



Training Prepared for:
Independent Community Policing Review Board, Alexandria, VA

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OVERVIEW



- Principles for Effective Oversight
- Procedural Justice & Legitimacy
- Conducting Civilian Oversight of Law Enforcement:
Review of the Ordinance and Applicable Authorities



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PRINCIPLES FOR EFFECTIVE OVERSIGHT

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I. INDEPENDENCE

- An absence of real or perceived influence from LE, political actors, and other special interests seeking to affect oversight operations
- **Structural Independence** – Clear and distinct separation, administratively and organizationally, from the overseen LEA
- **Political Independence** – The extent that political actors can influence or affect oversight operations. Can be assessed in terms of:
 - The establishing authority (ordinance, charter, executive order)
 - Legal counsel (shared or independent)
 - Influence on staffing and composition of oversight (hiring, firing, appointment, removal)
 - Budget (apolitical process vs appropriation through discretionary funds)
- **Operational Independence** – Ability to make key decisions regarding daily operations without consulting or requiring prior approval from outside entities.

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Sec. 2-4-225

(b) Other support from the City.

- (1) A website shall be established for the board hosted on the City's website. *The board shall control what is posted on the board's website* to the extent it complies with all applicable federal, state and local laws.
- (2) All public meetings of the Board may be videotaped or audiotaped when there is an inability for video recording. All video or audio recordings of the board's public meetings shall be made available to the public on the City's website.
- (3) *The City shall not interfere unreasonably with the board's decisions, assisted by the AIPA, to post materials to or remove materials from the board's website.*

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2. CLEARLY DEFINED AND ADEQUATE JURISDICTION AND AUTHORITY

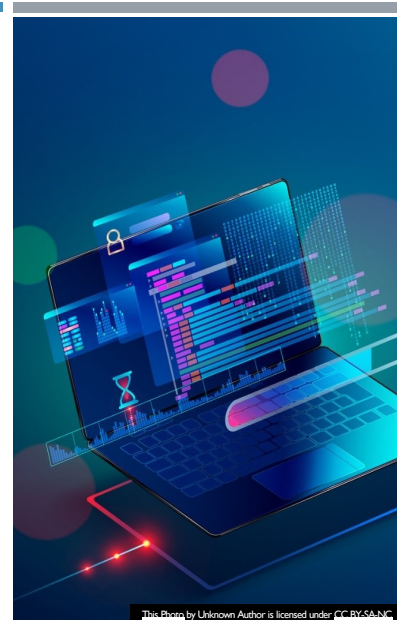
- Level of authority required to successfully perform duties to the greatest degree possible, without limitation
- Jurisdiction and authority are *in writing* (minimizes confusion and differing interpretations)
- Stakeholders should be prepared to resolve issues regarding an oversight body's authority and amend legislation, as necessary.

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3. UNFETTERED ACCESS TO RECORDS

- Minimal levels of access to information are required to fulfill certain oversight functions/mandates (reviews vs. investigations vs. auditing vs. monitoring)
- Direct access reduces delays in investigations and reduces the burden of LE.
- Direct access allows the oversight body to evaluate complete sets of records, data, etc., directly.
- Clearly define the “what” and “how” early on—*in writing*: What information will be accessible? How will it be accessed? Within what time frames? etc.



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4. ACCESS TO LAW ENFORCEMENT EXECUTIVES AND INTERNAL AFFAIRS STAFF & 5. FULL COOPERATION

4. Access to LE Executives & IA Staff

- Access and responsiveness is particularly important when an oversight body issues recommendations regarding policy, discipline, or investigations.
- Legislation should require that LEAs provide timely, *written*, and public responses detailing why a particular recommendation was either accepted or rejected.



5. Full Cooperation (of officers and staff)

- Address in enabling legislation and/or LEA policy
- Clear, *written* consequence for failing to cooperate
- Conditions of cooperation must respect due process rights and an individual's constitutional right against self-incrimination.



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6. SUSTAINED STAKEHOLDER SUPPORT

- Stakeholders: general public, LEOs, public officials, community organizations, etc.
- Establishing and supporting civilian oversight may be politically expedient in times of crisis; however, successful oversight requires sustained support.
- Sustained support can impact:
 - Adequate funding and resources
 - Filling staff positions and making board/commission appointments in a timely manner
 - Accepting recommendations or findings
 - Willingness to address outstanding issues related to effective functioning of the oversight body

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7. ADEQUATE FUNDING AND OPERATIONAL RESOURCES



- Budget and staffing needs vary (oversight model, region, the types and number of LEAs overseen, workload, etc.)
- Resources are needed to:
 - Retain qualified professional staff (investigators, policy analysts, community engagement, mediators, etc.)
 - Provide staff and board/commission members with adequate training on a regular basis
 - Perform community outreach
 - Disseminate public reports and other materials
- Percentage-based and personnel-based budget allocation

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8. PUBLIC REPORTING AND TRANSPARENCY



Public reports:

- Should not be censored or modified by LE or political stakeholders
- Should be written in an accessible manner
- Should include as much information related to the oversight body's mandates and operations *as can be disclosed by law*
- Minimally, one written report to the public each year. More, if feasible, and, when appropriate, special reports (e.g., findings of a particular policy review, audit, or investigation).

