

# Audit of the Sacramento Community Police Review Commission: Renewed Focus on Cooperation is Urgently Needed

Report# 2021/22-06 | November 2021

The Lack of Clearly Defined Roles and Responsibilities has Led to Confusion and Frustration.

The Sacramento Community Police Review Commission Requires Resources and Investment from the City to Effectively Achieve its Objectives.

The Sacramento Community Police Review Commission is in Need of a Formal Process to Ensure their Recommendations are Documented, Presented to the City Council, and Approved Recommendations are Implemented by the Relevant Department.



## *City of* SACRAMENTO

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# AUDIT FACT SHEET

## Audit of the Sacramento Community Police Review Commission

November 2021

Report #2021/22-06

### RECOMMENDATIONS

We made several recommendations regarding the Sacramento Community Police Review Commission. Our recommendations included:

#### Clarify Roles and Responsibilities

- The City Council should clarify the purpose, powers, and duties of the SCPRC.

#### Investment in the Commission

- The City Council should determine the staffing needs and funding for the SCPRC.
- The City Council should determine a training curriculum and codify the training requirements.
- The City Council should identify resources to increase SCPRC's community outreach.
- The City Council should clarify whether the SCPRC is responsible for issuing an annual report and provide appropriate resources for production.
- The City Council should identify key performance indicators to gauge the effectiveness of the SCPRC in meeting its purpose and objectives.
- The City Council should determine and codify the level of access to information needed by the SCPRC to fulfill its City Code mandated duties.

#### Strengthen Recommendation Process

- The City Council should determine a format and required content for SCPRC recommendations.
- The City Council should determine whether the SPD should provide written responses to SCPRC recommendations.
- The City Council should determine whether it should vote on SCPRC recommendations.
- The City Council should determine whether the City should track the implementation of SCPRC recommendations.

### BACKGROUND

Over the last several decades, issues of trust and accountability have moved to the forefront of community-police relations. During this period, the emergence of police accountability has led to a new era in the evolution of accountability systems involving civilian oversight of municipal police agencies. In November 2016, the City Council established the Sacramento Community Police Review Commission (SCPRC) to provide a venue for community participation in reviewing police department policies, practices, and evaluation of city policing initiatives and programs. Since its inception, the SCPRC has issued 110 recommendations to the SPD and City departments. Meanwhile, a series of surveys recently issued by the City indicate comparatively low levels of trust between the police and communities they serve.

### FINDINGS

#### Finding 1: The Lack of Clearly Defined Roles and Responsibilities has Led to Confusion and Frustration

The City has not adequately defined and codified the powers and authorities of the SCPRC which has restricted its ability to achieve objectives and goals. We found that:

- The Sacramento City Code does not adequately define the authorities and powers of the SCPRC and stakeholder agencies.

#### Finding 2: The SCPRC Requires Resources and Investment from the City to Effectively Achieve its Objectives

The City has not sufficiently invested resources in processes, procedures, and support to allow the SCPRC to successfully fulfill its mission. We found:

- The City does not provide sufficient staff support, funding, and tools to SCPRC to allow the SCPRC to communicate with the public;
- The City Code does not require SCPRC to complete training;
- The SCPRC does not issue annual reports;
- The City has not identified performance measures for the SCPRC; and
- SCPRC access to information should be more clearly defined.

#### Finding 3: The SCPRC is in Need of a Formal Process to Ensure their Recommendations are Documented, Presented to the City Council, and Approved Recommendations are Implemented by the Relevant Department

The recommendation development and follow up process could be improved. We found:

- SCPRC recommendations do not include sufficient information or justification;
- City Council does not always discuss and vote to approve or reject SCPRC recommendations; and
- SCPRC and SPD do not have a formalized process to track whether recommendations have been implemented.

## Introduction

In accordance with the City Auditor's FY21 Audit Plan, we have completed the *Audit of the Sacramento Community Police Review Commission*. We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The City Auditor's Office would like to thank the Sacramento Community Police Review Commission, the Sacramento Police Department, the City Manager's Office, and the Office of Public Safety Accountability for cooperation during the audit process. All of these entities were invited to provide a response to the report.

## Background

Over the last several decades, issues of trust and accountability have moved to the forefront of community-police relations. During this period, the creation of organizational mechanisms for reviewing and improving officer conduct has increased. One mechanism for increasing accountability is civilian oversight of law enforcement.

### The National Association for Civilian Oversight of Law Enforcement

The National Association for Civilian Oversight of Law Enforcement (NACOLE) is a non-profit organization working to assist individuals and agencies establish or improve oversight of police officers in the United States. NACOLE is dedicated to promoting greater police accountability through the establishment or improvement of citizen oversight agencies by; (a) organizing an annual training conference to increase the knowledge and skills of staff members and volunteers who work in oversight; (b) act as a resource to jurisdictions considering the creation or revitalization of oversight bodies; (c) identifying best practices as they emerge from the experiences of members; (d) encouraging networking, communication and information-sharing to counter the isolation inherent in the profession; and (e) furnishing information to government officials and community representatives that will support their advocacy of oversight in their states, counties, cities and towns. We refer to this agency throughout this report.

This accountability tool developed by NACOLE utilizes citizens to review police conduct to achieve these common goals.

Figure 1: Five Common Goals of Civilian Oversight Programs



Source: National Association for Civilian Oversight of Law Enforcement “Civilian Oversight of Law Enforcement: A Review of the Strengths and Weaknesses of Various Models”

There are significant differences in how these civilian oversight systems are formed and the authorities provided. For example, in some jurisdictions, oversight is accomplished by allowing oversight practitioners to review, audit or monitor complaint investigations conducted by police internal affairs. In other jurisdictions, this is done by allowing civilians to conduct independent investigations of allegations of misconduct against sworn officers. There are also significant differences in how the oversight agencies are formed. For example, some are created via a vote of the local electorate while others are created by an action of local legislators. Civilian oversight can also be accomplished through the creation of mechanisms to authorize review and comment on police policies, practices, training and systemic conduct. Notably, newly established civilian oversight agencies are increasingly going beyond the traditional single-role delineations by combining functions of several different models and creating hybrid oversight systems. In these structures, a single jurisdiction may have multiple agencies responsible for performing different oversight functions of the same law enforcement department.

### **The City of Sacramento’s Evolution of Police Oversight and Accountability**

In line with a nationwide trend toward increasing citizen oversight of law enforcement, the City Council created two separate bodies to investigate use of force complaints and recommend changes to police department policies and procedures. Critically, these advisory bodies’ purposes were distinguished by having one focus on individual complaints while the other focused on broader structural changes to policing.

The Sacramento City Council created the Office of Police Accountability (OPA) in August 1999. OPA was delegated broad authority to investigate citizen complaints of police misconduct. The City Manager oversaw and

established the OPA's responsibilities and tasked the office with accepting, monitoring, and investigating citizen complaints of misconduct.

In March 2004, the City Council established a Community Racial Profiling Commission (CRPC) to serve as an advisory body to the Mayor and City Council regarding traffic stop data collection and analysis regarding racially biased policing.

In July 2004, in response to a series of complaints related to misconduct in the Sacramento Fire Department (SFD), the responsibilities of the OPA were expanded to include review of citizen complaints of SPD and SFD. Subsequently, the OPA was renamed the Office of Public Safety Accountability (OPSA).

In August 2008, the CRPC, in collaboration with the Sacramento Police Department (SPD) and a third-party consulting firm, issued their final report analyzing vehicle stop data and presented its findings to the City Council.<sup>1</sup>

In August 2014, the shooting of Michael Brown, an unarmed black teenager by a white police officer, in Ferguson, Missouri, sparked an interest by Mayor Kevin Johnson to discuss measures to strengthen community-police relations in the City of Sacramento. Mayor Johnson appointed three City Council Members to the Public Safety Ad Hoc Committee composed of Vice Mayor Allen Warren (Chair), Mayor Pro Tem Angelique Ashby, and Council Member Rick Jennings.

In July 2015, the Public Safety Ad Hoc Committee submitted the recommendation to the City Council to establish the Sacramento Community Police Commission. On that same date, Mayor Johnson acted to expedite the adoption of the ordinance by bypassing the Law and Legislative Committee. In August 2015, the City Council changed the Community Racial Profiling Commission to the Sacramento Community Police Commission (SCPC). The new board consisted of 11 members. According to the staff report to City Council the Commission was authorized to:

- Propose recommendations to the Mayor and City Council to ensure bias-free policing and strengthen community-police relations;
- Work with SPD to develop metrics to monitor the implementation of those recommendations and regularly report to the Mayor and City Council on the progress of the City in meeting those metrics; and
- The SCPC may request data from City departments, including SPD, which may be used to conduct independent analysis.

However, the City Code language did not specify the Commission's new authority or prescribe duties to City departments to respond to requests. The authority enacting Ordinance stated, "The powers and duties of the commission are as follows:

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<sup>1</sup> The report found that there was a disparity in the number of African-American motorists that were stopped by SPD versus the number of African-American motorists in traffic and that these stops occurred at a "sufficiently substantial" magnitude.



- A. To advise the mayor and city council on bias-free policing;
- B. To advise the mayor and city council regarding the Sacramento Police Department's training programs, workforce diversity, community engagement, and accountability; and
- C. At least annually, to report and make recommendations to the mayor and the city council regarding the activities of the commission and the Sacramento Police Department's efforts to strengthen bias-free policing and community-police relations.

