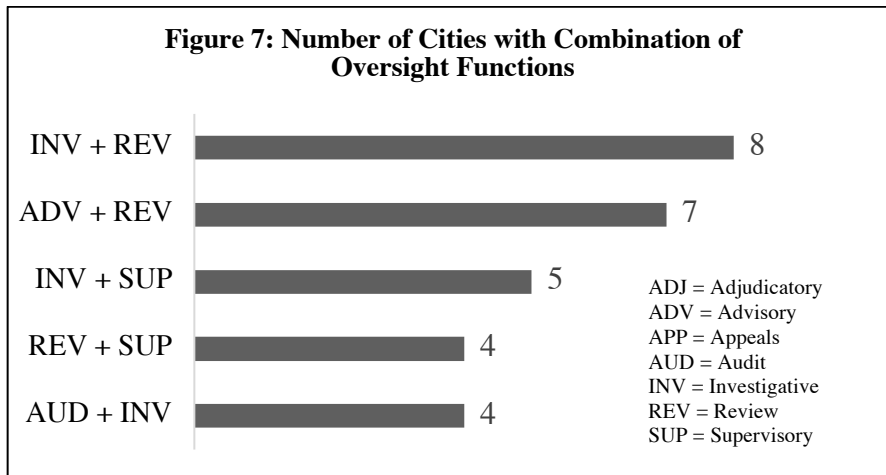


With regard to the specific combinations of the various forms of oversight, as depicted in Figure 7,<sup>13</sup> two combinations appeared most frequently. The first most prevalent combination was found among cities that employ an entity that provides the Investigative function combined with an entity that provides the Review function. For example, the city of Louisville, Kentucky has the Office of the Inspector General that provides the Investigative function and the Civilian Review and Accountability Board that provides the Review function.<sup>14</sup> The second most common combination is the Advisory function employed in combination with the Review function. For example, the city of Madison, Wisconsin created a system that includes a thirteen-member Police Civilian Oversight Board that not only provides the Advisory function, but also oversees a new Office of the Independent Monitor, which provides the Review function.<sup>15</sup>

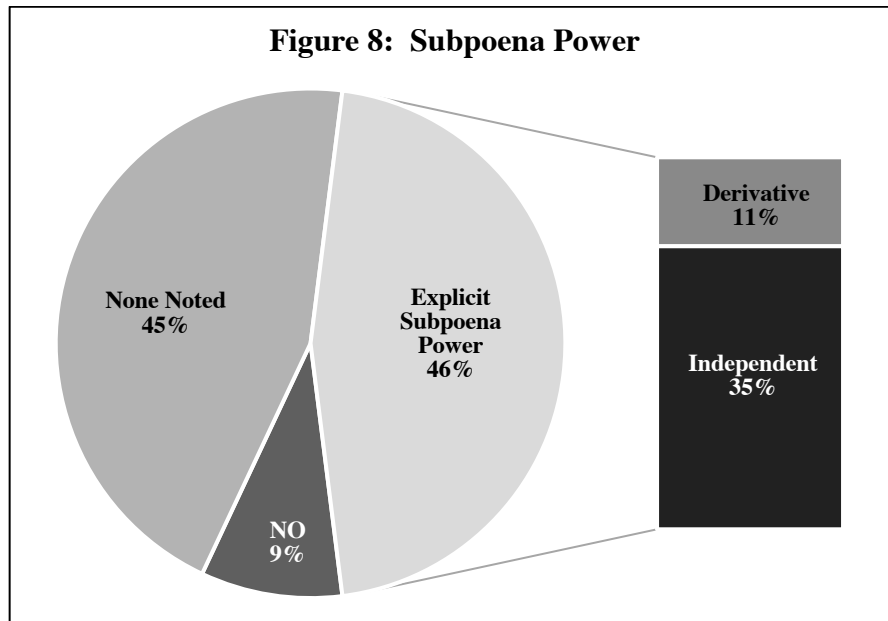
<sup>13</sup> As described above, *supra* note 11, the author noted the primary functions of each of the civilian oversight entities employed in each city and observed which forms of oversight were combined with other forms. For example, there were two cities which employed three civilian oversight entities: one providing the Investigative form of oversight, one providing the Audit form, and one providing the Adjudicative form.

<sup>14</sup> LOUISVILLE, KY., CODE tit. III, ch. 36, §§ 36.70, 36.78 (2020).

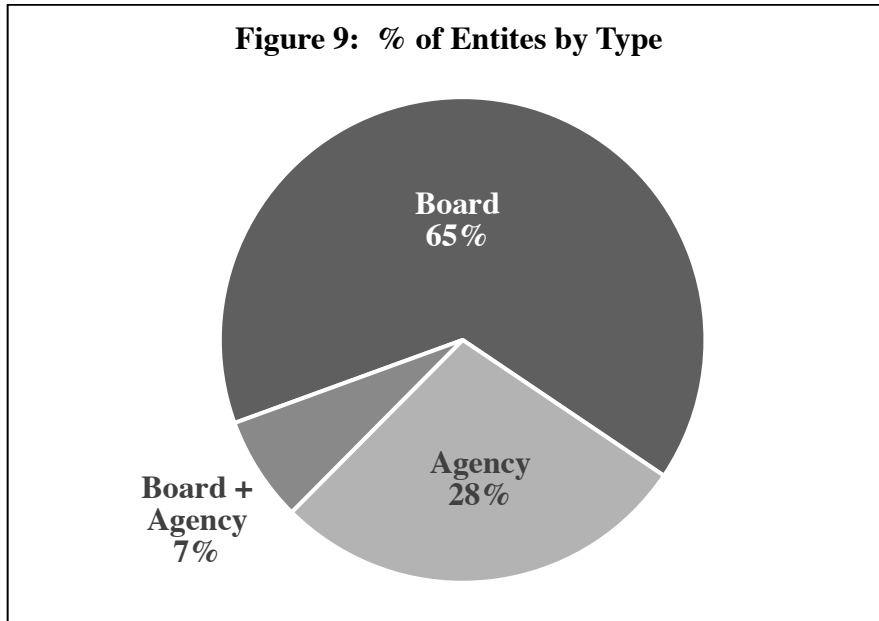
<sup>15</sup> MADISON, WIS., CODE OF ORDINANCES §§ 5.19, 5.20 (2020).



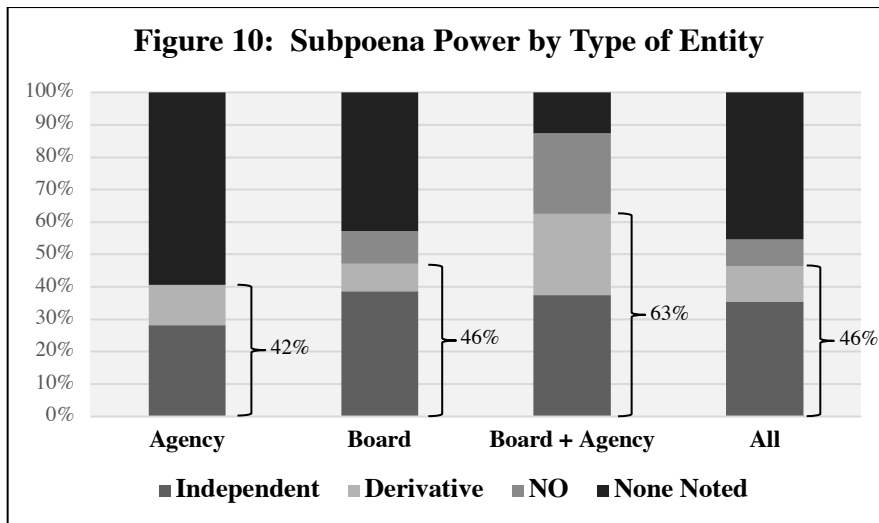
Whether a civilian oversight entity wields subpoena power is frequently a hotly contested issue when cities create them. Data obtained on the prevalence of subpoena power among the entities studied herein is presented in Figure 8. The information presented in Figure 8 is based on a review of the establishing legal authority, such as an ordinance or provision in the city code or charter, for each of the 111 entities studied for which such legal authority was publicly available. Where the legal authority explicitly enumerated the ability to issue subpoenas independently within the entity’s powers and duties, that entity is included in Figure 8 as having “Independent” subpoena power. Where the legal authority explicitly stated that the entity could request the issuance of subpoenas through or by another government entity, that entity is included in Figure 8 as having “Derivative” subpoena power. Where the legal authority explicitly notes that the entity does *not* have subpoena power, and where there was other legal authority, such as case law or statutory law that explicitly prohibits subpoena power, the entity is included in Figure 8 as having “NO” subpoena power. Where the establishing legal authority was otherwise silent on the issue of subpoena power, the entity was included in Figure 8 as “None Noted.” Among the 111 entities for which legal authority was available, just under half (approximately 46%) have the power to issue or request the issuance of subpoenas.



As outlined in Figure 9, among the 111 entities for which legal authority was available, there were seventy (65%) that can be classified as Boards, meaning an entity comprised of a set number of individuals that are selected or appointed to serve. Approximately 28% of the entities can be classified as an “Agency,” meaning a government entity comprised of one or more paid employees. There are also entities, approximately 7% of the total examined, that are comprised of both a Board and an Agency.



As depicted in Figure 10, there were several Boards that, by law, are prohibited from issuing subpoenas. Entities that were comprised of both a board and an agency were the most likely to wield subpoena power, perhaps because these communities see one entity as serving as a check against overreach by the other.



### III. SINCE THE KILLING OF GEORGE FLOYD, CITIES LARGE AND SMALL HAVE ESTABLISHED NEW CIVILIAN OVERSIGHT

The following section outlines the civilian oversight entities that were first created in 2020 or 2021. As outlined below, at least six cities among the 100 cities studied herein created at least one civilian oversight entity during this time period.<sup>16</sup> Interestingly, among the six, three established independent monitor positions (Colorado Springs, Fort Worth, and Madison).<sup>17</sup> Of those three, Colorado Springs and Madison opted to establish a commission or board to oversee or direct the independent monitor's work.<sup>18</sup> Two of the six cities were new to civilian oversight established advisory boards (Raleigh and Stockton).<sup>19</sup>

#### **Colorado Springs, CO**

Colorado Springs began working toward the creation of civilian oversight in June 2020.<sup>20</sup> The city council entertained two separate

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<sup>16</sup> See, e.g., COLORADO SPRINGS, COLO., CODE OF ORDINANCES No. 20-44 § 1 (2020) (creating the Law Enforcement Transparency and Accountability Commission); COLUMBUS, OHIO, CODE OF ORDINANCES No. 1819-2020 (2020) (codified at COLUMBUS, OHIO, CITY CHARTER §§ 215, 217) (creating the Civilian Police Review Board and the Department of Inspector General for the Division of Police); FORT WORTH, TEX., ORDINANCE 24030-02-2020 § 2-27(a)(2) (2020) (creating the Office of the Police Monitor); ORDINANCES § 5.19(1)–(2) (creating the Office of the Independent Police Monitor and Police Civilian Oversight Board in Madison, Wisconsin); Anna Johnson, *Raleigh City Council Creates Police Advisory Board After Years of Protest*, NEWS OBSERVER (Feb. 4, 2020, 7:54 PM), <https://www.newsobserver.com/news/local/crime/article239949383.html>; *City Manager's Review Board*, CITY STOCKTON, <http://www.stocktonca.gov/government/departments/manager/cmrb.html> [<https://perma.cc/QK7G-9YCY>] (last updated Dec. 28, 2021).