Transparency:

- Guiding resources (enabling legislation, handbooks, procedures, MOUs, etc.)
- Working documents (checklists, templates, etc.)
- Internal data (complaint classifications, complainant and subject officer demographics, investigation/review outcome, recommendations and LE responses to recommendations, etc.)

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Sec. 2-4-221

(e) *Board reports:* The board shall produce public reports regarding the work of the board and disseminate such reports in hardcopy and online, including, but not limited to:

- (1) a written report to the city council by September 1 of each fiscal year of its activities for the prior fiscal year under the provisions of this chapter along with any comments and recommendations as it may choose to make; and
- (2) a written report of each review conducted pursuant to [section 2-4-227\(c\)](#) which shall not include any personally identifiable information, or criminal or juvenile information prohibited from being disclosed by Virginia State Code or federal law. A summary of such reviews and inquiries shall be provided to city council quarterly and published on the Board's website.

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9. POLICY AND PATTERNS IN PRACTICE ANALYSIS



- Investigating and addressing *individual* incidents of misconduct aids in building public confidence; examining *broad*er issues leads to long-term organizational change that can improve community relations and deter future misconduct, civil rights violations, and legal liability.
- Focus on broad, systemic issues
- Pinpoint areas of concern and formulate recommendations for improvement
- Data-driven and evidence-based

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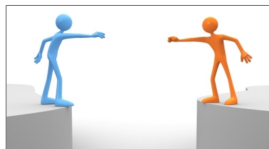
Sec. 2-4-227 (c) (6)

The board may also request investigations [pursuant to identified patterns and practices](#) of potential discrimination, bias, unequal treatment or other abuses of police authority as identified in section 2-4-227(c)3. Should the investigative request be refused, the board may take action with a vote requesting city council compel an investigation be completed by the AIPA with a majority vote of the board members.

10. COMMUNITY OUTREACH & 11. COMMUNITY INVOLVEMENT

10. Community Outreach

- Increase awareness of the civilian oversight mechanism and what it does
- Share reports and findings with the public
- Recruit volunteers to serve on boards/commissions
- Build relationships with all stakeholders



11. Community Involvement

- Determine the appropriate degree of initial and ongoing involvement
- Solicit community input regarding the functioning of oversight and community concerns/issues to address
- Obtain feedback on policy recommendations
- Seek feedback that is representative of the local population's composition and diversity

12. CONFIDENTIALITY, ANONYMITY, AND PROTECTION FROM RETALIATION

- Respect confidentiality agreements.
- Remove or redact personal identifiers and specific information that is covered by statutes regarding the disclosure of information.
- If legally permissible, allow anonymous complaints.
- Ensure adequate protections for those who would like to file complaints or come forth with information.
- LEAs should maintain policies explicitly prohibiting retaliation against civilian oversight employees or any person in contact with the civilian oversight body. If retaliation is discovered, appropriate discipline should be applied.



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Sec. 2-4-222

(g) In addition to the reasons set out in section 2-4-7(i) of this code, board members may be removed by the city council for the following reasons:

- (1) failure to keep confidential privileged information to which they receive access as members of the board, including that information described in section 2-4-223(b) of this code;

Sec. 2-4-223

(b) Except as included in the board reports defined in [section 2-4-221\(f\)](#) and to the extent allowed under the Virginia Freedom of Information Act, [each member shall maintain the confidentiality of all confidential or privileged information, including but not limited to:](#)

- (1) disciplinary actions, memos, reports, and any investigatory documents or information, including audio recordings or videotapes and footage, that the member receives during service on the board.
- (2) statements of a police officer, or APD employee, who was required by APD to give a statement; and
- (3) criminal investigative files.

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13. PROCEDURAL JUSTICE & LEGITIMACY

Procedural Justice: The fairness of *processes* used by those in positions of authority to reach specific outcomes or decisions (Bennett, Hine, & Mazerolle, 2018)

Legitimacy: A generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate (Suchman, 1995).

In the context of procedural justice, legitimacy refers to the extent to which an organization and its agents are perceived as morally just, honest, and worthy of trust and confidence (Yale Law School, n.d.).

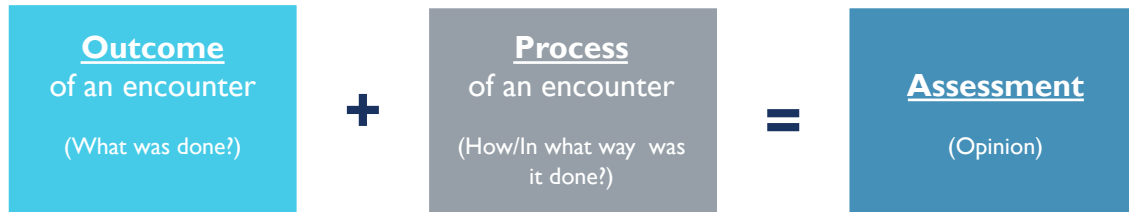
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PROCEDURAL JUSTICE & LEGITIMACY

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PROCEDURAL JUSTICE EQUATION



Procedural Justice: The fairness of *processes* used by those in positions of authority to reach specific outcomes or decisions (Bennett, Hine, & Mazerolle, 2018)

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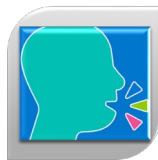
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ELEMENTS OF PROCEDURAL JUSTICE



Dignity & Respect

Respect individuals and their rights.
Take people seriously.