Notably, the Ordinance did not indicate that any staff, funding, or support would be provided to the Commission. Additionally, the resolution did not create any duty for any City department or the City Council to respond to the recommendations.

Mayor Johnson in September 2016 appointed three City Council members to a new subcommittee on Public Safety. The purpose of the Public Safety Subcommittee was to work on increasing transparency and accountability within the Police Department. Members of the Subcommittee were Mayor Pro Tem Larry Carr (Chair), Vice-Mayor Rick Jennings, and Council Member Eric Guerra.

In November 2016, Mayor Pro Tem Larry Carr briefed the Sacramento Community Police Commission on the proposal to repeal the commission and replace it with the Sacramento Community Police Review Commission (SCPRC). Mayor Pro Tem Carr proposed that the City would provide the new body with a Commission Officer, a budget analyst, a \$600,000 annual budget, and an independent investigator that would report to the Commission and get guidance from the Commission. The Commission would be authorized to review policies, processes, procedures, and investigate citizen complaints.

The structure of the new SCPRC was proposed to the City Council later in November 2016. Mayor Pro Tem Carr at the meeting sought clarification from the City Attorney's Office about the SCPRC being granted subpoena authority authorized to investigate complaints of police misconduct and impose discipline. The City Attorney's Office advised at the November 2016 City Council meeting that empowering a citizen-led organization to impose discipline over a police officer was a contravention of state law. Additionally, granting subpoena authority to a citizen-led commission would contravene the City Charter and that such authority would require a Charter change approved by a vote of the Sacramento electorate.

At the November 2016 meeting, the City Council empowered OPSA with authority to conduct investigations related to citizen complaints. Meanwhile, they established the role of SCPRC to review police policies and procedures in an advisory capacity. However, SCPRC did not receive funding, an investigator, or a budget analyst, as envisioned by the Public Safety Subcommittee. Rather, funds were allocated to the Office of Public Safety Accountability and the SCPRC has since been allocated no direct funding.

### **Office of Public Safety Accountability**

In 2016, City Council approved a new structure and authority for OPSA. The Council transferred supervision of OPSA from the City Manager's Office to Mayor and City Council based on the Public Safety Subcommittee's recommendation.

Prior to the approval of the new structure, according to the City’s actual budget data from FY2015/16, the OPSA budget was \$192,209 with 1 full time equivalent employee.

Under the City Council’s November 2016 legislation related to OPSA, the OPSA Director shall have the following authority and responsibility as related to the Sacramento Police Department and Fire Department:

- Audit all citizen complaint investigations of the police department and fire department.
- Monitor all citizen complaint investigations conducted by SPD and SFD.
- Request SPD and SFD to perform further investigation in those citizen complaint cases.
- Receive all documents, and reports to monitor or audit a complaint investigation.
- Assist the city council in performing its investigative functions.
- As needed, request the city council, to issue subpoenas.
- Perform such other inquiries and investigations as prescribed by council resolution.
- Accept and document complaints directly from citizens and promptly forward them to the respective public safety department for investigation.
- Monitor or independently investigate any other matter as directed by the city council.
- Respond to critical incidents involving police or fire personnel and provide a report to city council regarding the details and concerns of those incidents.

In addition to augmenting the OPSA’s duties and functions, OPSA approved additional staffing to assist the SCPRC. According to an Interim City Manager presenting the information at a November 2016 City Council meeting, “The recommendation is . . . have the OPSA be responsible for staffing the Community Police Review Commission. Currently, that happens out of the City Manager’s Office through the Director of OPSA. Also, increase the staff capacity of OPSA at midyear to include 3 additional FTEs at a cost of approximately \$375,000.”

As described above, OPSA was provided additional funding and additional staffing to support its augmented duties and function. As shown in figure 2, OPSA was allocated additional full-time employees and funding in the FY2017/18 Approved Budget.

*Figure 2: Office of Public Safety Accountability Budget Data*

Office of Public Safety Accountability	FY 2016/17 Budget	FY 2017/18 Budget	FY 2018/19 Budget	FY 2019/20 Budget	FY 2020/21 Amended	FY 2021/22 Proposed
Budget	\$200,458	\$624,603	\$593,591	\$607,409	\$656,786	\$882,273
Full Time Employees	1	4	4	4	5	5

Source: City of Sacramento Approved Budgets.

## Sacramento Community Police Review Commission

In 2016, the Community Police Review Commission was renamed the Sacramento Community Police Review Commission (SCPRC) to provide a venue for community participation in reviewing police department policies, practices, and evaluation of city policing initiatives and programs. Ordinance O-2016-0055 provided the Commission's purpose:

- A. Providing community participation in reviewing and recommending police department policies, practices, and procedures; and
- B. Monitoring the implementation, evaluation, and sustainability of city policing initiatives and programs.

Per City Code section 2.110.030, the powers and duties of the commission are as follows:

- A. The commission shall advise and make recommendations to the city council regarding police policy, procedures, and best practices, including those related to community relations, hiring, and training best practices.
- B. The commission shall review quarterly reports prepared by the OPSA relating to the number, kind, and status of all citizen complaints filed against police department personnel, to determine whether there are patterns of misconduct that necessitate revisions to any police policy, practice, or procedure.
- C. At least annually, to report and make recommendations to the Mayor and the City Council regarding the activities of the commission and the Sacramento Police Department's efforts to strengthen bias-free policing and community-police relations.

There is currently no direct funding or budget line item that makes specific reference to the Sacramento Community Police Review Commission.

According to the City Code, the SCPRC is composed of 11 members. One member shall be recommended by each councilmember, and three members shall be recommended for appointment by the Mayor. After receiving recommendations, the Mayor shall appoint all members of the commission, subject to the concurrence of a majority of the City Council. Members of the commission must be residents of the City and shall serve a term of four years. A member shall hold office until his or her successor has been appointed.

## Community Surveys Indicate Low Levels of Trust between the Community and Sacramento Police Department

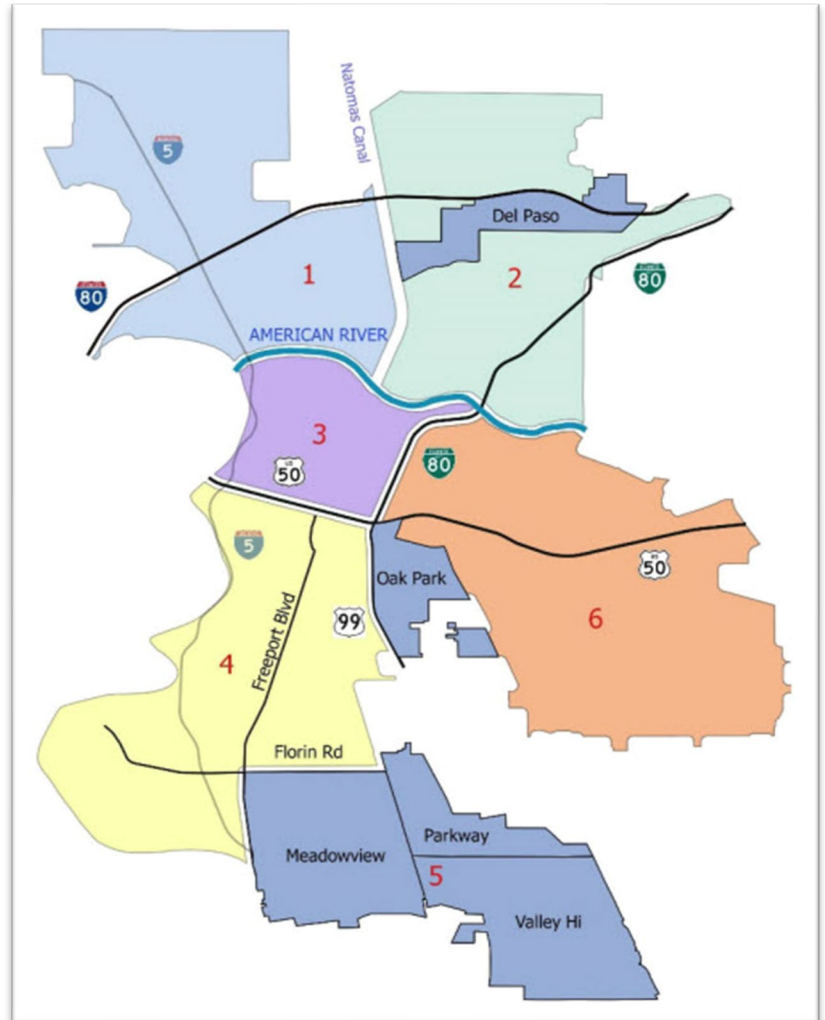
A series of surveys recently issued by the City indicate comparatively low levels of trust between the police and communities they serve. Additionally, less than half of Sacramento adults rate service provided by the Sacramento Police Department as "good" or "very good." According to a survey conducted for the City by the National Research Center issued in August 2019, only 43 percent of respondents gave excellent or good ratings

to the overall feelings of safety in Sacramento.<sup>2</sup> The survey found this was much lower than the national benchmark and lower than the 2018 responses where 54 percent gave excellent or good ratings.<sup>3</sup>

A recent survey released by the SPD identified a similar finding. According to the survey, one of the most important issues highlighted is the level of trust residents have in the Sacramento police and their satisfaction with the service the department provides.<sup>4</sup> Citywide, approximately 46 percent of Sacramento adults rate the city's police services as very good or good. About 21 percent rate the police services as poor or very poor. The survey also highlights issues with approval of police services from people of color.