<sup>17</sup> See *infra* notes 20, 28 and accompanying text; see also Jackson Mozena, *City Council Approves Police Oversight Measures Amid Rising Internal Tensions*, DAILY CARDINAL (Sept. 7, 2020, 12:00 AM), <https://www.dailycardinal.com/article/2020/09/city-council-approves-police-oversight-measures-amid-rising-internal-tensions> [<https://perma.cc/94TM-EPJ4>].

<sup>18</sup> See *infra* notes 23, 29 and accompanying text.

<sup>19</sup> See *infra* notes 32, 36 and accompanying text.

<sup>20</sup> Olivia Prentzel, *Colorado Springs to Move Forward with Council-Appointed Police Accountability Committee*, GAZETTE (June 16, 2020), [https://gazette.com/news/colorado-springs-to-move-forward-with-council-appointed-police-accountability-committee/article\\_30ae5fc4-b03d-11ea-952f-c36a465bb9b7.html#:~:text=Colorado%20Springs%20City%20Council%20members,through%20a%20formal%20application%20process](https://gazette.com/news/colorado-springs-to-move-forward-with-council-appointed-police-accountability-committee/article_30ae5fc4-b03d-11ea-952f-c36a465bb9b7.html#:~:text=Colorado%20Springs%20City%20Council%20members,through%20a%20formal%20application%20process) [<https://perma.cc/NS7B-MUJ8>]. According to the city's website, “[o]n June 23, 2020 City Council passed the first reading of an ordinance to create the Law Enforcement Transparency and Accountability Commission. It was approved by a vote of 8 to 1. On July 13 City Council passed the second reading, approved by a [sic] 8 to 0 vote.” *Law Enforcement Transparency and Accountability Commission*, COLO. SPRINGS, <https://coloradosprings.gov/letac> [<https://perma.cc/4F7B-HMEE>].

proposals regarding the establishment of a civilian oversight board.<sup>21</sup> The Law Enforcement Transparency and Accountability Commission was established by ordinance in July 2020.<sup>22</sup> The purpose of the eleven-member commission is to advise the city council on budget and police issues and improve police community relations.<sup>23</sup> In addition, the city's oversight plan includes the hiring of an independent police monitor to monitor internal investigations and make disciplinary recommendations.<sup>24</sup>

### **Columbus, OH**

The Columbus City Council put an initiative on the November 2020 ballot asking residents to vote on amending the city's charter to create a civilian review board.<sup>25</sup> The initiative received approval from 74% of voters, and the mayor appointed the first nine members to the board in March 2021.<sup>26</sup> The new board will be responsible for selecting the city's first inspector general, which office will be empowered to investigate allegations of police misconduct.<sup>27</sup>

### **Fort Worth, TX**

In February 2020, the city of Fort Worth established the Office of the Police Monitor, which will monitor police contacts and complaint investigations, review policies and procedures, and audit police department operations.<sup>28</sup>

### **Madison, WI**

In September 2020, driven by strong public support, Madison's common council passed legislation establishing the Office of the Independent Police Monitor ("OIM") and a thirteen-member Police Civilian Oversight Board ("PCOB").<sup>29</sup> The OIM will be managed by a full-time city employee who will be recruited, hired and supervised by the PCOB.<sup>30</sup> The

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<sup>21</sup> Prentzel, *supra* note 20.

<sup>22</sup> COLORADO SPRINGS, COLO., CODE OF ORDINANCES No. 20-44 § 1 (2020).

<sup>23</sup> *Id.* §§ 1–2.

<sup>24</sup> Prentzel, *supra* note 20.

<sup>25</sup> Bethany Bruner, *Ginther Announces Nine Inaugural Members of Columbus Police Civilian Review Board*, COLUMBUS DISPATCH (Mar. 31, 2021, 10:33 AM) <https://www.dispatch.com/story/news/local/2021/03/31/mayor-name-inaugural-civilian-review-board-members/4803565001/> [https://perma.cc/X52F-H6A3].

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> FORT WORTH, TEX., ORDINANCE 24030-02-2020 § 2-27(a)(2) (2020).

<sup>29</sup> Mozena, *supra* note 17.

<sup>30</sup> MADISON, WIS., CODE OF ORDINANCES § 5.19(1)–(2) (2020).

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OIM will be responsible for actively monitoring police department audits, programs, and activities, including use of force incidents and internal investigations.<sup>31</sup>

### **Raleigh, NC**

In February 2020, the city council created a five-person Police Advisory board that would oversee the policy and procedures of the Police Department.<sup>32</sup> Because subpoena power for civilian oversight entities must be granted by the state legislature in North Carolina, the board will not wield subpoena power.<sup>33</sup> However, within a year's time the board's own members criticized its lack of effectiveness, and two members resigned in protest over its lack of power.<sup>34</sup>

### **Stockton, CA**

In July 2020, the Stockton city manager and police chief announced the creation of a new twenty-five member review board that will operate under the direction of city manager and will examine police department policies and practices.<sup>35</sup> According to the city's press announcement, the board will "focus on a continuous review of policies and practices by reviewing and analyzing data related to citizen complaints, police calls for service, traffic stops, crime statistics, officer involved shootings, and use of force, as well as assaults on police officers and other categories."<sup>36</sup>

## IV. MANY CITIES HAVE MADE SUBSTANTIVE ENHANCEMENTS TO EXISTING CIVILIAN OVERSIGHT STRUCTURES

Cities with established civilian oversight structure made a myriad of changes seeking to enhance their effectiveness. As will be outlined below, two cities, namely, Boston and Louisville, implemented complete overhauls

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<sup>31</sup> *Id.* § 5.19(7)(b)(1).

<sup>32</sup> Johnson, *supra* note 16.

<sup>33</sup> *Id.*

<sup>34</sup> Andrea Blanford, *Raleigh's Police Advisory Board "in Shambles" After Two Members Resign*, ABC 11 WTVD NEWS (Mar. 11, 2021), <https://abc11.com/raleigh-demands-justice-police-advisory-board-rpd-department/10408076/> [https://perma.cc/JD8U-W68D].

<sup>35</sup> Rich Ibarra, *Stockton Creates Community-Police Review Board for Police Practices, Including Use of Force*, CAPRADIO (July 16, 2020), <https://www.capradio.org/articles/2020/07/16/stockton-creates-community-police-review-board-for-police-practices-including-use-of-force/> [https://perma.cc/YW6S-KX3Y].

<sup>36</sup> Press Release, City of Stockton, Cal., City Manager's Review Board Announcement: An Innovative Approach to Ensuring Comprehensive Public Safety Strategies (July 15, 2020), [http://www.stocktongov.com/files/News\\_2020\\_07\\_15\\_CityManagersReviewBoardCommunityPoliceRelations.pdf](http://www.stocktongov.com/files/News_2020_07_15_CityManagersReviewBoardCommunityPoliceRelations.pdf) [https://perma.cc/4LCW-LB6X].

of their oversight structures.<sup>37</sup> Other cities made other substantive changes such as adding transparency mechanisms (Fort Wayne, Indiana),<sup>38</sup> modified procedures (Lincoln, Nebraska),<sup>39</sup> resources (Albuquerque, New Mexico),<sup>40</sup> and greater access to information (Nashville, Tennessee).<sup>41</sup>

### **Albuquerque, NM**

In 2014, in the wake of Department of Justice findings that the city’s oversight system had contributed to problematic policing, the city abolished its Police Oversight Commission and created the Civilian Police Oversight Agency (“CPOA”) and the Police Oversight Board.<sup>42</sup> In 2019, the city revised the ordinance establishing the powers of the CPOA.<sup>43</sup> In April 2021, the city approved additional funding to allow the CPOA to double its investigative staff from two to four investigators.<sup>44</sup>

### **Atlanta, GA**

In 2020, the city council enacted an ordinance that modified the composition of the Citizen Review Board to include representation from

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<sup>37</sup> Boston, Mass., Executive Order Reconstituting the Community Ombudsman Oversight Panel as the Internal Affairs Oversight Panel (Nov. 12, 2020) [hereinafter Boston Executive Order] (signed by Mayor Martin J. Walsh); Ashleigh Mills & Deborah Harbsmeier, *New Civilian Review Board for Louisville Police Made Official*, SPECTRUM NEWS (Dec. 2, 2020, 5:50 PM), <https://spectrumnews1.com/ky/lexington/news/2020/12/02/civilian-review-board-> [https://perma.cc/UA5M-AM6F].

<sup>38</sup> CITY OF FORT WAYNE, COMM’N POLICE REFORM & RACIAL JUST., MOVING FORWARD TOGETHER: ACTION PLAN TO ADDRESS PUBLIC SAFETY AND RACIAL JUSTICE 7–10 (2020) [hereinafter MOVING FORWARD TOGETHER], [https://www.cityoffortwayne.org/images/stories/mayors\\_commission/Police\\_Reform\\_and\\_Racial\\_Justice\\_Report\\_-\\_Final.pdf](https://www.cityoffortwayne.org/images/stories/mayors_commission/Police_Reform_and_Racial_Justice_Report_-_Final.pdf) [https://perma.cc/K5RR-SSC6].

<sup>39</sup> Riley Johnson, *Politically Split Council Approves Expansion of Lincoln Police Oversight Board*, J. STAR (Nov. 24, 2020), [https://journalstar.com/news/local/govt-and-politics/politically-split-council-approves-expansion-of-lincoln-police-oversight-board/article\\_194e589f-afcb-527a-ab76-db77697809cb.html](https://journalstar.com/news/local/govt-and-politics/politically-split-council-approves-expansion-of-lincoln-police-oversight-board/article_194e589f-afcb-527a-ab76-db77697809cb.html) [https://perma.cc/2TZF-MHKD].

<sup>40</sup> Brittany Bade, *Civilian Police Oversight Agency Gets Funding for Two More Investigators*, KRQE NEWS (Apr. 5, 2021, 7:43 PM), <https://www.krqe.com/news/politics-government/civilian-police-oversight-agency-gets-funding-for-two-more-investigators/> [https://perma.cc/XU38-BTR6].

<sup>41</sup> Memorandum of Understanding Between the Cmty. Oversight Bd. and the Metro. Nashville Police Dep’t (Dec. 14, 2020) [hereinafter Nashville Memo], <https://www.nashville.gov/sites/default/files/2021-03/MOU-with-MNPD.pdf?ct=1616767674> [https://perma.cc/RX2U-YMQ6] (on file with Nashville Metro Clerk).

<sup>42</sup> ALBUQUERQUE, N.M., CITY ORDINANCE 2019-007 § 9-4-1-3(D), (F).

<sup>43</sup> *Id.* § 9-4-1-5(J).