Voice

Provide opportunities for people to tell their side of the story.
Involve people in decisions that affect them.



Trustworthy Motives

Be sincere and operate with integrity.
Focus on the needs and concerns of the public.



Neutrality in Decision Making

Base decisions on evidence, data, and factual information.
Apply rules and processes consistently.

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TYPES OF LEGITIMACY AND HOW STAKEHOLDERS EVALUATE LEGITIMACY

Pragmatic Legitimacy

- Does the oversight body's interests align with my interests?
- Am I getting anything of value from the oversight body?
- What is the benefit of the oversight body's existence to me?

Cognitive Legitimacy

- Do I know and understand what the oversight body does?
- Is the oversight body accomplishing what it's supposed to?
- Are the oversight body's processes efficient and effective?

Moral Legitimacy

- Is the oversight body a force for good?
- *Should* the oversight body be doing what it's doing to achieve its objectives? Are its practices ethical?

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What are your stakeholders' perceptions of oversight, in terms of legitimacy?

Do you have any concerns regarding the legitimacy of oversight in your city?

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ESTABLISHING AND MAINTAINING LEGITIMACY

- Practice the elements of procedural justice (dignity & respect, voice, trustworthy motives, neutral decision making)
- Be transparent
- Issue public reports
- Engage stakeholders (general public, community organizations, public officials, law enforcement, etc.)
- Follow laws, policies, procedures, etc. (and recommend changes, when called for)
- Build knowledge base and skills (initial and ongoing training)

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THE ORDINANCE AND APPLICABLE AUTHORITIES

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LET'S START WITH A SIMPLE QUESTION...
WHAT IS YOUR ROLE?



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ROLE OF A BOARD IN CIVILIAN OVERSIGHT OF LAW ENFORCEMENT



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STATUTORY ROLE

Sec. 2-4-221 (a) Purpose

The purpose of the board is to **enhance policing legitimacy** and **to increase and maintain trust between and among** the police department, city council, city manager and the public.

The board shall:

- provide timely, fair and objective review and evaluation of policing policies, practices, procedures, and outcomes in Alexandria;
- provide meaningful assessments and corrective recommendations intended to remedy discriminatory practices, including racial and social inequities, that it may find;
- ensure the protection of all communities through recommended actions and reform, including in the criminal justice system; and
- recommend strategies for effectively implementing these reforms in our community.

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STATUTORY ROLE

Sec. 2-4-221 (b) Scope

The board shall have the authority to

- **review investigations** completed by the Alexandria Police Department (APD) and Independent Policing Auditor for certain matters as assigned in section 2-4-227,
- **request investigations** pursuant to identified patterns and practices of potential discrimination, bias, unequal treatment or other abuses of police authority as identified in section 2-4-227(c)3, and
- **evaluate policing practices, policies, procedures, and outcomes** in Alexandria, **issue findings to the public**, and **provide actionable recommendations** to the city council, the city manager, Alexandria Independent Policing Auditor (AIPA), the school board, the school superintendent, APD and other public agencies regarding appropriate discipline, policing practices, policies and procedures in Alexandria.

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STATUTE

Sec. 2-4-227 (d)

(1) The board shall have the following duties regarding **review of police policy and procedure**:

- A. review and evaluate existing **APD administrative directives**, including all rules, policies, and procedures which direct the operation of the APD;
- B. review and evaluate **reports issued and data collected by the APD** related to policing practices, policies, procedures, and outcomes;
- C. receive, review and evaluate the **annual budget and expenditures of the APD** and make budgetary recommendations;
- D. advise city council on the **hiring and annual evaluation of the independent policing auditor**;
- E. recommend **legislation, policy changes and other actions** related to review and evaluation conducted by the board to the city council, city manager, APD, school board, school superintendent, and other public agencies;
- F. conduct **community outreach** in the City related to the review and reform of policing practices, policies and procedures in Alexandria and the work of the board;
- G. undertake any **other duties as reasonably necessary** for the board to effectuate its lawful purpose to effectively review the policing agencies as authorized by the City ; and
- H. review and evaluate **periodic reports from the police chief regarding implementation of recommendations** made by the board.

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THE REALITY OF THE ROLE

- Building legitimacy
- Demonstrating commitment to the process
- Creating a collaborative environment
- Creating better law enforcement practices
- Ensuring accountability
- Allowing for transparency



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The National Association for Civilian Oversight of Law Enforcement's (NACOLE) mission is to create a community of support for independent, civilian oversight entities that seek to make their local law enforcement agencies, jails, and prisons more transparent, accountable, and responsive to the communities they serve.

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