According to the survey, nearly twice as many African American residents rate police services as poor or very poor compared to the percentage who rate the services as good or very good (42 percent versus 25 percent). The survey was conducted and analyzed based on the six SPD Administrative Districts, as shown in figure 3.

*Figure 3: Sacramento Police Department's Six Administrative Districts*



*Source: Sacramento Community Survey 2019 – How residents view the Sacramento Police Department.*

<sup>2</sup> The Office of the City Auditor contracted with the National Research Center to conduct the second National Community Survey for the City of Sacramento. The City Auditor issued the results in August 2019. The purpose of the survey is to gather resident opinions across a range of community issues, including the quality of the community and City-provided services.

<sup>3</sup> The benchmark is based on NRC's database of comparative resident opinion which is comprised of resident perspectives gathered in surveys from over 600 communities whose residents evaluated the same kinds of topics on The National Community Survey. The comparison evaluations are from the most recent survey completed in each community.

<sup>4</sup> The survey was done in partnership with California State University, Sacramento; the University of San Diego; Saint Louis University; California Endowment; California Wellness Foundation and Sierra Health Foundation with data collection conducted between October 2018 and February 2019.

Meanwhile, these differences in opinion among residents applies across communities and certain ethnicities. According to the survey, only 18 percent of the City’s African American residents say they have a higher level of trust in the police. Almost half of African Americans survey participants say they have little or no trust. Additionally, there is significant variability in how different Police Administrative Districts view police services.

*Figure 4: Variability of Community Trust in Sacramento Police Department by Police Administrative District*

How much trust do you have in the Sacramento Police?	Complete or Quite a Bit of Trust	Some	Little or No Trust
District 1	52%	29%	19%
District 2	39%	32%	29%
District 3	59%	25%	16%
District 4	44%	31%	25%
District 5	32%	30%	38%
District 6	43%	33%	24%

Source: Sacramento Community Survey 2019 – How residents view the Sacramento Police Department

As can be seen above, distrust in SPD is significantly higher in Police Administrative District 5, where nearly 40 percent of adults surveyed responded with having little or no trust in SPD.<sup>5</sup>

### Civilian Oversight of Law Enforcement is a Growing Trend Towards Repairing and Building Trust

Building trust and nurturing legitimacy on both sides of the police/resident divide is the foundational principle underlying the nature of relations between law enforcement agencies and the communities they serve.

Over the last several decades, issues of trust and accountability have moved to the forefront of community-police relations, and a great deal of scholarship has been devoted to enhancing police performance including strengthening police accountability and oversight functions. During this same period, the creation of organization mechanisms for reviewing and improving police officer conduct, such as the creation of civilian oversight, has increased.

The emergence of police accountability has led to a new era in the evolution of accountability systems involving civilian oversight of municipal police agencies. In recent years, several municipalities have opted to either create or enhance existing civilian oversight systems. This form of police accountability is often focused on allowing community members and residents to provide input into the police department’s operations, often with a focus on the citizen complaint process.

<sup>5</sup> The southern-most portion of the city is District 5, which is composed of three focus area neighborhoods: Meadowview, Parkway and Valley Hi. The boundaries between Districts 4 and 5 are Florin Road and Freeport Boulevard.

For example, President Barack Obama signed an Executive Order on December 18, 2014 establishing the Task Force on 21st Century Policing. The final report titled, *Final Report of the President's Task Force on 21 Century Policy*, was issued in May 2015 and stressed the importance of police transparency, accountability, and community outreach, in part, through the establishment of civilian oversight bodies. The report stressed that if police are to carry out their responsibilities according to established policies, those policies must reflect community values. Law enforcement agencies should collaborate with community members, especially in communities and neighborhoods disproportionately affected by crime, to develop policies and strategies for deploying resources that aim to reduce crime by improving relationships, increasing community engagement, and fostering cooperation.

According to the National Association of Civilian Oversight of Law Enforcement (NACOLE), there are more than 200 oversight entities across the United States. There is great variability in their structures and authorities. According to NACOLE, these community oversight bodies can be broadly categorized into four different types of models:

- First, the Review-focused Models, provide community members outside of and unaffiliated with the law enforcement agency with an opportunity to review the quality of misconduct complaint investigations performed by the overseen department. These agencies often receive civilian complaints and forward them to the department for investigation; remand cases back to the department's internal affairs unit for further investigation; recommend case dispositions, discipline or revised departmental policies and procedures; hold public forums; and conduct community outreach.
- Second, the Investigation-focused Models, employ professionally trained investigative staff to conduct investigations of allegations of misconduct independently of the overseen department's internal affairs unit. These agencies typically have greater access to law enforcement records and databases and are more likely to have the ability to subpoena documents and witnesses. In many jurisdictions, these agencies include a volunteer board or commission. In some cases, the board or commission acts in an advisory capacity or a leadership capacity. Some may conduct votes to initiate investigations, issue subpoenas, and determine the dispositions of misconduct allegations based on staff investigations.
- Third, the Auditor/monitor-focused Models, these types of oversight agencies are created to promote broad organizational change by addressing systemic issues, analyzing patterns and trends, and addressing deficiencies in policies and procedures. They can typically issue recommendations regarding any aspects of the law enforcement agency.
- Fourth, the Hybrid Models, primarily exists in two ways: hybrid *agencies* and hybrid *systems*. In the first case, an agency may primarily focus on one oversight function while also performing other functions (such as reviewing internal investigations and auditing policy compliance). In the latter case, a single jurisdiction may have multiple agencies overseeing the same department, such as an independent investigative agency and an inspector general, or a monitor agency and a civilian board acting in an advisory capacity to the law enforcement agency and/or other civilian oversight agency. Individual agencies assuming hybrid forms are increasingly common, but several jurisdictions have also created

multiple agencies responsible for performing different oversight functions of the same law enforcement department.

As discussed in greater detail below, the City's creation of OPSA and SCPRC to provide different oversight functions is an example of the hybrid civilian oversight structure.

As discussed above, the City in November 2016 enhanced and codified changes to the duties, functions, and powers of OPSA and, separately, the SCPRC. This action broke up different advisory responsibilities that fall within the rubric of citizen and community oversight of law enforcement into a distinct office (OPSA) and a separate Commission (SCPRC.) Taken together, these fall within NACOLE's definition of a hybrid structure approach that has become more frequent in other jurisdictions.

The City tasked OPSA with accepting and documenting citizen complaints and performing, monitoring, and auditing complaint investigations of SPD and the SFD. The office is empowered to, "Request the police department and fire department perform further investigation in those complaint cases that require additional investigation as determined by the director." The City provided funding and staffing for this office. The office is staffed with a Director, who is a City employee, and the office reports to the City Council. Later, the City augmented the role of OPSA by adding an Inspector General function to that office.

Concurrently, the City augmented the authority of the SCPRC. The SCPRC was empowered to advise and make recommendations to the City Council regarding policies, procedures, and best practices. The SCPRC was also tasked with annually reporting and making recommendations to the City Council on the SPD's efforts to strengthen bias-free policing and community-police relations. The SCPRC is comprised of 11 community members. The SCPRC was provided no direct funding and, according to the City Code, is provided staff support by OPSA.

## **Objective, Scope, and Methodology**

Our objective of this audit was to determine whether the Sacramento Police Department (SPD) responded to changes to policies and practices as recommended by the Sacramento Community Police Review Commission (SCPRC). In addition, we determined whether the structure and authority of SCPRC is consistent with best practices in civilian oversight of law enforcement agencies.

As part of this project, we interviewed Commissioners from the SCPRC, staff from the SPD, and the Office of Public Safety Accountability. We reviewed SCPRC and City Council agendas, minutes, recorded meetings, and Reports to Council, and compiled all 110 recommendations issued by the SCPRC at Commission meetings and City Council meetings. We reviewed and compiled all publicly available verbal and written Sacramento Police Department responses to the SCPRC recommendations.

We reviewed best practices, law review articles, and policy analysis related to formation and operation of civilian oversight of law enforcement agencies. We also interviewed staff from other cities and counties

operating civilian oversight of law enforcement agencies to determine how other agencies are structured, operate, and work with their law enforcement counterparts. We reviewed policies and procedures for 45 civilian oversight of law enforcement agencies for cities and counties with populations between 250,000 and 1.4 million residents. We researched information on the establishment, structure, authorities, and operation of these agencies such as enacting language in City Charter, City Code, ordinance, resolution, or policies and procedures. We determined how many agencies produced annual reports made available to the public. We determined the number of oversight agencies that require training for current and new appointees. Additionally, we determined the number of civilian oversight agencies in our sample that host websites that included more information than agendas and minutes.



## **Finding 1: The Lack of Clearly Defined Roles and Responsibilities has Led to Confusion and Frustration**

The City has not adequately defined and codified the powers and authorities of the Sacramento Community Police Review Commission (SCPRC) which has restricted its ability to achieve objectives and goals. The lack of distinguished roles and responsibilities has led to confusion, frustration, and lack of agreement between the SCPRC, the Sacramento Police Department (SPD), and the Office of Public Safety Accountability (OPSA).