<sup>44</sup> Bade, *supra* note 40.



young adults.<sup>45</sup> The ordinance also enhanced the Board's oversight powers, in particular, making the Board's findings regarding misconduct binding on the Department.<sup>46</sup>

### **Austin, TX**

In May 2021, Austin voters approved a charter amendment that would enable the City Council to create rules for the appointment of the director of police oversight, taking appointment power out of the hands of the city manager.<sup>47</sup>

### **Boston, MA**

In September 2020, a task force empaneled by the mayor proposed a series of reforms that included replacing the Community Ombudsman Oversight Panel, citing its failure to perform effective oversight.<sup>48</sup> Pursuant to these recommendations, in November 2020, the mayor issued an executive order that reconstituted the city's Community Ombudsman Oversight Panel as the Internal Affairs Oversight Panel ("IAOP").<sup>49</sup> In addition, in December 2020, the City Council passed an ordinance establishing several new oversight components under the banner of the Office of Police Accountability and Transparency ("OPAT"), which includes a mayor-appointed three-member OPAT Commission, an executive administration for the Commission ("OPAT Staff"), and a nine-member Civilian Review Board ("CRB").<sup>50</sup> The three members of the OPAT Commission are the individuals designated to serve as the Executive Director of OPAT Staff, the chair of the IAOP and the chair of the CRB.<sup>51</sup>

The OPAT Commission will be responsible for establishing rules and regulations governing the investigative procedures and recommendations

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<sup>45</sup> ATLANTA, GA., CITY ORDINANCE 20-O-1445 § 2-2204(e) (requiring that at least two members of the Board shall be between the ages of 18 and 30 at the time of appointment).

<sup>46</sup> *Id.* § 2-2212(a)(1).

<sup>47</sup> *May 2021 Election Results: Austin's Eight Propositions*, KUT NPR (May 1, 2021, 7:31 PM), <https://www.kut.org/politics/2021-05-01/may-2021-election-results-austins-eight-propositions> [https://perma.cc/2MNY-S29S]; Jack Flagler & Christopher Neely, *Explaining the May 1 Ballot: What a Yes or No Vote Means on All 8 Propositions in Austin*, CMTY. IMPACT NEWSPAPER (Apr. 3, 2021, 8:15 AM), <https://communityimpact.com/austin/central-austin/election/2021/04/03/explaining-the-may-1-ballot-what-a-yes-or-no-vote-means-on-all-8-propositions-in-austin/> [https://perma.cc/BM93-JHJC].

<sup>48</sup> Ally Jarmanning, *Boston Police Task Force Calls for a New Oversight Office – With Subpoena Power*, WBUR NEWS (Sept. 10, 2020), <https://www.wbur.org/news/2020/09/10/boston-police-reform-task-force-recommendations> [https://perma.cc/M2J5-84YP].

<sup>49</sup> Boston Executive Order, *supra* note 37, at 1.

<sup>50</sup> BOS., MASS., CODE OF ORDINANCES ch. 12, § 12-17 (2020).

<sup>51</sup> *Id.* § 12-17.3.

followed by the OPAT Staff and will wield subpoena power.<sup>52</sup> The OPAT Staff will take in complaints and conduct investigations pursuant to the jurisdiction of the CRB and the IAOP.<sup>53</sup> Among the CRB's nine members, three will be appointed by the mayor from nominees submitted by the City Council.<sup>54</sup> The additional six appointees will be selected from among a pool of applicants recommended by civil rights advocacy groups, youth organizations, neighborhood associations, and law enforcement subject matter experts.<sup>55</sup> The CRB will have jurisdiction to review or conduct investigations into serious police incidents including in-custody deaths or serious injury and use-of-force incidents resulting in death or serious injury, as well as certain types of allegations such as unlawful arrests or stops and perjury.<sup>56</sup> The IAOP will provide external oversight of the Boston Police Department internal affairs investigations to ensure they are thorough and fair.<sup>57</sup>

### **Chicago, IL**

In July 2021, after a year-long push by activists, the Chicago City Council passed legislation creating a new Community Commission for Public Safety and Accountability.<sup>58</sup> The new commission will be the fifth civilian oversight entity the city has created to rein in the Chicago Police Department.<sup>59</sup> The new oversight entity will have a complex structure comprised of a seven-member board that not only will supervise, but also

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<sup>52</sup> *Id.* § 12-17.4(a).

<sup>53</sup> *Id.* § 12-17.7.

<sup>54</sup> *Id.* § 12-17.8.

<sup>55</sup> *Id.*

<sup>56</sup> BOS., MASS., CODE OF ORDINANCES ch. 12, § 12-17.10(a) (2020).

<sup>57</sup> *Id.* § 12-17.13.

<sup>58</sup> CHI., ILL., MUNICIPAL CODE tit. 2, ch. 2-80 (2021); John Byrne, Bill Ruthhart, Alice Yin & Annie Sweeney, *Civilian Oversight for Chicago Police Wins Final Approval After Yearslong Fight. Opponents Say It Will Make Cops' Jobs Harder and Hurt Recruiting.*, CHI. TRIB. (July 21, 2021, 3:51 PM), <https://www.chicagotribune.com/news/breaking/ct-lightfoot-chicago-police-oversight-city-council-vote-20210721-dwiu437qs5gplsgb74phxsu2e-story.html>.

<sup>59</sup> *See* tit. 2, ch. 2-84, § 020. *See generally* RALPH KNOOHUIZEN, CHI. L. ENF'T STUD. GRP., CHICAGO POLICE BOARD (1973) (providing descriptions of the history of the Chicago Police Board and criticizing the board for its lack of positive and affirming action). The Independent Police Review Authority ("IPRA"), a civilian investigative agency, was established in 2007. *Giles v. Ludwig*, No. 12-CV-6746, 2014 WL 4358475, at \*1 (N.D. Ill. Sept. 3, 2014). In 2016, in the wake of the crisis related to the killing of Laquan McDonald, the city passed an ordinance which replaced IPRA with the Civilian Office of Police Accountability and created the Office of the Deputy Inspector General for Public Safety. CHI., ILL., MUNICIPAL CODE tit. 2, ch. 2-56, 2-78 (2016); *see also* Annie Sweeney, *Civilian Office of Police Accountability to Launch in September, Replace Long-criticized IPRA*, CHI. TRIB. (Apr. 12, 2017), <https://www.chicagotribune.com/news/breaking/ct-copa-start-date-met-20170412-story.html>.

will be nominated by a group of locally elected officials.<sup>60</sup> For the first time, Chicago citizens will have a formal mechanism for input to the process of policing policy development.<sup>61</sup> In addition, the Commission will have a role in the hiring and firing of the police Superintendent, the Chief Administrator of the Civilian Office of Police Accountability, and members of the Chicago Police Board.<sup>62</sup> Perhaps the most innovative aspect of the city's new civilian oversight structure is the ability to influence policing at the hyperlocal, district level via the work of elected three-member district councils. These officials will be taxed with holding public meetings on public safety issues, working with the department to implement community policing initiatives, and identifying public safety concerns within each police district.<sup>63</sup>

### **Fort Wayne, IN**

In August 2020, the mayor expanded the Board of Public Safety from three to five members as a way to “ensure representative citizen oversight of public safety functions.”<sup>64</sup> In March 2021, the Commission on Police Reform and Racial Justice made a series of recommendations to further improve the board's transparency, including that the Board make publicly available its agendas, meeting minutes, and findings.<sup>65</sup>

### **Houston, TX**

In August 2020, five Houston City Council members called on the mayor to conduct a “complete overhaul” of the city's Independent Police Oversight Board (“IPOB”).<sup>66</sup> This recommendation was among a slate of more than twenty-five police reform strategies that council members believed could be implemented quickly.<sup>67</sup> In particular, the council members recommended that the oversight entity be given “complete

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<sup>60</sup> ch. 2-80. There will be three-member district councils elected in each of the twenty police districts. ch. 2-80, § 070.

<sup>61</sup> *Id.* § 050(g).

<sup>62</sup> *Id.* § 090.

<sup>63</sup> *Id.* § 070(e).

<sup>64</sup> Fort Wayne, Ind., Executive Order No. 08-02 (Aug. 11, 2020).

<sup>65</sup> MOVING FORWARD TOGETHER, *supra* note 38, at 7; Zach Bernard, *Commission for Police Reform and Racial Justice Submits Recommendations to Mayor*, WBOI (Mar. 9, 2021, 2:17 PM), <https://www.wboi.org/post/commission-police-reform-and-racial-justice-submits-recommendations-mayor#stream/0> [<https://perma.cc/PW78-4CM9>].

<sup>66</sup> Dylan McGuinness, *Houston Council Members Call for Overhaul of Police Oversight Board, Other HPD Reforms*, HOUS. CHRON. (Aug. 31, 2020), <https://www.houstonchronicle.com/politics/houston/article/houston-officials-police-reforms-hpd-oversight-15527186.php>.

<sup>67</sup> *Id.*

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autonomy and investigative authority” with “full access to all unclassified information” from the police department.<sup>68</sup> In September 2020, the mayor released a report issued by a police reform task force that had been empaneled earlier in the year.<sup>69</sup> The mayor’s task force supported the council members’ recommendation that the IPOB be overhauled.<sup>70</sup> Noting that its origins date back to as early as 1977, the task force outlined that, as currently constituted, the IPOB was “not an investigative agency and has no budget, staff, disciplinary authority, or investigative tools.”<sup>71</sup> Based on these perceived shortcomings, the task force advocated for the addition of a “full-time paid administrative and investigative staff, accompanied by a diverse civilian board.”<sup>72</sup> Indeed, upon completion of a study of civilian oversight in Texas’ five largest cities, researchers at Rice University concluded that the effectiveness of the IPOB was undermined by a lack of data access, independence, transparency, and an uncertain legal status.<sup>73</sup> Among the five Texas civilian oversight entities reviewed, Houston’s IPOB was the only one with no staff.<sup>74</sup>

In July 2021, the mayor signed a new executive order that reformed the IPOB and created a new Office of Policing Reform and Accountability (“OPRA”) comprised of full-time, paid administrative and investigative staff working under the direction of the Office of Inspector General.<sup>75</sup> The reconstituted IPOB will consist of thirty-one members<sup>76</sup> who must commit to spending at least four or five hours per week reviewing cases and attending meetings for a term of three years.<sup>77</sup> The board will have the

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<sup>68</sup> *Id.*

<sup>69</sup> Matt Harab & Paul Debenedetto, *Mayor Turner Releases 150-Page Houston Police Reform Task Force Report*, HOUS. PUB. MEDIA (Sept. 30, 2020, 9:24 PM), <https://www.houstonpublicmedia.org/articles/news/city-of-houston/2020/09/30/383069/mayor-turner-releases-150-page-houston-police-reform-task-force-report/#:~:text=Mayor%20Sylvester%20Turner%20announcing%20the,take%20to%20improve%20the%20department> [https://perma.cc/5DYH-3NPQ].

<sup>70</sup> CITY OF HOUSTON MAYOR’S TASK FORCE ON POLICING REFORM, SEPTEMBER 2020 30 (2020) [hereinafter HOUSTON MAYOR’S TASK FORCE], <https://www.houstontx.gov/boards/policing-reform-report.pdf> [https://perma.cc/H3L8-9QBA].

<sup>71</sup> *Id.* at 31.

<sup>72</sup> *Id.* at 30.

<sup>73</sup> RICE UNIV. KINDER INST. URBAN RSCH., WHO’S POLICING THE POLICE?: A COMPARISON OF THE CIVILIAN AGENCIES THAT PERFORM OVERSIGHT OF POLICE IN TEXAS’ FIVE LARGEST CITIES 4 (2020), <https://kinder.rice.edu/sites/default/files/documents/KI%20Research%20Report%E2%80%933Police%20Oversight%204.pdf> [https://perma.cc/M5HC-6ZHX].

<sup>74</sup> *Id.* at 5.

<sup>75</sup> Houston, Tex., Executive Order No. 1-5 (July 20, 2021) [hereinafter Houston Executive Order].

<sup>76</sup> *Id.* § 4.1.

<sup>77</sup> *Id.*

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discretion to review “any and all internal investigations” and will be required to review investigations of use of force, firearms discharge incidents, and incidents resulting in serious bodily injury or death.<sup>78</sup> The board will also identify the complaints for which the OPRA will conduct independent investigations.<sup>79</sup>

The new entities will share unusual reporting relationships. The newly created OPRA will be led by a deputy inspector general who, while appointed by the mayor, will report to both the mayor or the mayor’s designee and to the city’s Inspector General.<sup>80</sup> The OPRA will be responsible for conducting annual audits of the IPOB.<sup>81</sup>

### **Indianapolis, IN**

In October 2020, the city council passed an ordinance that enhanced the powers of the Citizens’ Police Complaint Office (“CPCO”).<sup>82</sup> Investigators from the CPCO are now able to work in collaboration with the police department’s Internal Affairs personnel to conduct concurrent investigations of complaints.<sup>83</sup> The ordinance extended the statute of limitations for filing of complaints from 60 days to 180 days.<sup>84</sup> In addition, the city expanded and added civilian members to the General Orders Board, which sets directives for department operations such as investigations, searches, and seizures.<sup>85</sup>

### **Lincoln, NE**

In November 2020, the Lincoln City Council passed an ordinance that expands the membership of the Citizen Police Advisory Board, extends the time period in which complaints may be filed, and allows citizens to file

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<sup>78</sup> *Id.* § 5.1.1.1.

<sup>79</sup> *Id.* § 5.1.1.4.

<sup>80</sup> *Id.* §§ 6.1, 6.3. Previously, the city’s Office of Inspector General had acted as Ombudsman to the IPOB. *Legal Department Office of Inspector General*, CITY HOUS., <https://www.houstontx.gov/legal/oig.html> [<https://perma.cc/98W7-XX3C>].

<sup>81</sup> Houston Executive Order, *supra* note 75, § 7.1.10.

<sup>82</sup> See Amelia Pak-Harvey, *Indianapolis Council Members Reform IMPD Oversight in Nearly Party-Line Vote*, INDIANAPOLIS STAR (Oct. 13, 2020), <https://faithinindiana.org/indianapolis-council-members-reform-impd-oversight-in-nearly-party-line-vote/> [<https://perma.cc/3WM4-5PQQ>] (referring to Indianapolis Code of Ordinances G.O. 35, 2020); see also INDIANAPOLIS, IND., CODE OF ORDINANCES G.O. 35, 2020 (2020).

<sup>83</sup> G.O. 35, 2020 § 202-806(a).

<sup>84</sup> *Id.* § 202-801(a).

<sup>85</sup> *Id.* §§ 279-294, 279-297(a)(3).

complaints online.<sup>86</sup> Moreover, the Municipal Police Oversight Act (Legislative Bill 515), a state measure, passed in January 2021 and required Nebraska's largest cities (Lincoln and Omaha) to create citizen oversight boards for their police departments.<sup>87</sup>

### **Louisville, KY**

The city of Louisville came under fire in 2020 for mishandling the raid that resulted in the death of Breonna Taylor.<sup>88</sup> Taylor, a Black medical worker, was shot and killed by Louisville police officers when they raided her apartment in March 2020.<sup>89</sup> The incident not only sparked protests in Louisville but also gained national attention.<sup>90</sup> In December 2020, Louisville finalized plans for revamped civilian oversight to include a new Civilian Review Board and an Office of the Inspector General (“IGO”).<sup>91</sup> The IGO will have authority to investigate allegations of misconduct by members of the Louisville Metropolitan Police Department.<sup>92</sup> The IGO will also be empowered to conduct pattern and practice investigations.<sup>93</sup> The eleven-member Civilian Review Board will oversee the work of the IGO.<sup>94</sup> In March 2021, all eleven members were elected and appointed to the Board.<sup>95</sup>

Plans for the Civilian Review Board were subject to a setback when House Bill 309, which would have provided the Board with subpoena

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<sup>86</sup> Riley Johnson, *Politically Split Council Approves Expansion of Lincoln Police Oversight Board*, LINCOLN J. STAR (Nov. 24, 2020), [https://journalstar.com/news/local/govt-and-politics/politically-split-council-approves-expansion-of-lincoln-police-oversight-board/article\\_194e589f-afcb-527a-ab76-db77697809cb.html](https://journalstar.com/news/local/govt-and-politics/politically-split-council-approves-expansion-of-lincoln-police-oversight-board/article_194e589f-afcb-527a-ab76-db77697809cb.html).

<sup>87</sup> Chris Dunker & Don Walton, *Bill Would Create ‘Citizen Police Oversight Boards’ in Lincoln, Omaha*, LINCOLN J. STAR (Jan. 19, 2021), [https://journalstar.com/news/state-and-regional/govt-and-politics/bill-would-create-citizen-police-oversight-boards-in-lincoln-omaha/article\\_dd4cb275-ab54-5135-8390-d971d77fd65e.html](https://journalstar.com/news/state-and-regional/govt-and-politics/bill-would-create-citizen-police-oversight-boards-in-lincoln-omaha/article_dd4cb275-ab54-5135-8390-d971d77fd65e.html).

<sup>88</sup> Richard A. Oppel, Jr., Derrick Bryson Taylor & Nicholas Bogel-Burroughs, *What to Know About Breonna Taylor’s Death*, N.Y. TIMES (Apr. 26, 2021), <https://www.nytimes.com/article/breonna-taylor-police.html> [https://perma.cc/47GZ-GSAV].

<sup>89</sup> *Id.*

<sup>90</sup> *Id.*

<sup>91</sup> Mills & Harbsmeier, *supra* note 37. The Louisville Metro Council passed the establishing ordinance in a 25 to 1 vote in November 2020. Shellie Sylvestri, *Metro Council Approves Creation of Civilian Review Board*, WAVE 3 NEWS (Nov. 19, 2020, 7:59 PM), <https://www.wave3.com/2020/11/19/metro-council-approves-creation-civilian-review-board/>.

<sup>92</sup> Mills & Harbsmeier, *supra* note 37.

<sup>93</sup> *Id.*

<sup>94</sup> *Id.*

<sup>95</sup> Shelli Sylvestri, *Eleven Nominees Appointed to LMPD Civilian Review Board*, WAVE 3 NEWS (Mar. 25, 2021, 6:56 PM), <https://www.wave3.com/2021/03/26/three-more-appointed-lmpd-civilian-review-board/>.

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power, failed to pass.<sup>96</sup> In their last day of the legislative session in April 2021, the Assembly members approved several key police reform measures that had been promulgated in the wake of the highly contentious Breonna Taylor incident, yet House Bill 309 failed to pass.<sup>97</sup>

### **Nashville-Davidson, TN**

In December 2020, the Community Oversight Board (“COB”) and Nashville Police Department entered into an agreement to set protocols for COB investigations that allows the COB to obtain confidential police records, visit crime scenes, and conduct interviews at its office.<sup>98</sup> The agreement also creates a duty for officers to cooperate with COB investigations.<sup>99</sup>

### **Philadelphia, PA**

In response to a November 2020 ballot measure, Philadelphia voters supported the creation of a new police oversight commission to replace the Police Advisory Commission established in 1993.<sup>100</sup> In May 2021, the City Council passed an ordinance that detailed the powers and structure of the new nine-member commission that would investigate all misconduct complaints and wield subpoena power.<sup>101</sup>

### **Phoenix, AZ**

In response to a series of highly publicized excessive force incidents, in February 2020, the Phoenix city council narrowly passed a measure directing the city staff to develop an ordinance that would establish the

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<sup>96</sup> Joe Sonka, *Busy Final Day for Kentucky Lawmakers More Than \$1B in Federal Aid Dispersed*, GLEANER, Apr. 1, 2021, at A4.

<sup>97</sup> In response to the killing of Breonna Taylor, the legislature adopted new restrictions on no-knock search and arrest warrants. *Id.*

<sup>98</sup> Nashville Memo, *supra* note 41, §§ IV, VI, XIII.

<sup>99</sup> *See id.* §§ I, III(B), IV, VI(A)(2), VI(B)(2)–(B)(4).

<sup>100</sup> Michael D’Onofrio, *Philly Council Offers First Draft on Its Proposed Police Oversight Commission*, PA. CAPITAL-STAR (Feb. 6, 2021) [hereinafter *Philly Council Offers First Draft*], <https://www.penncapital-star.com/government-politics/philly-council-offers-first-draft-on-its-proposed-police-oversight-commission/> [https://perma.cc/82HT-NU7L].

<sup>101</sup> PHILA., PA., CITY CODE § 4-2500 *et. seq.*; *see also id.*; Michael D’Onofrio, *City Council Lays Out First Outline of Proposed Police Oversight Commission*, PHILA. TRIB. (Feb. 4, 2021) [hereinafter *City Council Lays Out First Outline*], [https://www.phillytrib.com/news/local\\_news/city-council-lays-out-first-outline-of-proposed-police-oversight-commission/article\\_6ef1a33d-18d1-5f4b-92f2-0cc0b9171079.html](https://www.phillytrib.com/news/local_news/city-council-lays-out-first-outline-of-proposed-police-oversight-commission/article_6ef1a33d-18d1-5f4b-92f2-0cc0b9171079.html) [https://perma.cc/RAZ8-THYL].

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Office of Accountability and Transparency.<sup>102</sup> In June 2020, the Phoenix city council approved an annual budget that included funding for the new police oversight office.<sup>103</sup> Activists had demanded more robust funding for the oversight agency in the wake of protests over the death of George Floyd.<sup>104</sup> However, by October 2020, their plans had lost momentum and activists were disappointed when an ordinance was proposed outlining a watered-down version of the entity.<sup>105</sup> Then, in November 2020, the council failed to pass the ordinance that would formally establish the entity.<sup>106</sup> However, the situation turned around in May 2021 when a measure creating the new oversight entity squeaked by the city council on a vote of 5 to 4.<sup>107</sup> By ordinance, the new agency will monitor or investigate officer-involved shooting incidents, incidents involving in-custody deaths or serious bodily injury, and other incidents at the request of the city manager.<sup>108</sup> The office will also have the power to engage outside legal counsel.<sup>109</sup>

In addition, in April 2021, the Phoenix city council approved changes to the Civil Service Board's procedures, the board that hears appeals of

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<sup>102</sup> Jessica Boehm, *Phoenix Approves Budget with Fully-Funded Police Oversight Office*, AZ CENT. (June 8, 2020, 2:00 PM), <https://www.azcentral.com/story/news/local/phoenix/2020/06/08/phoenix-approves-full-funding-civilian-oversight-police-department/5320152002/> [https://perma.cc/X6DM-7ZBL].