A critical element in the design and implementation of a civilian police oversight function that enhances public trust and input is the inclusion of clear enabling language in the City Code specifying the level of authority the agency has in relation to its core oversight functions. In other words: What the agency is authorized to do. Critical elements include the agency's level of independence and authority, such as the agency's access to information including police files, records, performance data, and roles and responsibilities of the local law enforcement agency and other stakeholders. In performing our review of SCPRC's structure in comparison to other civilian oversight agencies throughout the country, we noted the following:

- The Sacramento City Code does not adequately define the authorities and powers of the Sacramento Community Police Review Commission and stakeholder agencies, including the Sacramento Police Department and the Office of Public Safety Accountability; and
- Ambiguity and lack of agreement could negatively impact trust and performance satisfaction in Sacramento Police.

In our evaluation of the SCPRC's processes, we found that the City Code does not adequately describe the authorities and powers of the SCPRC and its relationship to stakeholder agencies, including the SPD and OPSA. As a result, leadership of SCPRC, OPSA, and the SPD expressed uncertainty and a general lack of consensus about the scope and breadth of SCPRC's duties, powers, and access to information. For example, as discussed in greater detail below, we found that SPD has, in some instances, not publicly provided records in response to SCPRC requests for data, information, or the status of recommendations potentially creating the perception of a lack of responsiveness. Additionally, the extent of OPSA's role in the SCPRC-SPD relationship is also not clearly defined, resulting in a lack of agreement between the offices and agencies pertaining to SCPRC's authority to access information, and level of staff support to assist the SCPRC increase interactions with the community, perform analysis, and complete work product. Finally, these ambiguities leave SCPRC Commissioners no clear criteria or codified dispute resolution process when disagreements arise.

We believe that opportunities exist for the City to more specifically clarify the structure and scope of the powers and duties of SCPRC. Additionally, we believe the City should more specifically clarify, distinguish, and codify the roles and responsibilities of the SCPRC, OPSA, and SPD, in the achievement of SCPRC's purpose and mission. Clarifying the authority and role of each agency, and perhaps more importantly, providing guidance on how the agencies relate to each other is critical to the ability of each agency to fulfil its goals of maximizing community involvement in achieving police reform.

**The Sacramento City Code does not adequately define the powers and duties of the Sacramento Community Police Review Commission and stakeholder agencies, including the Sacramento Police Department and the Office of Public Safety Accountability**

The City Code sections establishing the Sacramento Community Police Review Commission (SCPRC) do not adequately prescribe the powers and duties of the SCPRC, Office of Public Safety Accountability (OPSA), and Sacramento Police Department (SPD). The lack of specificity over the powers and duties has caused delays in the transfer of information and led the agencies into conflict over duties and responsibilities.

The SCPRC has gone through a number of iterations where its purpose, roles, and responsibilities have evolved. The first iteration of the body was created in 2004, when the City Council created the Community Racial Profiling Commission (CRPC) to serve as an advisory body to the Mayor and City Council focused on traffic stop data collection and analysis regarding racially biased policing.

As described in the Background section, a number of changes took place between 2004 and 2016 to change the structure and augment the authorities of these agencies providing police oversight functions. In November 2016, the City Council established the hybrid system of police oversight that exists today. First, the City Council approved the following City Code section that expanded the duties and functions for the OPSA, as seen in figure 5.

Figure 5: City Code Section related to Office of Public Safety Accountability

<p><b>City Code sec. 2.22.030 – Duties and functions of office</b></p>	<p>The office shall:</p> <ul style="list-style-type: none"><li>A. Audit all complaint investigations of the police department and fire department, as the director deems necessary.</li><li>B. Monitor all complaint investigations conducted by the police department and fire department.</li><li>C. Request the police department and fire department perform further investigation in those complaint cases that require additional investigation as determined by the director.</li><li>D. Receive all documents, reports, or any other item necessary to monitor or audit a complaint investigation.</li><li>E. Assist the city council, or any duly appointed committee of the council, in performing its investigative functions under section 34 of the charter.</li><li>F. As needed, request the city council, or any duly appointed committee of the council, to issue subpoenas as provided in section 34 of the charter. The city council may, by resolution, establish the procedures for the request, issuance, and service of those subpoenas.</li><li>G. Perform such other inquiries and investigations as prescribed by council resolution.</li><li>H. Accept and document complaints directly from citizens as an alternative procedure for citizen complaints concerning public safety personnel, using a complaint form distinct from that used by the police department or fire department. All such complaints shall be promptly forwarded to the respective public safety department for investigation.</li><li>I. Provide complainants with timely updates on the status of investigations, excluding disclosure of any information that is confidential or legally protected.</li><li>J. Explain how the complaint process works to all complainants.</li><li>K. Monitor or independently investigate any other matter as directed by the city council pursuant to section 34 of the charter.</li><li>L. Serve in a public information capacity, including providing public information, excluding disclosure of any information that is confidential or legally protected, on pending investigations as directed by the city council; and making presentations in community forums.</li><li>M. Respond to critical incidents involving police or fire personnel and provide a report to city council regarding the details and concerns of those incidents.</li></ul>
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Source: Sacramento City Code

This City Code section provides OPSA with authority over auditing, monitoring, and conducting investigations into civilian complaints about SPD and SFD. Additionally, the City Council created a new Inspector General

position “with full independence and authority to investigate officer-involved shootings and use-of-force incidents that result in serious bodily injury or death.”<sup>6</sup>

Second, also in November 2016, the City Council concurrently approved the revised role of SCPRC to review police policies and procedures in an advisory capacity. According to the enacting City Council Ordinance, the purpose of the Commission was to provide community participation in reviewing police department policies, practices, and procedures. The Commission was also tasked with monitoring the implementation, evaluation, and sustainability of city policing initiatives and programs, including efforts to strengthen bias-free policing and improve community-police relations. The Commission was specifically tasked to hold public meetings, in accordance with the Ralph M. Brown Act, to discuss SPD policies, procedures, and practices, advise and make recommendations to the public, the City Council, and the City Manager. As described in the Background section, the City Council updated the powers and duties of the SCPRC and codified them in the City Code. The City Code approved in 2016 states:

*Figure 6: City Code Section Establishing Sacramento Community Police Review Commission*

<p><b>City Code sec. 2.110.030 - Powers and Duties of Commission</b></p>	<p>A. The commission shall advise and make recommendations to the city council regarding police policy, procedures, and best practices, including those related to community relations, hiring, and training best practices.</p> <p>B. The commission shall review quarterly reports prepared by the OPSA relating to the number, kind, and status of all citizen complaints filed against police department personnel, to determine whether there are patterns of misconduct that necessitate revisions to any police policy, practice, or procedure.</p> <p>C. At least annually, to report and make recommendations to the Mayor and the City Council regarding the activities of the commission and the Sacramento Police Department’s efforts to strengthen bias-free policing and community-police relations.</p>
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Source: Sacramento City Code

As seen above, the City Code provides the SCPRC with authority to advise and make recommendations regarding “policy, procedures, and best practices” as well as make recommendations regarding SPD’s “efforts to strengthen bias-free policing and community-police relations.” This language can be argued to provide the SCPRC broad authority to review and make recommendations on any and all police issues for which SPD maintains a policy or procedure.

<sup>6</sup>At the July 1, 2020, meeting, the City Council passed Motion No. 2020-0186 authorizing the Office of Public Safety Accountability Director, the City Attorney, and the City Manager to implement City Council direction by creating an Inspector General position in the Office of Public Safety Accountability. According to the City staff report, the Investigator General is authorized to “with full independence and authority to investigate officer-involved shootings and use-of-force incidents that result in serious bodily injury or death.”

However, as described in greater detail below, the City Code is silent related to the authority that would empower the SCPRC to carry out these duties. Additionally, the City Code fails to comprehensively define and distinguish the authority and roles of the SCPRC, OPSA, and the SPD. The City Code’s lack of clearly delineated scopes of duties and well-defined authorities to fulfill those duties have resulted in a lack of consensus between the SCPRC and OPSA about the limits of each agency’s responsibilities. These divisions have become more apparent when the roles and responsibilities of each agency intersect. As a result, tensions have grown between the agencies as they work to determine duties and boundaries.

One example of an unclear line of duty is the City Code’s designation of OPSA to provide staff support to the SCPRC, despite their different roles and responsibilities. According to the City Code, OPSA is designated to provide “staff support” to the SCPRC. However, the City Code is silent on what this support encompasses. The City Code states:

*Figure 7: City Code Section Outlining Sacramento Community Police Review Commission Chairperson Authority and Staffing*

<p><b>City Code sec. 2.110.037 – Chairperson and organization of the commission</b></p>	<p>. . . Staff support to the commission shall be provided by the office of public safety accountability. (Ord. 2016-0055 § 2)</p>
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Source: Sacramento City Code

This section of the City Code was presented in a City Council meeting in November 2016. According to the Interim City Manager comments at the meeting, “The recommendation is to . . . have the OPSA be responsible for staffing the Community Police Review Commission. Currently, that happens out of the City Manager’s Office through the Director of OPSA. Also, increase the staff capacity of OPSA at midyear to include 3 additional FTEs at a cost of approximately \$375,000.” As such, it appears the intent of the proposal is to direct OPSA to provide staff support to the SCPRC.