<sup>103</sup> *Id.*

<sup>104</sup> *Id.*

<sup>105</sup> Uriel J. Garcia, *Advocates Angry over Less Power for Phoenix Police Civilian Oversight Office*, AZ CENT. (Oct. 14, 2020, 6:05 PM), <https://www.azcentral.com/story/news/local/phoenix/2020/10/14/civilian-oversight-office-no-independent-investigative-power/3646231001/> [https://perma.cc/L7ND-EX8V] (noting that under the ordinance drafted the Office could only “monitor or participate” in the police department’s internal affairs investigations of critical incidents).

<sup>106</sup> Josh Kelety, *‘Accountability Is Dead’: Phoenix City Council Stalls Police Oversight Office*, PHX. NEW TIMES (Nov. 19, 2020, 12:18 PM), <https://www.phoenixnewtimes.com/news/accountability-is-dead-phoenix-city-council-stalls-police-oversight-office-11515460> (“Activists slammed the fact that it lacked language giving OAT the ability to run independent investigations, plus they charged generally that the city didn’t consult members of the community.”).

<sup>107</sup> Brittni Thomason, *Phoenix City Council Passes Civilian Oversight Office for Police*, AZFAMILY.COM (May 19, 2021), [https://www.azfamily.com/news/phoenix-city-council-passes-civilian-oversight-office-for-police/article\\_1048503a-b908-11eb-bc23-bbbfeb879850.html](https://www.azfamily.com/news/phoenix-city-council-passes-civilian-oversight-office-for-police/article_1048503a-b908-11eb-bc23-bbbfeb879850.html).

<sup>108</sup> PHX., ARIZ., ORDINANCE G-6770 § 20-6 (2021).

<sup>109</sup> *Id.* § 20-5(F).



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police disciplinary matters.<sup>110</sup> The procedures will make the appeals process more predictable and outline procedures for public comment.<sup>111</sup>

### **Pittsburgh, PA**

In November 2020, voters passed a charter amendment that requires officers to participate in investigations conducted by the Citizen Police Review Board and allows the board to collaborate with the city controller to audit the police bureau.<sup>112</sup>

### **San Diego, CA**

In November 2020, San Diego voters overwhelmingly approved a ballot measure that would enable the city to create the Commission on Police Practices, a civilian oversight entity with the power to conduct independent investigations and subpoena witnesses.<sup>113</sup> The new commission would replace the city's currently operating Community Review Board on Police Practices.<sup>114</sup> The previous all-volunteer board had been criticized as providing insufficient oversight.<sup>115</sup> Although the plan for the new commission had been in the works in recent years, it attracted renewed attention following the Summer 2020 police reform protests.<sup>116</sup> The new commission is empowered to investigate complaints against the San Diego Police Department and to review department policies,

<sup>110</sup> Jen Fifield, *Phoenix Board That Can Overturn Police Officer Firings Gets New Rules*, AZ CENT. (Apr. 8, 2021, 6:30 AM), <https://www.azcentral.com/story/news/local/phoenix/2021/04/08/phoenix-civil-service-board-power-overturn-police-firings-gets-rules/7128698002/> [<https://perma.cc/NH5E-SXZH>].

<sup>111</sup> *Id.*

<sup>112</sup> Ashley Murray, *By 'Impressive' Margin, Citizen Police Review Board's Oversight Expanded by Pittsburgh Voters*, PITTSBURGH POST-GAZETTE (Nov. 4, 2020, 6:55 PM), <https://www.post-gazette.com/news/politics-local/2020/11/04/Pittsburgh-Citizen-Police-Review-Board-ballot-referendum-approved-voters/stories/202011040197> [<https://perma.cc/C846-JHFJ>]; PITTSBURGH, PA., ORDINANCE NO. 22 (BILL 2020-0447) (2020).

<sup>113</sup> Claire Trageser, *Measure B to Form Independent Police Review Commission Passes*, KPBS (Nov. 3, 2020, 5:30 PM), <https://www.kpbs.org/news/2020/nov/03/election-2020-san-diego-measure-b/> [<https://perma.cc/YH4A-ABNR>]. The San Diego Union Tribune reported that the measure was backed by 74.61% of voters. *2020 Election Results Dashboard: San Diego*, SAN DIEGO UNION-TRIBUNE, <https://www.sandiegouniontribune.com/news/politics/2020-election-results-dashboard-san-diego> [<https://perma.cc/T2DT-MAFC>]; see also David Garrick, *San Diego Ballot Measure Would Create More Rigorous Police Oversight, Accountability*, SAN DIEGO UNION-TRIBUNE (June 22, 2020, 5:00 PM), <https://www.sandiegouniontribune.com/news/politics/story/2020-06-22/san-diego-ballot-measure-would-create-more-rigorous-police-oversight-accountability> [<https://perma.cc/8LSU-RGR2>].

<sup>114</sup> Garrick, *supra* note 113.

<sup>115</sup> *Id.*

<sup>116</sup> *Id.*

procedures, and practices.<sup>117</sup> In a rare show of support, the police union endorsed additional oversight of San Diego police officers.<sup>118</sup> Based on union negotiations related to the creation of the Commission, officers will be permitted to appeal adverse rulings by the new commission.<sup>119</sup>

### **Tampa, FL**

In early 2021, the City Council and the ACLU were at odds over changes to the duties and powers of the Citizen Review Board.<sup>120</sup> The ACLU wanted the board to have subpoena power and independent investigators and attorneys.<sup>121</sup> There was also debate about the balance of power between the mayor and the city council for the appointment of board members.<sup>122</sup> In June 2021, the city council enacted an ordinance that will split the appointment power for seating the Citizen Review Board between the mayor and the city council.<sup>123</sup> The changes went into effect in December 2021.<sup>124</sup>

### **Virginia Beach, VA**

In November 2021, the Virginia Beach City Council unanimously voted to establish a new Independent Citizen Review Board that will be empowered to investigate complaints against police officers with the use of

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<sup>117</sup> SAN DIEGO, CAL., INTERIM BYLAWS: COMMISSION ON POLICE PRACTICES art. II, § 1 (2021).

<sup>118</sup> Garrick, *supra* note 113.

<sup>119</sup> *Id.*

<sup>120</sup> Charlie Frago, *Tampa, ACLU Remain at Odds Over Police Oversight Board*, TAMPA BAY TIMES (Feb. 24, 2021) [hereinafter *Tampa, ACLU Remain at Odds*], <https://www.tampabay.com/news/tampa/2021/02/24/city-aclu-remain-at-odds-over-tampas-police-oversight-board/#:~:text=18%20draft%20memo%20and%20ordinance,more%20independence%20from%20the%20mayor> [https://perma.cc/6MCN-D8NF].

<sup>121</sup> *Id.*

<sup>122</sup> Charlie Frago, *Tampa City Council Tweaks Police Oversight Board, But Can They?*, TAMPA BAY TIMES (Feb. 25, 2021) [hereinafter *Tampa City Council Tweaks Police Oversight Board*], <https://www.tampabay.com/news/2021/02/25/tampa-city-council-tweaks-police-oversight-board-but-can-they/> [https://perma.cc/2W87-DLJ5].

<sup>123</sup> Stassy Olmos & Rebecca Petit, *Changes to Tampa Police Citizen Review Board Take Place*, WFTS NEWS (Dec. 17, 2021, 9:00 AM), <https://www.abcactionnews.com/news/region-hillsborough/changes-to-tampa-police-citizen-review-board-take-place> (noting that the mayor and city council will each have five appointees, while both the mayor and the city council must agree on an eleventh member to be nominated by the National Association for the Advancement of Colored People).

<sup>124</sup> *Id.*

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subpoenas.<sup>125</sup> The new eleven-member board will replace the existing Independent Review Panel which had been criticized as ineffective and lacking in sufficient oversight powers.<sup>126</sup> The new board will be tasked with investigating and issuing findings on complaints as well as critical incidents and will also have the power to recommend changes to police department policies, practices and procedures.<sup>127</sup>

### **Washington, DC**

In December 2020, as part of a comprehensive legislative effort supporting police reform, the city council enacted a measure that would allow the Executive Director of the Office of Police Complaints to investigate misconduct not necessarily alleged in a complaint.<sup>128</sup> The council also expanded the size of the Police Complaints Board from five to nine members, one for each ward and one at-large member.<sup>129</sup> In addition, the council added civilian representation to the thirteen-member Use of Force Review Board.<sup>130</sup> More specifically, the new structure must include a lawyer admitted to the D.C. bar, a D.C. resident, a criminal justice expert, a law enforcement oversight and use of force expert, and the Executive Director of the Office of Police Complaints.<sup>131</sup>

## V. EFFORTS BEHIND NEW AND IMPROVED CIVILIAN OVERSIGHT CONTINUE ACROSS THE UNITED STATES

There are several U.S. cities that continue to be deeply engaged in the process of developing civilian oversight. Many have initiated the process by empaneling a task force to make recommendations regarding the

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<sup>125</sup> *Virginia Beach City Council Unanimously Votes to Establish Citizen Review Board Investigating Complaints Against Police*, WTKR NEWS (Nov. 18, 2021, 2:37 PM) [hereinafter *Virginia Beach City Council Votes*], <https://www.wtkr.com/news/virginia-beach-city-council-unanimously-votes-to-establish-citizen-review-board-investigating-complaints-against-police>.

<sup>126</sup> Sarah Fearing & Brett Hall, *VB City Council Votes to Create New Police Citizen Review Board with Subpoena Power*, WAVY TV 10 (Nov. 16, 2021, 9:07 PM), <https://www.wavy.com/news/local-news/virginia-beach/vb-city-council-votes-to-create-new-police-citizen-review-board-with-subpoena-power/#:~:text=Virginia%20Beach%20City%20Council%20unanimously,authority%20within%20the%20police%20department> (noting that the City Council had previously decided against giving subpoena and disciplinary powers to the predecessor agency).

<sup>127</sup> *Virginia Beach City Council Votes*, *supra* note 125.

<sup>128</sup> Comprehensive Policing and Justice Reform Congressional Review Emergency Amendment Act of 2020, 67 D.C. Reg. 12993, 12998–99 (Nov. 6, 2020).

<sup>129</sup> *Id.* § 105(a).

<sup>130</sup> *Id.* at 12999–13000.

<sup>131</sup> *Id.*

structure and functions that would work best for that particular city.<sup>132</sup> The following outlines some of the work in progress on civilian oversight among the top 100 cities surveyed.