Currently, OPSA assists the SCPRC in the administration of their public meetings such as drafting staff reports, preparing the agenda and meeting minutes, and staffing the meetings to ensure compliance with relevant open meeting requirements.<sup>7</sup> However, both SCPRC and OPSA leadership are not in agreement defining the breadth of the OPSA’s staff support role. As stated above, the City Code states that “Staff support shall be provided” but includes no description of what staff support entails and this ambiguity has led to a lack of agreement between OPSA and the SCPRC about what providing “staff support” is supposed to entail.

<sup>7</sup> The City Clerk has recently started providing administrative support to the SCPRC to ensure compliance with California open meeting laws.

OPSA is also serving as a liaison in certain instances between the SCPRC and the SPD. According to the Chair and Vice Chair of the SCPRC, SCPRC Commissioners have had trouble receiving information from SPD.<sup>8</sup> To address this concern, SCPRC and SPD have agreed to a procedure where information requests are directed through OPSA, which serves as a de facto liaison. However, OPSA leadership questions whether that responsibility should be placed with OPSA because its mission, purpose, and objectives are different than the SCPRC’s. In fact, OPSA leadership stated that serving as a “middleman” between the SCPRC and the SPD is not appropriate because this is not compatible with OPSA’s structure and core mission of investigating, monitoring, and auditing internal and external civilian complaints.

This issue is further exacerbated by the City Code’s ambiguity regarding the SCPRC’s access to information. Specifically, the City Code does not detail what information SCPRC should have access to in order to fulfill its duties. In contrast, the City Code provides OPSA with significant access to records to support its role in auditing and investigating civilian complaints of SPD and SFD.

*Figure 8: City Code Sections Outlining Access to Information for the Sacramento Community Police Review Commission and the Office of Public Safety Accountability*

Sacramento Community Police Review Commission	Office of Public Safety Accountability
No language provided.	<p><b><u>City Code sec. 2.22.030 – Duties and functions of office</u></b>            The office shall . . . Receive all documents, reports, or any other item necessary to monitor or audit a complaint investigation.</p> <p><b><u>City Code sec. 2.22.050 – Access to information</u></b>            City departments, offices, and employees shall provide the office of public safety accountability access to all sources of information, property, and personnel relevant to the performance of the office’s duties under this chapter, unless restricted or prohibited by law.</p>

Source: Sacramento City Code

This ambiguity has created confusion within the City about what information SCPRC is entitled to when submitting a request for records. For example, according to the Vice Chair of the SCPRC, the Commission believes it should have access to specific investigation files legally permissible under state statutes. However, according to SPD, some of this information is broader than SCPRC’s City Code mandated scope and cannot be provided due to provisions of the California Government Code. These disagreements have led to tension between these agencies.

OPSA and SCPRC leadership also expressed concerned that both OPSA and SCPRC are independent agencies per the City Code with different missions. OPSA’s role as staff support to the commission and serving as liaison may

<sup>8</sup> Please note, we discuss issues related to access of information below in Finding 2.

create the public perception that the agencies are tied or serve as one agency. Both OPSA and the SCPRC Chair and Vice Chair stressed the importance of clarifying that these are separate agencies with different missions.

Another example where enhanced clarity is needed are in better detailing the SCPRC's duty to review aggregated citizen complaint data. Specifically, the City Code requires that SCPRC monitor:

“the implementation, evaluation, and sustainability of city policing initiatives and programs” and “review quarterly reports prepared by the office of public safety accountability consistent with California Penal Code section 832.7(c) relating to the number, kind, and status of all citizen complaints filed against police department personnel, to determine whether there are patterns of misconduct that necessitate revisions to any police policy, practice, or procedure.”

However, according to SCPRC Commissioners, there is a lack of clarity on what kind of aggregated complaint data OPSA is responsible for providing and what the SCPRC is entitled to. Additionally, there is a lack of clarity about what information SCPRC is entitled to from the Police Department related to monitoring and evaluating city policing initiatives and programs.

We reviewed best practice materials produced by public policy advocates and task forces and interviewed several cities that have empaneled civilian police oversight agencies. We found these sources stress the critical importance of identifying the authority required to complete the agency's objectives and subsequently codifying this authority legislatively to provide support.

The President's Task Force on 21<sup>st</sup> Century Policing, issued a report in May 2015 that stated, “some form of civilian oversight of law enforcement is important in order to strengthen trust with the community. Every community should define the appropriate form and structure of civilian oversight to meet the needs of that community.”<sup>9</sup>

The National Association of Civilian Oversight of Law Enforcement (NACOLE) provides similar guidance. According to the NACOLE, an agency that is not given sufficient authority and jurisdiction to perform its mission simply cannot be effective. While there is no “best” oversight model for all contexts, stakeholders must ensure that the level of authority an oversight agency has in relation to its core oversight functions permits the agency to successfully perform its duties to the greatest degree possible and without limitation. NACOLE published a *Guidebook on Implementation of New or Revitalized Oversight* which states that a community must clearly define its goals and what it hopes to accomplish with oversight before any model is selected. The community members and stakeholders that should provide input in these discussions include the public, police, police labor and management, key policy and decision makers, and grassroots or community-based organizations, among

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<sup>9</sup> President Barack Obama issued an Executive Order in December 2014 appointing an 11-member task force on 21<sup>st</sup> century policing to respond to a number of serious incidents between law enforcement and the communities they serve and protect.

others. NACOLE's *Guidebook* proscribes as an important step, identifying the agency's scope and objectives by asking some of the following questions:

- Will the agency make policy/training recommendations?
- What should happen when there is a disagreement between the police department and the oversight agency?
- What will be the public reporting requirements for the oversight agency?
- How will the agency's effectiveness be measured?
- How will elected officials hold the oversight agency accountable?

Directors of community oversight agencies we interviewed echoed that establishing the authority of the agency to receive information and codifying the authority in resolution or ordinance is critical to success.

- The Criminal Justice Administrator for the City of Greensboro's Criminal Justice Advisory Commission stated it is critical to have the authorities of the agency included in an ordinance. Further, if the legislative body decides that an oversight agency should have a certain level of authority to access police information, it is critical that the agency actually receives the information it needs. This level of access needs to be specified and codified so the oversight agency can seek assistance from elected officials if the police are not compliant.
- The Executive Director of the City of Albuquerque's Civilian Police Oversight Agency (ACPOA), echoed the need to codify the authority. The Executive Director of the ACPOA also pointed to potential issues where cities empanel different oversight agencies for different oversight functions, such as one agency reviewing use of force complaints and a separate agency reviewing police policies and procedures. The Executive Director stated the roles and responsibilities of these agencies need to be carefully spelled out in enacting ordinances. The absence of specifics potentially results in tension between the agencies when they try to figure out what agency is responsible for different areas of oversight.

In contrast, Commissioners of the City of Buffalo's Police Advisory Board provided cautionary information about potential fallout from the lack of specificity about the agency's powers and authorities. The commissioner we interviewed stated their agency has been met with a lack of cooperation from the Buffalo Police Department. This has led to negative media coverage.<sup>10</sup>

### **Ambiguity Could Negatively Impact Trust and Performance Satisfaction in Sacramento Police**

As noted in the Background Section, a recent survey of City of Sacramento residents portrays a lack of satisfaction in the performance and low levels of trust in the Sacramento Police Department. The continued

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<sup>10</sup> Notably, according to Commissioners of the City's Buffalo Advisory Board, frustration with the ambiguity of the board's authority has resulted in community efforts to establish a new, more powerful board through a proposition for City of Buffalo voters.



inability to build bridges between the community and the Police Department increase the risk of these viewpoints to continue.

Additionally, the ambiguity and lack of responsiveness has, according to the SCPRC Chair and Co-Chair, led to a cynicism about SPD willingness to cooperate and a sense of frustration and withdrawal from the public.<sup>11</sup> SCPRC lamented the fact that fewer community members attend the meetings and submit ideas because they are frustrated by the SCPRC's lack of authority.

Oversight agencies are sometimes created in reaction to crisis incidents with little thought given to long-term functionality or obligations. The initial focus is usually short-term procedural goals, which are important but can result in actions that do not serve the greater good of the community in the long run. According to the representatives of NACOLE, the worst potential outcome in the establishment of a civilian police oversight group is the organization being ineffective and the community left angrier and more cynical with the police and the City leadership.

When the expansion of the SCPRC was proposed in 2016, the drafters raised questions about the possibility of SCPRC overseeing inquiries into use of force complaints. However, the City Attorney's Office advised this structure would run afoul of California's Police Officer Bill of Rights and the Sacramento City Charter. The resulting legislation split the purposes and function of OPSA and SCPRC. OPSA was placed under the direction of the City Council and provided authority to investigate use of force issues. In contrast, the SCPRC was codified as a civilian-led commission tasked with providing advisory recommendations to the City Council on police policies and reviewing quarterly reports prepared by OPSA relating to the number, kind, and status of all citizen complaints filed against police department personnel, to determine whether there are patterns of misconduct that necessitate revisions to any police policy, practice, or procedure.