### **Arlington, TX**

In 2020, the Arlington City Council announced that it is considering creating civilian oversight and is in the process of researching the various forms of civilian oversight.<sup>133</sup>

### **Aurora, CO**

In 2021, a task force that had been empaneled to study and make recommendations regarding civilian oversight recommended that the city create an Office of Police Accountability, Transparency, and Transformation that would review complaints and have the power to subpoena and investigate critical incidents.<sup>134</sup>

### **Buffalo, NY**

The city is considering replacing the Commission on Citizens Rights and Community Relations with a new entity, the Commission on Community Police Oversight, which would investigate misconduct and discipline officers.<sup>135</sup> In April 2021, the New York State Attorney General

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<sup>132</sup> For example, a task force in Aurora, Colorado advocated for creating the Aurora Police Community Task Force. Lori Jane Gilha, *Aurora Police Task Force Makes Recommendations to City Council*, FOX 31 (Apr. 5, 2021, 10:51 AM), <https://kdvr.com/news/problem-solvers/aurora-police-task-force-makes-recommendations-to-city-council/> [https://perma.cc/8WWR-EZNA]. The mayor of Houston put together a task force that recommended adding paid administrative and investigative staff to support that city's Independent Police Oversight Board. HOUSTON MAYOR'S TASK FORCE, *supra* note 70, at 30. The city of Richmond, Virginia also formed a task force to help shape plans for civilian oversight. Rachel Keller, *Richmond Task Force to Create Civilian Review Board for Police Oversight: 'Trust Between Communities and the Police Have Eroded'*, WAVY (Mar. 26, 2021, 7:41 PM), <https://www.wavy.com/news/virginia/richmond/richmond-task-force-to-create-civilian-review-board-for-police-oversight-trust-between-communities-and-the-police> [https://perma.cc/NBC9-3E7G].

<sup>133</sup> Lynnanne Nguyen, *Arlington Evaluates Creation of Citizen Police Oversight Board*, FOX 4 NEWS (June 30, 2020), <https://www.fox4news.com/news/arlington-evaluates-creation-of-citizen-police-oversight-board> [https://perma.cc/N88F-2QVE].

<sup>134</sup> Grant Stringer, *Police Reform Task Force Pitches New Aurora Cop Oversight System with Power to Fire*, SENTINEL COLO. (Apr. 4, 2021), <https://sentinelcolorado.com/news/metro/police-reform-task-force-pitches-new-aurora-cop-oversight-system-with-power-to-fire/> [https://perma.cc/SL84-6B4P].

<sup>135</sup> POLICE ADVISORY BD., CITY OF BUFFALO'S COMMON COUNCIL, NEW OVERSIGHT MODEL FOR BPD: REFORM RECOMMENDATIONS 7-9 (2020), <https://static1.squarespace.com/static/5fba90b104edf1d7772e87e/t/60330b2473f18c30bf807fdf/1613957924798/PAB+New+Oversight+Model+Recommendation.pdf> [https://perma.cc/X4A3-F7J4].

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paved the way by advocating that the commission be created and be empowered with disciplinary authority and subpoena power.<sup>136</sup>

### **Jacksonville, FL**

In October 2020, the city council reviewed proposed legislation that would form a citizen review board for the Jacksonville Sheriff's Office, the law enforcement agency that provides police services to both the city and the county.<sup>137</sup> In May 2021, city leaders held a meeting at which they discussed three possible models: one in which the board would investigate allegations of officer abuse and report findings to the sheriff, one in which the board would review and assess the findings made through the sheriff's investigative process, and a third in which the sheriff would be given the power to implement recommendations made by the board.<sup>138</sup> In August 2021, a community group issued a report advocating for continued discussion around the creation of civilian oversight for the Sheriff's Office.<sup>139</sup>

### **Jersey City, NJ**

The city council is considering an ordinance that would create a civilian review board that would emulate the structure established in nearby Newark, New Jersey.<sup>140</sup> However, state legislation may be required to fully

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<sup>136</sup> Deidre Williams, *State AG Says Buffalo Can Establish a Civilian Review Board*, BUFFALO NEWS (Apr. 26, 2021), [https://buffalonews.com/news/local/state-ag-says-buffalo-can-establish-a-civilian-review-board/article\\_5cbe9ee4-a6cd-11eb-aa5c-275ca5ce49f2.html](https://buffalonews.com/news/local/state-ag-says-buffalo-can-establish-a-civilian-review-board/article_5cbe9ee4-a6cd-11eb-aa5c-275ca5ce49f2.html) [https://perma.cc/2Q9Q-LS5H].

<sup>137</sup> Sky Lebron, *JSO Citizen Review Board to Be Discussed by City Council*, WJCT NEWS (Oct. 6, 2020, 6:21 PM), <https://news.wjct.org/post/jso-citizen-review-board-be-discussed-city-council> [https://perma.cc/5Q7Q-HXP9].

<sup>138</sup> Ashley Harding & Marilyn Parker, *Should Jacksonville Create a Police Citizen Review Board?*, NEWS4JAX (May 21, 2021 8:32 AM), <https://www.news4jax.com/news/local/2021/05/21/should-jacksonville-create-a-police-citizen-review-board/> [https://perma.cc/66UD-7LAX].

<sup>139</sup> In 2020, a past city council president formed the "Safer Together" community group to proactively discuss policing in Jacksonville. TAMMY HODO & BRIAN VAN BRUNT, SAFER TOGETHER: COMMUNITY DISCUSSIONS ON COMMUNITY POLICE, POLICIES, PROCEDURES AND BUDGETING 13 (2021), [http://apps2.coj.net/City\\_Council\\_Public\\_Notices\\_Repository/20210818%20Safer%20Together%20Final%20Report.pdf](http://apps2.coj.net/City_Council_Public_Notices_Repository/20210818%20Safer%20Together%20Final%20Report.pdf) [https://perma.cc/X8ZN-LSYJ]. In 1968, the Duval County Road Patrol and the Jacksonville Police Department were united as the Jacksonville Sheriff's Office. *The History of the Jacksonville Sheriff's Office*, JACKSONVILLE SHERIFF'S OFF., <https://www.jaxsheriff.org/Sheriffs-Office/History.aspx> [https://perma.cc/H5BV-5BT7].

<sup>140</sup> See Marilyn Baer, *Jersey City Civilian Complaint Review Board in the Works*, HUDSON REP. (Feb. 12, 2021), <https://hudsonreporter.com/2021/02/12/jersey-city-civilian-complaint-review-board-in-the-works/> [https://perma.cc/HM8P-MNGH].

activate the plans.<sup>141</sup> Jersey City's two police unions had sought to delay plans to establish the new entity.<sup>142</sup> Despite this effort, in April 2021, the city council passed a resolution that supported the oversight plan.<sup>143</sup> In response, the unions filed a lawsuit claiming that they were denied substantive and procedural due process.<sup>144</sup> Efforts in support of oversight continues into early 2022 as a group of New Jersey legislators, including members of the Legislative Black Caucus, are trying to push through a bill that would facilitate the creation of civilian oversight entities in the state while also enhancing their powers.<sup>145</sup> The effort is in response to the 2020 New Jersey Supreme Court decision holding that civilian oversight entities are barred by state law from wielding subpoena power.<sup>146</sup>

### **Lexington, KY**

In early 2021, a Kentucky state senator proposed legislation that would allow Lexington to establish an independent board of civilians to investigate the Lexington Police Department.<sup>147</sup> Although the city of Lexington has not created a civilian oversight board, in early 2022, the city began allowing civilians to serve on the Police Disciplinary Review Board, the entity that considers substantiated complaints against officer where the chief of police took no disciplinary action or the officer objects to the chief's recommended

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<sup>141</sup> In August 2020, in an appeal brought by the city of Newark related to the powers of that city's Civilian Complaint Review Board, the New Jersey Supreme Court ruled that a civilian oversight agency is prohibited by state law from wielding subpoena power and may not investigate complaints against police officers concurrently with internal affairs investigations. *Fraternal Ord. of Police, Newark Lodge No. 12 v. City of Newark*, 236 A.3d 965, 982–84 (2020).

<sup>142</sup> John Heinis, *Jersey City Police Unions Holding Up Plans to Introduce CCRB Ordinance, Officials Say*, HUDSON CNTY. VIEW (Mar. 22, 2021, 7:03 PM) [hereinafter *Jersey City Police Unions Holding Up Plans*], <https://hudsoncountyview.com/jersey-city-police-unions-holding-up-plans-to-introduce-ccrb-ordinance-officials-say/> [https://perma.cc/2MNN-K4DW].

<sup>143</sup> *Id.*; John Heinis, *Jersey City Police Unions Suing City, Council Over Resolution Supporting Creation of CCRB*, HUDSON CNTY. VIEW (Apr. 26, 2021, 10:01 AM) [hereinafter *Police Unions Suing City, Council*], <https://hudsoncountyview.com/jersey-city-police-unions-suing-city-council-over-resolution-supporting-creation-of-ccrb/> [https://perma.cc/R6TQ-QSK3] (referring to JERSEY CITY, N.J., RESOL. 21-312 (2021)).

<sup>144</sup> *Police Unions Suing City, Council*, *supra* note 143.

<sup>145</sup> Nikita Biryukov, *Lawmakers to Resume Push for Civilian Review Boards*, N.J. MONITOR (Jan. 21, 2022, 6:40 AM), <https://newjerseymonitor.com/2022/01/21/lawmakers-to-resume-push-for-civilian-review-boards/> [https://perma.cc/3YHC-ADPW].

<sup>146</sup> *Id.*; *Fraternal Ord. of Police, Newark Lodge No. 12 v. City of Newark*, 236 A.3d 965, 986 (2020).

<sup>147</sup> Jack Brammer & Beth Musgrave, *Effort to Set Up a Civilian Board for Police Oversight in Lexington Faces Roadblocks*, LEXINGTON HERALD LEADER (Mar. 9, 2021, 4:06 PM), <https://www.kentucky.com/news/politics-government/article249798378.html>.

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discipline.<sup>148</sup> The two civilian members will serve alongside five members of the command staff and two union representatives.<sup>149</sup> The change was made possible by a new collective bargaining agreement between the city and the police union that was signed in late 2021.<sup>150</sup>

### **Minneapolis, MN**

The Minneapolis City Council considered amending the city's police oversight ordinance to require that the police chief issue a written memorandum explaining the basis for his decisions following review by a police conduct review panel, and such memorandum would be made public.<sup>151</sup> In addition, a community group is pushing for a ballot initiative for 2022 through which voters will be asked to decide whether the city charter should be amended to add a Civilian Police Accountability Commission to the city's oversight system.<sup>152</sup>

### **Norfolk, VA**

In July 2020, the city of Norfolk, Virginia passed an ordinance requiring the city manager to, among other police reforms, work with an outside expert to formulate a recommendation to the city council regarding a civilian oversight and review panel.<sup>153</sup> However, perhaps of greatest interest was that the development of civilian oversight had the full support of the Norfolk Police Chief.<sup>154</sup> However, the scope of the board's power has been the subject of substantial debate within the city council as the city seeks to define whether they want a board with real investigatory power or

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<sup>148</sup> Beth Musgrave, *Lexington Taking Applications for Citizens to Serve on Police Disciplinary Board*, LEXINGTON HERALD LEADER (Feb. 16, 2022, 9:07 AM), <https://www.kentucky.com/news/local/counties/fayette-county/article258426723.html>.

<sup>149</sup> *Id.*

<sup>150</sup> *Id.*

<sup>151</sup> *Minneapolis City Council to Discuss Police Oversight Ordinance, George Floyd Civil Lawsuit*, FOX 9 (July 16, 2020), <https://www.fox9.com/news/minneapolis-city-council-to-discuss-police-oversight-ordinance-george-floyd-civil-lawsuit>.