It is important to stress, while the concept of civilian police review is not new in the United States, significant differences exist between the structures and authorities provided to the civilian oversight agency from city to city. For example, some agencies have investigative authority of use of force complaints, others have authority to review use of force complaint reports produced by the police department, others have auditing authority, and some have advisory review of policies and procedures. Public policy experts have pointed to this "not one size fits all" approach and stressed sustained vigilance to continue to improve on the agency structures to find what works.

As described above, the City's contemplation and formation of the Sacramento Community Police Commission in August 2015 was in reaction to the tense atmosphere created by police shootings. In November 2016, the City Council revised its powers and duties and renamed the body, the Sacramento Community Police Review Commission (SCPRC). The City Council has not revisited the purpose, powers, and duties of the SCPRC since its adoption in 2016. The SCPRC was created in an effort to increase transparency and could benefit from a more thorough discussion about how the SCPRC, OPSA, and the SPD should function together.

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<sup>11</sup> The issues of the SCPRC access to records and SPD responsiveness to document requests is discussed in greater detail in Finding 2.

We believe the City could benefit from facilitating discussions between City leaders from the City Council and the City Manager's Office, SCPRC, OPSA, SPD, and community stakeholders, in consultation with the City Attorney's Office, to clarify and codify the structure, powers and duties, and procedures of SCPRC. The codified powers and duties should carefully define each agency's purpose and contain sufficient specificity to distinguish the purpose of each agency and limits of its authorities to prevent ambiguity and disagreement over roles and responsibilities. We believe it may also be valuable for the City to engage subject matter experts in the formation or revitalization of citizen oversight of law enforcement functions, such as the NACOLE or the U.S. Department of Justice, to provide best practice recommendations and assistance in determining the appropriate powers and procedures related to different agencies involved in citizen and community oversight of the SPD. The outcome of these discussions should be the establishment of a clearly defined process that will help to ensure these agencies are working cooperatively to support community engagement in policing.

## **RECOMMENDATION**

**We recommend the City Council:**

- 1. The City Council should clarify the purpose, powers, and duties of the Sacramento Community Police Review Commission and how it interacts with other City departments to achieve its objectives. The City Council should memorialize the specific purpose, powers, and duties, through resolution, ordinance, or codifying the changes in the City Code.**

## **Finding 2: The Sacramento Community Police Review Commission Requires Resources and Investment from the City to Effectively Achieve its Objectives**

The City created the Sacramento Community Police Review Commission (SCPRC) in an effort to provide a venue for community participation in the review of police practices and procedures, and monitor the implementation, evaluation, and sustainability of police initiatives. However, we found the City has not sufficiently invested resources in processes, procedures, and support to allow the SCPRC to successfully fulfill its mission.

The effectiveness of oversight in any particular community is dependent on a host of factors including political and budgetary support, the training and expertise of oversight personnel, issuing regular public reports, conducting outreach, and communicating with community and local stakeholders. Best practices from policy advocates and similarly sized cities indicate that providing resources for the oversight agency to fulfill its objectives and communicate its findings directly to the public are integral to its success. Additionally, process and procedures to evaluate the effectiveness of the oversight body should be contemplated in order to maintain public trust.

In our review of the SCPRC, we found:

- The City does not provide sufficient staff support and/or funding to allow the SCPRC to fulfill its purpose and duties which has resulted in tension between SCPRC, the Office of Public Safety Accountability (OPSA), and the Sacramento Police Department (SPD).
- The City Code does not require SCPRC Commissioners to complete training on procedure, law, or current and emerging issues in policing and law enforcement.
- The City does not provide sufficient tools to SCPRC to allow the SCPRC to communicate with the public and stakeholders about SCPRC recommendations, meetings, and goals thereby preventing the fulfillment of its purpose.
- The SCPRC does not issue annual reports that comprehensively reflect the Commission's work that are available to the community and stakeholders.
- The City and the community have not established goals or identified measures to evaluate the long-term performance of the SCPRC.
- SCPRC members have not been provided City of Sacramento email accounts.
- SCPRC access to information should be more clearly defined.

According to SCPRC Commissioners, the lack of specific language in the City Code pertaining to these issues have detrimentally impacted the SCPRC's ability to perform in-depth analysis on law enforcement programs and actions, make reports and recommendations to the City Council, and effectively communicate with community stakeholders. As a result, according to SCPRC Commissioners, there has been a waning interest and support from community members and groups. We believe that opportunities exist for the City to revisit these issues and strengthen the SCPRC through allocating more resources and providing more specificity to the SCPRC processes and how it communicates with the public.

## **The City does not provide sufficient staff support and/or funding to allow the Sacramento Community Police Review Commission to fulfill its purpose and duties which has resulted in tension between the Commission, the Office of Public Safety Accountability, and the Sacramento Police Department**

The Sacramento Community Police Review Commission (SCPRC) has not been provided sufficient support to fulfill its purposes and duties mandated by City Code. Public policy experts and advocates for civilian oversight of law enforcement agree that identifying and providing adequate funding is critical to allow an oversight board to complete its mission and duties such as performing analysis and communicating with the public. The continued lack of funding support will potentially lead to continued tension between City agencies, work product that has been criticized by the Sacramento Police Department (SPD) and elected officials, and a loss of public confidence in the SCPRC.

According to the National Association of Civilian Oversight of Law enforcement (NACOLE), providing funding and staffing must be sufficient to meet the mission, purposes, and duties of an agency. In determining the level of staffing required, the city and stakeholders should consider the goals of the community and what is being asked of the citizen oversight system. Specifically, what level of funding and how much authority should be given to the oversight agency in order to shoulder its identified tasks and be successful in its efforts. Allocating sufficient resources to civilian oversight is a crucial determinant to effectiveness.

Notably, as one policy researcher argues, many “civilian review boards have failed across the nation because they were rigged to fail—they lacked adequate authority and resources to achieve their missions.”<sup>12</sup>

Political stakeholders must ensure that their support for civilian oversight includes a sustained commitment to provide adequate and necessary resources. Civilian oversight agencies must have the resources to retain experienced professional staff, perform outreach, and communicate with police staff and stakeholders in order to be effective. In practice, one of the most critical functions a civilian agency can perform is conducting analyses of law enforcement policies and patterns. Such analyses have great potential to advance the goals of effective civilian oversight by addressing systematic problems of law enforcement agencies and by formulating recommendations that will improve relations with the communities. By performing data-driven and evidence-based analyses of specific issues, oversight agencies can pinpoint areas of concern and formulate recommendations for improvement.

We conducted interviews with several leaders of civilian oversight agencies throughout the country who agreed providing staff support is critical. Those interviewed agreed that dedicating staff time to preparing for public meetings, executing public meetings, serving as a point person for communication with the police department, and preparing different types of work product to communicate the agency’s work to the public, are critical to the agency’s success.

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<sup>12</sup> Udi Offer, executive director of the American Civil Liberties Union of New Jersey, “Getting it Right: Building Effective Civilian Review Boards to Oversee the Police”; Seton Hall Law Review; May 2016.

In fact, according to the Executive Director of the City of Albuquerque’s Civilian Police Oversight Agency (ACPOA), putting the staffing responsibility in an Ordinance approved by the City’s legislative body provides clear direction. As can be seen in the table below, the City of Albuquerque’s Code of Ordinances provides directions about staff duties provided to its Community Policing Councils (CPCs).

*Figure 9: Albuquerque Code of Ordinances Prescribing Staffing Support for the Community Policing Councils*

<p><b>City of Albuquerque Code of Ordinances sec. 9-4-6-7 CITY COLLABORATION WITH, AND STAFFING OF THE COMMUNITY POLICING COUNCILS</b></p>	<p>(A) Community Policing Councils are funded as part of the budget of the Civilian Police Oversight Agency. Subject to budget sufficiency and appropriation, the city shall provide sufficient funds to the Civilian Police Oversight Agency to ensure that the Community Policing Councils can fulfill their duties...</p> <p>(C) The Civilian Police Oversight Agency shall provide staff and administrative support to the Community Policing Councils, including:</p> <ul style="list-style-type: none"> <li>(1) Subject to budget sufficiency, appropriation, and city personnel policies and procedures, employing staff, including but not limited to a liaison and an administrative assistant, who are responsible for: <ul style="list-style-type: none"> <li>(a) Taking minutes at Community Policing Council meetings;</li> <li>(b) Publishing Community Policing Council meeting minutes, agendas, and annual reports on the Community Policing Council website;</li> <li>(c) Communicating with and coordinating resources for the Community Policing Councils;</li> <li>(d) Keeping the Community Policing Councils informed of Department developments including but not limited to information related to the CASA;</li> <li>(e) Community outreach plans; recruitment plans; and overall strategic goals and objectives;</li> <li>(f) Providing support to Community Policing Councils for recruitment activities and recruitment planning;</li> <li>(g) Notifying Community Policing Councils of potential recruitment opportunities;</li> <li>(h) Helping ensure that each Community Policing Councils' selection process is fair, transparent, non-discriminatory, includes a representative cross-section of the community, and ultimately results in at least a CPC that satisfies the minimum membership and duties of §§ 9-4-6-1 et seq.; and</li> <li>(i) Providing materials and supplies to the Community Policing Councils to support the Community Policing Councils in fulfilling their duties.</li> </ul> </li> </ul>
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Source: City of Albuquerque Code of Ordinances