<sup>152</sup> Solomon Gustavo, *Minneapolis Voters May See Another Police Question on the Ballot in 2022*, MINNEAPOLIS POST (Jan. 4, 2022), <https://www.minnpost.com/metro/2022/01/minneapolis-voters-may-see-another-police-question-on-the-ballot-in-2022/> [<https://perma.cc/D2EG-EQKV>].

<sup>153</sup> Norfolk, Va., Ordinance Requiring the City Manager to Implement Evaluation of Policing Practices (July 14, 2020).

<sup>154</sup> Jonathan Edwards, *Norfolk Police Chief Backs a New Citizen Oversight Board as Residents Push for Reform*, VIRGINIAN-PILOT (July 4, 2020, 2:37 PM) [hereinafter *Norfolk Police Chief Backs Oversight Board*], <https://www.pilotonline.com/government/local/vp-nw-mpd-citizen-oversight-20200704-jxmdzkzxmjf7jfhofjq66mfn2u-story.html>.

more of an advisory board.<sup>155</sup> Instilling momentum behind the efforts in Norfolk, in October 2020, Virginia Governor Ralph Northam signed a sweeping series of police and criminal justice reform bills in response to the deaths of George Floyd and Breonna Taylor.<sup>156</sup> Among the measures that became law were House Bill 5055 and Senate Bill 5035, which empower Virginia municipalities to create civilian review boards that wield subpoena power and can make binding disciplinary decisions.<sup>157</sup>

### **Oklahoma City, OK**

Citizens of Oklahoma City are considering rebuilding a citizens advisory group that was originally established in 2005.<sup>158</sup> In August 2020, a group of approximately forty Oklahoma City civic leaders met to discuss the possibility of revitalizing the city's little known Citizens Advisory Board.<sup>159</sup> Although the Board has existed since 2005, it is not very widely known within the community and draws criticism regarding its effectiveness.<sup>160</sup> Oklahoma City, which carries the unfortunate distinction of having the second highest rate of police killings per capita, is now looking to revamp the beleaguered oversight entity.<sup>161</sup> Advocates for change have been evaluating the various forms of oversight and attempting to identify "best practices" based on the initiatives undertaken elsewhere.<sup>162</sup>

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<sup>155</sup> See Jonathan Edwards, *Norfolk Could Launch New Police Oversight Board This Year. But How Much Power It Will Have Is Unclear*, VIRGINIAN-PILOT (Sept. 23, 2020) [hereinafter *Norfolk Could Launch New Police Oversight Board*], <https://www.pilotonline.com/government/local/vp-nw-norfolk-police-oversight-20200923-uobq6beai5czhange2ktzskcne-story.html>.

<sup>156</sup> Adrianna Hargrove, *Gov. Northam Signs Laws Advancing Police, Criminal Justice Reform in Virginia*, NBC 12 (Oct. 28, 2020), <https://www.nbc12.com/2020/10/28/gov-northam-signs-laws-advancing-police-criminal-justice-reform-virginia/>.

<sup>157</sup> VA. CODE ANN. § 9.1-601 (2021).

<sup>158</sup> John Sharp & Ashley Remkus, *Alabama Cities Embrace Police Citizen Advisory Committees. But Do They Have Any Teeth?*, AL.COM (Sept. 13, 2020, 9:00 AM), <https://www.al.com/news/2020/09/alabama-cities-embrace-police-citizen-advisory-committees-but-do-they-have-any-teeth.html> (mentioning Birmingham, Decatur, Montgomery, and Madison specifically).

<sup>159</sup> Andrea DenHoed, *Oklahoma City Tries, Once Again, To Fix Police Oversight*, NONDOC (Sept. 2, 2020), <https://nondoc.com/2020/09/02/oklahoma-city-tries-once-again-to-fix-police-oversight/>.

<sup>160</sup> *Id.*

<sup>161</sup> *Id.*

<sup>162</sup> *Id.*



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### **Richmond, VA**

In 2020, the city council approved an ordinance that created a task force to establish a new Civilian Review Board.<sup>163</sup> The task force met for the first time in March 2021, and in August 2021, recommended the creation of a new office of Community Oversight and Police Accountability.<sup>164</sup>

### **Santa Ana, CA**

The Santa Ana city council is considering civilian oversight and is seeking public input on the topic.<sup>165</sup> In August 2021, the city hosted a public forum on the topic and encouraged citizens to participate in a survey intended to gauge public support.<sup>166</sup>

### **Toledo, OH**

The effectiveness of Toledo's Civilian Police Review Board has been questioned time and again in the thirty years since it was established.<sup>167</sup> The board was limited to reviewing misconduct cases in which a complaint was filed or a request for a review was made.<sup>168</sup> Moreover, per city charter, the board was not permitted to make disciplinary recommendations.<sup>169</sup> In the

<sup>163</sup> Rachel Keller, *Richmond Task Force to Create Civilian Review Board for Police Oversight: 'Trust Between Communities and the Police Have Eroded'*, ABC 8 NEWS (Mar. 26, 2021, 3:23 PM), <https://www.wric.com/news/local-news/richmond/richmond-task-force-to-create-civilian-review-board-for-police-oversight-trust-between-communities-and-the-police-have-eroded/>.

<sup>164</sup> *Id.*; Ali Rockett, *Collaboration or Confrontation? First CRB Task Force Meeting with Richmond Police Chief Runs Gamut*, RICHMOND TIMES-DISPATCH (May 27, 2021) [hereinafter *Collaboration or Confrontation?*], [https://richmond.com/news/local/crime-and-courts/collaboration-or-confrontation-first-crb-task-force-meeting-with-richmond-police-chief-runs-gamut/article\\_666f69e4-88b5-53de-a3d9-6950fac79ef6.html#tracking-source=home-top-story](https://richmond.com/news/local/crime-and-courts/collaboration-or-confrontation-first-crb-task-force-meeting-with-richmond-police-chief-runs-gamut/article_666f69e4-88b5-53de-a3d9-6950fac79ef6.html#tracking-source=home-top-story); Ali Rockett, *Task Force Recommends Civilian Oversight of Richmond Police to City Council*, RICHMOND TIMES-DISPATCH (Sept. 13, 2021) [*Task Force Recommends Civilian Oversight*], [https://richmond.com/news/local/crime-and-courts/task-force-recommends-civilian-oversight-of-richmond-police-to-city-council/article\\_2c52162d-74cd-5378-8f67-93ab14e797f1.html](https://richmond.com/news/local/crime-and-courts/task-force-recommends-civilian-oversight-of-richmond-police-to-city-council/article_2c52162d-74cd-5378-8f67-93ab14e797f1.html).

<sup>165</sup> Ben Brazil, *Santa Ana Hosts Forum on Civilian Police Oversight*, L.A. TIMES: DAILY PILOT (Aug. 5, 2021, 5:22 PM), <https://www.latimes.com/socal/daily-pilot/entertainment/story/2021-08-05/santa-ana-police-oversight-forum> [<https://perma.cc/9U5C-8WVF>]; see also Google Form Survey for Community Feedback on Santa Ana Police Oversight, GOOGLE FORMS, [https://docs.google.com/forms/d/e/1FAIpQLSe4zQrQ8w6I1uG93u10fZqOmO\\_kvek1ixaP8T7hIBIGNxPGJQ/viewform](https://docs.google.com/forms/d/e/1FAIpQLSe4zQrQ8w6I1uG93u10fZqOmO_kvek1ixaP8T7hIBIGNxPGJQ/viewform) [<https://perma.cc/3Y72-E35S>] (the Santa Ana City Council encouraged its residents to fill out a survey to gauge public opinion on police oversight).

<sup>166</sup> Brazil, *supra* note 165.

<sup>167</sup> Sarah Elms, *Toledo Leadership Is Reviving the Civilian Police Review Board, Again*, BLADE (June 8, 2020, 5:30 AM) [hereinafter *Toledo Reviving Civilian Police Review*], <https://www.toledoblade.com/local/police-fire/2020/06/08/toledo-leadership-is-reviving-the-civilian-police-review-board-again/stories/20200605076> [<https://perma.cc/9NJD-P292>].

<sup>168</sup> *Id.*

<sup>169</sup> *Id.*

wake of the June 2020 killing of George Floyd, the mayor of Toledo created a task force to explore various police reform strategies, including civilian oversight.<sup>170</sup> The mayor promised to revive and strengthen the board.<sup>171</sup> City leaders concur, adding that the board should also have subpoena power.<sup>172</sup> By November 2020, the task force work was underway via four subcommittees.<sup>173</sup>

## VI. CONCLUSION & OBSERVATIONS

### A. EMPHASIS ON TRANSPARENCY

The issue of transparency, or lack thereof, in police accountability has become an increasingly prominent concern for communities across the country.<sup>174</sup> There is a growing list of controversial police-citizen encounters for which law enforcement failed to provide accurate and timely information: the year-long delay in the release of the video of the 2014 shooting of Laquan McDonald in Chicago;<sup>175</sup> the inaccurate narrative initially released by Louisville police regarding the shooting of Breonna Taylor;<sup>176</sup> the Rochester Police Department's efforts to prevent the release

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<sup>170</sup> The thirty-five-member Community-Police Relations and Reform Committee is tasked with considering reform measures and making recommendations to the mayor and other city leaders. Kate Snyder, *Toledo City Officials Announce Creation of Community-Police Relations and Reform Committee*, BLADE (June 29, 2020, 9:24 AM) [hereinafter *Toledo City Officials Announce Creation of Committee*], <https://www.toledoblade.com/local/city/2020/06/29/toledo-city-officials-announce-creation-of-community-police-relations-and-reform-committee/stories/20200629101> [https://perma.cc/FV8T-3V78]; Kate Snyder, *Toledo City Council Sends Police Reform Legislation to Committee*, BLADE (July 14, 2020, 4:12 PM) [hereinafter *Toledo City Council Sends Police Reform Legislation*], <https://www.toledoblade.com/city/2020/07/14/toledo-city-council-sends-police-reform-legislation-to-committee> [https://perma.cc/LJM8-3KXG].

<sup>171</sup> *Toledo Reviving Civilian Police Review*, *supra* note 167.

<sup>172</sup> Kate Snyder, *Toledo Officials Debate Granting Subpoena Power to Civilian Police Review Board*, BLADE (June 25, 2020, 4:46 PM) [hereinafter *Toledo Officials Debate*], <https://www.toledoblade.com/city/2020/06/25/toledo-city-council-debates-granting-subpoena-power-to-civilian-police-review-board> [https://perma.cc/5PE9-E6ZH].

<sup>173</sup> *Reform Commission Members Ask If City, Police Take Change Seriously*, BLADE (Nov. 1, 2020, 6:47 AM) [hereinafter *Reform Commission Members*], <https://www.toledoblade.com/local/police-fire/2020/10/31/toledo-police-reform-commission-members-ask-if-city-police-take-change-seriously/stories/20201030321> [https://perma.cc/B75N-FSKW].

<sup>174</sup> See Kate Levine, *Discipline and Policing*, 68 DUKE L.J. 839, 851 (2019).

<sup>175</sup> See Nausheen Husain, *Laquan McDonald Timeline: The Shooting, the Video, the Verdict and the Sentencing*, CHI. TRIB. (Jan. 18, 2019, 7:22 PM), <https://www.chicagotribune.com/news/laquan-mcdonald/ct-graphics-laquan-mcdonald-officers-fired-timeline-htlstory.html> [https://perma.cc/2CHY-K4T8].

<sup>176</sup> Oppel et al., *supra* note 88.

of the body-camera footage of the death of Daniel Prude;<sup>177</sup> and of course, the 200-word statement issued by the Minneapolis police in the wake of the George Floyd killing, which conspicuously failed to mention the neck restraint.<sup>178</sup> Many municipalities have elevated transparency as a primary objective behind new and improved oversight structures. In fact, many cities have explicitly flagged their focus on transparency in the monikers of oversight entities they have created, such as Boston's Office of Police Accountability and Transparency,<sup>179</sup> Colorado Springs' Law Enforcement Transparency and Accountability Commission,<sup>180</sup> and Phoenix's Office of Accountability and Transparency.<sup>181</sup> Many cities have also added or enhanced the powers of civilian oversight entities specifically to improve transparency.<sup>182</sup>

#### B. INCREASING USE OF THE MONITOR FORM OF OVERSIGHT

As noted in Part IV, cities that are new to civilian oversight are adopting the "monitor" form of oversight. Some cities have established an agency with investigative staff to serve as monitors,<sup>183</sup> while others have created a position filled on a contract basis.<sup>184</sup> Unlike a review board, which is typically comprised of community members who may or may not have professional investigative or police oversight experience, most individuals who serve in a monitoring capacity have extensive investigative

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<sup>177</sup> Michael Gold & Troy Closson, *What We Know About Daniel Prude's Case and Death*, N.Y. TIMES (Apr. 16, 2021), <https://www.nytimes.com/article/what-happened-daniel-prude.html> [<https://perma.cc/TM66-CZQE>].

<sup>178</sup> Eric Levenson, *How Minneapolis Police First Described the Murder of George Floyd, and What We Know Now*, CNN, <https://www.cnn.com/2021/04/21/us/minneapolis-police-george-floyd-death/index.html> [<https://perma.cc/KCB3-R4J7>] (last updated Apr. 21, 2021, 3:35 PM).

<sup>179</sup> BOS., MASS., CODE OF ORDINANCES ch. 12, § 12-17 (2020).

<sup>180</sup> COLORADO SPRINGS, COLO., CODE OF ORDINANCES No. 20-44 § 1 (2020).

<sup>181</sup> PHX., ARIZ., CODE ch. 20 (2021).

<sup>182</sup> For example, one of the duties of Fort Worth's new Independent Police Monitor is to provide "ongoing assurance that internal investigations by law enforcement are thorough, fair, and unbiased and that police practices in this regard are *transparent*." FORT WORTH, TEX., CODE ch. 2, art. II, div. 1, § 2-27(a)(2)(b) (2020) (emphasis added).

<sup>183</sup> For example, Denver's Office of the Independent Monitor has provided oversight since 2004. DENVER, COLO., CODE ch. 2, art. XVIII, §§ 2-373, 2-374 (2019).

<sup>184</sup> For example, the OIR Group has served as the independent external monitor in Anaheim, California since 2007. CITY OF ANAHEIM POLICE REV. BD., ANAHEIM POLICE REVIEW BOARD ANNUAL REPORT 4 (2019), <https://www.anaheim.net/DocumentCenter/View/29753/2019-PRB-Annual-Report-and-APD-Responses> [<https://perma.cc/WP98-Z4LX>].

experience.<sup>185</sup> Monitors typically review misconduct investigations that are conducted by the police department itself, and thus are a less expensive form of oversight relative to investigative agencies that conduct independent investigations.<sup>186</sup> Thus, many cities may opt to establish the monitor form of oversight as an efficient way to use professional investigative resources.

### C. THE RECENT TREND TOWARD MULTI-ENTITY SYSTEMS CONTINUES

As noted in Part II, many of the larger jurisdictions have created multi-tiered oversight systems with multiple agencies performing multiple oversight functions. Based on the survey reported on herein, the average number of oversight entities among the top tercile among the 100 cities studies was 1.9 versus only 1.3 on average for both the middle and bottom terciles. However, of note, even smaller cities are now starting out with a two-tiered system. For example, among the cities new to civilian oversight, Columbus created the Department of the Inspector General function along with its Civilian Police Review Board,<sup>187</sup> and Madison created the Police Civilian Oversight Board to supervise the work of the Office of the Independent Police Monitor.<sup>188</sup> Among the cities with established civilian oversight, Boston created a brand new structure with three separate entities,<sup>189</sup> Houston added the new Office of Policing Reform and Accountability to support the already established Independent Police Oversight Board,<sup>190</sup> and Louisville created an Inspector General's Office to complement the responsibilities of the Civilian Review Board.<sup>191</sup>

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<sup>185</sup> For example, to be eligible to serve as the monitor in Denver, an appointee must be “[a] person with extensive knowledge of internal police investigations or the monitoring of internal police investigations.” § 2-371(a)(6). Similarly, the new monitor position created in Madison, Wisconsin requires a professional “with extensive knowledge of civilian oversight of policing, ‘best practices’ in policing, civil rights, and equity.” MADISON, WIS., CODE OF ORDINANCES § 5.19(3) (2020).

<sup>186</sup> See NAT’L ASS’N CIVILIAN OVERSIGHT L. ENF’T, *MODELS OF OVERSIGHT* 2–3 (2020), [https://www.lwm-info.org/DocumentCenter/View/4217/11-NACOLE-Models-of-Oversight\\_PrePublication\\_Summary](https://www.lwm-info.org/DocumentCenter/View/4217/11-NACOLE-Models-of-Oversight_PrePublication_Summary) [<https://perma.cc/FN5F-PSK3>]; JOSEPH DE ANGELIS, RICHARD ROSENTHAL & BRIAN BUCHNER, OJP DIAGNOSTIC CTR., *CIVILIAN OVERSIGHT OF LAW ENFORCEMENT: ASSESSING THE EVIDENCE* 31 (2016), [https://d3n8a8pro7vhmx.cloudfront.net/nacole/pages/161/attachments/original/1481727974/NA\\_COLE\\_AccessingtheEvidence\\_Final.pdf](https://d3n8a8pro7vhmx.cloudfront.net/nacole/pages/161/attachments/original/1481727974/NA_COLE_AccessingtheEvidence_Final.pdf) [<https://perma.cc/GB34-8XTN>].

<sup>187</sup> COLUMBUS, OHIO, CODE §§ 215, 217 (2021).

<sup>188</sup> *Id.* § 5.19.

<sup>189</sup> BOS., MASS., CODE OF ORDINANCES ch. 12, § 12-17 (2020).

<sup>190</sup> Houston Executive Order, *supra* note 75.

<sup>191</sup> LOUISVILLE, KY., ORDINANCE NO. 147-2020 (2020); *see also* LOUISVILLE, KY., CODE tit. III, ch. 36, § 36.70 (2020).

## D. PUSHBACK FROM LAW ENFORCEMENT UNIONS SEEKING TO PREVENT OR LIMIT CIVILIAN OVERSIGHT CONTINUES, WITH MIXED SUCCESS

Despite the fact that civilian oversight is broadly recognized as a valuable component in police accountability systems,<sup>192</sup> many unions and law enforcement leaders continue to obstruct efforts to establish or strengthen oversight. For example, during the city council debate over enhanced powers for Tampa Bay's Civilian Review Board, the police chief claimed that the city council's plan "neutered" him as a police chief.<sup>193</sup> After the Phoenix City Council passed an ordinance to create its new Office of Accountability and Transparency, the Phoenix Law Enforcement Association issued a statement expressing disappointment with the decision.<sup>194</sup> The Chief of the Richmond Police Department was quite confrontational during a May 2021 meeting of the task force working on plans for a new civilian review board.<sup>195</sup> In Toledo, the task force working on police reforms, including civilian oversight, described the Toledo Police Department as "hostile" with limited participation in the process of developing police reforms.<sup>196</sup> The police unions in Jersey City have filed a lawsuit against the city for merely passing a resolution stating their support for civilian oversight.<sup>197</sup> Police unions were also behind two pieces of state legislation passed in Arizona in May 2021 that place limits on civilian oversight.<sup>198</sup> Arizona House Bill 2462 precludes anyone from sitting on a civilian review board unless they have had certain specified training either

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<sup>192</sup> Among the recommendations made by President Obama's Task Force on 21st Century Policy, Recommendation 2.8 stated, "Every community should define the appropriate form and structure of civilian oversight to meet the needs of that community." WASHINGTON D.C. OFF. CMTY. ORIENTED POLICING SERVS., FINAL REPORT OF THE PRESIDENT'S TASK FORCE ON 21ST CENTURY POLICING 26 (2015), [https://cops.usdoj.gov/pdf/taskforce/taskforce\\_finalreport.pdf](https://cops.usdoj.gov/pdf/taskforce/taskforce_finalreport.pdf) [<https://perma.cc/92JW-M8E2>].

<sup>193</sup> Charlie Frago, *Tampa City Council Moves Forward on Police Reform. Will Jane Castor Veto It?*, TAMPA BAY TIMES (May 20, 2021) [hereinafter *Tampa Bay Police Reform*], <https://www.tampabay.com/news/tampa/2021/05/20/tampa-city-council-moves-forward-on-police-reform-will-jane-castor-veto-it/> [<https://perma.cc/D9DN-XBXX>].

<sup>194</sup> Matt Galka, *Phoenix City Council Votes to Establish Police Civilian Review Board*, FOX 10 PHX. (May 19, 2021), <https://www.fox10phoenix.com/news/phoenix-city-council-votes-to-establish-police-civilian-review-board> [<https://perma.cc/FW83-NNPN>] (discussing PHX., ARIZ., ORDINANCE G-6770 (2021)).

<sup>195</sup> See *Collaboration or Confrontation?*, *supra* note 164.

<sup>196</sup> *Reform Commission Members*, *supra* note 173.

<sup>197</sup> *Police Unions Suing City, Council*, *supra* note 143.

<sup>198</sup> Melissa Blasius, *Arizona Bills to Limit Who Can Provide Oversight*, ABC 15 ARIZ. (Apr. 5, 2021, 7:04 PM), <https://www.abc15.com/news/local-news/investigations/arizona-bills-to-limit-who-can-provide-police-oversight> [<https://perma.cc/79C5-V5UJ>] (discussing Arizona House Bills 2462 and 2567).

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through a community college police academy or training certified by the Arizona Peace Officer Standards and Training Board.<sup>199</sup> Arizona House Bill 2567 requires two-thirds of the members of any board that investigates or disciplines officers to be sworn police officers.<sup>200</sup>

## VII. CONCLUSION

Given the number of cities that continue to work toward the establishment of civilian oversight, it is likely that the creation of additional entities and the pursuit of improvements will continue in the near term. This unprecedented level of productivity has the potential to reshape the landscape of civilian oversight hopefully in a way that informs all stakeholders regarding best practices in creating sustainably effective systems that address the community needs.

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<sup>199</sup> H.B. 2462, 55th Leg., 1st Reg. Sess. (Ariz. 2021) (codified at ARIZ. REV. STAT. § 38-1161 (2021)).

<sup>200</sup> H.B. 2567, 55th Leg., 1st Reg. Sess. (Ariz. 2021) (codified at ARIZ. REV. STAT. § 38-1117 (2021)).