The City of Sacramento created the SCPRC to strengthen the relationship between the SPD and the communities they police in order to provide the public a voice in law enforcement policies and practices. The City Code directs the SCPRC to provide the following three duties:

Figure 10: City Code section Prescribing Powers and Duties of Sacramento Community Police Review Commission

<p><b>Sacramento City Code sec. 2.110.030 - Powers and duties of commission.</b></p>	<p>A. The commission shall advise and make recommendations to the city council regarding police policy, procedures, and best practices, including those related to community relations, hiring, and training best practices.</p> <p>B. The commission shall review quarterly reports prepared by the office of public safety accountability consistent with California Penal Code section 832.7(c), relating to the number, kind, and status of all citizen complaints filed against police department personnel, to determine whether there are patterns of misconduct that necessitate revisions to any police policy, practice, and procedure.</p> <p>C. At least annually, to report and make recommendations to the mayor and the city council regarding the activities of the commission and the Sacramento Police Department's efforts to strengthen bias-free policing and community-police relations.</p>
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Source: Sacramento City Code

As stated in the Background section, the City has not directly allocated any funds in the budget specifically for staffing the SCPRC. Rather, staff support for the SCPRC is provided by the Office of Public Safety Accountability (OPSA), which is required by the City Code.<sup>13</sup> In fact, when the City Council approved the augmentation of OPSA's and SCPRC's separate missions in November 2016, the City Council specifically increased OPSA's staffing levels with the acknowledgment that OPSA would provide staff support to the SCPRC. However, the City Code lacks specificity on the level, degree, or definition of staff support that OPSA is responsible for providing the SCPRC.

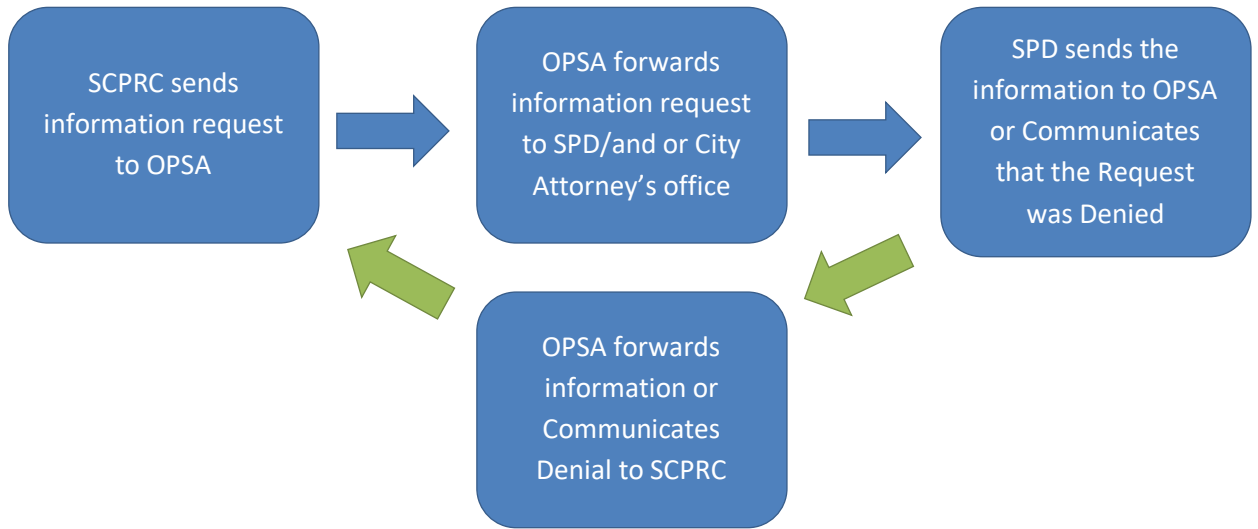
According to OPSA management and SCPRC Commissioners, the staff support is limited to two functions. First, OPSA assists staging SCPRC meetings in compliance with the state open meetings laws, which includes docketing, creating agendas and staff reports, and ensuring public access to meeting information.<sup>14</sup> Notably, during the course of this audit, the City Clerk's Office started providing this support. Second, as discussed in Finding 1, OPSA has served as a liaison between the SCPRC and the SPD to facilitate communications and data requests. More specifically, SPD and the SCPRC have agreed on a process for the SCPRC to provide all

<sup>13</sup> Sacramento City Code sec. 2.110.070 – Chairperson and organization of the commission. The commission may adopt rules and procedures for the conduct of its business and may do any other things necessary or proper to carry out its functions, which may include the formation of one or more subcommittees. Staff support to the commission shall be provided by the office of public safety accountability.

<sup>14</sup> The Ralph M. Brown Act governs open meetings for local government bodies. The law guarantees the public's right to attend and participate in meetings of local legislative bodies. The Brown Act is contained in section 54950 et seq. of the Government Code.

information and document requests to OPISA, which then forwards the request, and works with SPD to recover the information, and then sends the information back to the SCPRC. In the event of disagreements between SPD and SCPRC about the production of records, OPISA essentially serves as a middleman carrying messages back-and-forth between the two agencies.

*Figure 11: Flow of Information Requests from SCPRC through OPISA to SPD*



Source: City Auditor’s Office

Both OPISA and SCPRC agree, OPISA serving as intermediary between SCPRC, the SPD and other City departments is improper for several reasons. First, OPISA is an independent agency and becoming engaged in inter-agency communications about document production may create the perception the OPISA’s independence is compromised.<sup>15</sup> Second, OPISA serving in this role creates the perception with the public and community that OPISA and SCPRC are the same agency which may confuse the public about OPISA’s role as an independent investigator of public service complaints. Finally, the duties of the agencies are not aligned, and staff hired by OPISA, in part, to investigate use of force complaints may not be transferrable to the support needed by the SCPRC such as running public meetings, liaising with police for issues like document production, and data analysis.

As described above, one of the critical reasons that OPISA’s budget was augmented in the City Council’s November 2016 ordinances establishing OPISA and the SCPRC, was that “OPISA be responsible for staffing the Community Police Review Commission.” Additionally, as part of the discussion approving the establishment of the SCPRC, OPISA, and providing additional staff to OPISA to assist the SCPRC, one City Councilmember stated, “[O]ne thing I do like about this proposal is the additional staff for OPISA so that we can get those data requests faster because I think it’s really important for them to have the information that they are requesting.”

<sup>15</sup> Sacramento City Code sec. 2.22.010 – Office of public safety accountability created. There is created an office of public safety accountability, to be headed by a director appointed by the city council. The director shall be a city officer under Section 70 subdivision (d), of the charter. The office shall have such staff and budgets as the city council may prescribe. The director shall appoint all other members of the office.

Additionally, during the course of this audit, OPSA transferred the responsibility of administrative support for the SCPRC meetings to the City Clerk’s Office.

Meanwhile, according to SCPRC Chair, Vice Chair, the SCPRC would benefit from staff support to conduct data analysis and research. However, as previously stated, due to the lack of specificity on what “staff support” means, it is unclear whether data analysis or research support is outside of OPSA’s responsibilities.

According to SCPRC Chair and Vice Chair, the lack of staff support has resulted in the SCPRC’s inability to sufficiently fulfill its City Code mandated purpose and duties. For example, in order to manage its workload, the SCPRC establishes Ad Hoc Committees, such as the Mental Health Ad Hoc and the Use of Force Ad Hoc Committees, to focus on specific issues and formulate recommendations related to these issues. The amount of data can be voluminous for many of the issues which require professional data analysis expertise. The SCPRC, a body comprised of volunteers, is not provided any staff support to collect, organize, and aggregate the data in a usable format, perform data analysis, and complete a report. As a result, SCPRC is limited in its ability to conduct analysis to determine strengths and weaknesses in police operations, identify patterns and trends in law enforcement, and aggregate the information in a comprehensive and presentable format that includes background and context of the issues for the public and the City Council.

The SCPRC’s struggle to adequately perform its duties has taken the notice of City leaders. From its inception through June 15, 2021, the SCPRC has presented to the City Council six times – three of which occurred in 2021. The materials for these presentations have consisted of a brief staff report and a list of recommendations. These reports and recommendations have been missing a full recounting of the public record. At least one City Councilmember has been publicly critical of the materials provided to City Council related to SCPRC recommendations.

This critique was focused on the lack of background and context needed to provide the City Council and public adequate information. In fact, one Councilmember in a June 2021 meeting referred to the materials submitted to City Council for review as “not acceptable.”

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*“I want it to be fixed in the future. I want us to be better than this. I want our reports to be clear so that the public can follow along and be proud of the progress their City is making.”*

*-Councilmember Angelique Ashby*

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This lack of resources for the SCPRC has resulted in disagreements between SCPRC, the SPD, and OPSA. The City Code is silent on what duties should be included in staffing, such as how much time should be allocated and who should assist the SCPRC in performing its mandated purpose and duties. According to the SCPRC Chair and Vice Chair, disagreements about the staffing levels creates the risk of continued tensions and results in a lack of confidence from the public.

During the course of this audit, leadership across the City expressed the interest and desire to engage in a dialogue to determine the staff support needs of the Commission in relation to its purpose, powers, and duties. We believe the City could benefit from facilitating discussions between the SCPRC, the City Manager’s Office, the SPD, OPSA, and relevant community groups to determine the staffing and funding needs for the SCPRC. We



believe it may be valuable for the City to engage subject matter experts in the formation or revitalization of citizen oversight law enforcement, such as the NACOLE or the U.S. Department of Justice, to provide best practice recommendations and assistance related to staffing the community oversight function. The outcome of these discussions should be the determination of the staff support needs of the Commission in relation to its purpose, powers, and duties.

## RECOMMENDATION

**We recommend the City Council:**

- 2. The City Council should determine the staffing needs and responsibilities, and funding for the Sacramento Community Police Review Commission. The City Council should memorialize the specific role of staff provided, the funding source, and what City office or department will house the position, through resolution or codifying the changes in the City Code.**

### **The City Code does not require SCPRC Commissioners to complete training on procedure, law, or current and emerging issues in policing and law enforcement**

The effectiveness of a civilian oversight of law enforcement function is dependent on a host of factors including the training and expertise of oversight personnel. Training provides civilian oversight board members the opportunity to learn more about current policing policies and liaise with police officers to foster trust between the agencies. Currently, there are no requirements for current or new Sacramento Community Police Review Commission (SCPRC) members to complete any training on policing issues. This increases the risk that the Sacramento Police Department (SPD) will find that recommendations are not practicable in the current law enforcement environment or that recommendations are prohibited by law.

The National Association for Civilian Oversight of Law Enforcement (NACOLE) states that the effectiveness of oversight in any community is dependent on a host of factors including the training and expertise of oversight personnel, and acceptance by the local law enforcement agency and community.

NACOLE, in a publication titled, *Guidebook on Implementation*, recommends that the agency forming a citizen oversight function should consider how training and development will be regularly provided to agency staff and/or volunteers. All board or commission members should receive training, shortly after appointment, on the policies and procedures of their local law enforcement agency, the basics of civilian oversight, and the authority and responsibilities associated with their role as a board or commission member. The development and deployment of the training should include members of the overseen law enforcement agency. Policy and training recommendations should include, to the greatest extent possible, specific details, relevant examples and resources, and actionable language to guide proposed actions for the law enforcement agency.

In conducting interviews and benchmarking for this project, leaders of community oversight agencies touted the importance of requiring training as an opportunity to both educate commissioners on what policing in the community entails, the application of the policies in real time situations, and building relationships with police personnel.

We conducted a review of 45 civilian oversight agencies in cities with populations between 250,000 and 1.4 million and found that about half include training for new civilian oversight agency members prior to taking the position. Many of these agencies include annual training requirements for agency members. The type of training ranges and differs on the types of authority vested in the agency. Additionally, as can be seen in figure 12, the requirements for training exist at different authoritative levels. For example, some requirements are stated in the City Code, others are required in an enacting ordinance, while others are required by the agency policies and procedures. Below are a series of examples of training requirements from civilian oversight agencies in different levels of authorities, such as City Codes, ordinance, bylaws, and policies and procedures. These examples are not provided as recommendations to adopt these training requirements verbatim, rather they are offered to provide insight into how other agencies have codified different training requirements.

*Figure 12: Examples of Training Requirements for Civilian Oversight Commissions.*

City/ Agency	Training Requirement
<b>City of Minneapolis Police Conduct Oversight Commission (PCOC)</b>	<p>The City of Minneapolis included minimum training requirements for the PCOC members in its Code of Ordinances. Specifically, the Code requires that:</p> <ul style="list-style-type: none"> <li>• All members must participate in an annual training session as arranged by the Minneapolis Department of Civil Rights.</li> <li>• All new members must complete training in the following subject areas as arranged by the Minneapolis Department of Civil Rights: police use of force, Minnesota Government Data Practices Act, Open Meeting law, the Minnesota Public Employee Labor Relations Act, ethics and conflict of interest.</li> </ul> <p>Within two (2) years of appointment, all new members must complete the portions of the Citizen's Academy as determined by the Minneapolis Department of Civil Rights.</p>
<b>City of Memphis Civilian Law Enforcement Review Board</b>	<p>The City of Memphis included in the enacting ordinance that created the CLERB. The ordinance requires that new CLERB members shall as part of their training complete the Citizens Police Academy, participate in an official ride along, and become familiar with Memphis Police Department policy and procedures.</p>
<b>City of Long Beach Citizen Police Complaint Commission (CPCC)</b>	<p>The Long Beach City Charter requires that CPCC Commissioners shall attend at least one training day every year and one Long Beach Police Department ride-along in their first 60 days of City Council approval as a Commissioner.</p>
<b>City of Albuquerque Civilian Police Oversight Agency (ACPOA)</b>	<p>The ACPOA's training requirements are vested in the agency's policies and procedures. According to the policies,</p> <ul style="list-style-type: none"> <li>• Upon initial appointment new board members must complete an orientation covering the CPOA's policies and procedures and attend at least one meeting as an observer.</li> <li>• Within the first six months, the Board member must complete a minimum of 24-hours of training consisting of: (1) completion of portions of the Albuquerque Police Department ("APD") Civilian Police Academy that the Albuquerque Police Department (APD) determines are necessary for the Board to have a sound understanding of the Department; (2) Civil rights training; (3) at least two APD ride-alongs; (4) annual firearms simulation training; (5) Internal Affairs training; (6) APD use of force training; (7) Equity and Cultural Sensitivity training; (8) training on state and local laws regarding public meetings and the conduct of public officials, including inspection of public records, governmental transparency, and ethics.</li> <li>• Board members shall receive eight hours of annual training on any changes in law, policy, or training. Board members shall participate in at least two police ride-alongs for every six months of service on the Board.</li> </ul>

Source: Office of the City Auditor based on public records

As can be seen above, there is a great variability in how different agencies prescribe training requirements, the amount and type of training that must be completed, and how often.

There are currently no requirements in the Sacramento City Code, in any ordinance or resolution, or in SCPRC policies that requires newly appointed commissioners to complete training before taking the position or current commissioners to refresh or complete additional training. Representatives of the SCPRC, the SPD, and OPSA all lamented the absence of required training as a missed opportunity.

Representatives of the SPD noted that prior to the City-wide closures related to the COVID-19 pandemic, there was some training available to SCPRC Commissioners. For example, this training included providing new and current SCPRC Commissioners access to the Police Academy. However, SPD leadership pointed out that not all Commissioners attended as it was not mandatory. According to one SPD official, "I would love there to be some formal training program. There is no formal system in place."

Additionally, according to the OPSA Director, there was an orientation curriculum in development for new SCPRC Commissioners prior to the City-wide pandemic-related closures. The proposal included courses from the City Clerk's Office related to parliamentary procedure and the Brown Act, a series of meetings pertaining to collective bargaining and the Police Officer Bill of Rights hosted by the Sacramento Police Officers Association, and a City Attorney's Office presentation on confidentiality and the role to the SCPRC. As of the issuance of this report, these efforts have all ceased.

We believe the City could benefit from facilitating discussions between the SPD, OPSA, and consult with City Attorney's Office and professional organizations such as NACOLE, to determine training topics, subject, and coursework for new and existing SCPRC Commissioners. We believe these discussions should include curriculum, frequency of training, who will provide the training, and funding needed to support the continuing education of the SCPRC Commissioners. Additionally, these discussions should determine the consequences for SCPRC members who do not complete the trainings.

## **RECOMMENDATION**

### **We recommend the City Council:**

- 3. The City Council should determine the training curriculum that SCPRC Commissioners should be required to complete and potential remedies if training is not completed.**
- 4. The City Council should codify the training requirements for the Sacramento Community Police Review Commission in, at minimum, City Council ordinance. The Sacramento Community Police Review Commission also should include the training requirements in its policies and procedures.**

## **The City does not provide sufficient tools to allow the Sacramento Community Police Review Commission to communicate with the public and stakeholders about recommendations, meetings, and goals thereby preventing the fulfillment of its purpose**

Effectively communicating the benefits of police oversight in the government or the community is a critical component of creating a bridge between the community and the police agency. The City can increase the SCPRC's ability to communicate with the public – such as provision of a more robust internet presence – and can more effectively build awareness of the City's efforts to increase community engagement in law enforcement policies.

According to the National Association for Civilian Oversight of Law Enforcement (NACOLE), outreach enables an oversight agency to build awareness to its existence, share reports and findings with the public, build relationships with stakeholders, recruit volunteers, solicit community input and involvement, facilitate learning and greater understanding, broker improved relationships, build coalitions, and develop a greater capacity for problem-solving. These functions are crucial to an agency's transparency, credibility, responsiveness, accountability, and accessibility, and overall ability to successfully maintain public support and legitimacy.

According to the *Final Report of the President's Task Force on 21<sup>st</sup> Century Policing*, the use of technology can improve policing practices and build community trust and legitimacy, but its implementation must be built on a defined policy framework with its purposes and goals clearly delineated. Implementing new technologies can give police departments an opportunity to fully engage communities in a dialogue about their expectations for transparency, accountability, and privacy.

Social media is a communication tool that police departments are using to engage the community on issues of importance to gauge community sentiment regarding the agency's policies and practices. To engage the community, social media must be responsive and current. Agencies should also develop policies and practices on social media use that consider individual officer expression, professional representation, truthful communication, and other concerns that can impact trust and legitimacy.

A survey of nearly 200 police agencies published in the *Final Report of the President's Task Force on 21<sup>st</sup> Century Policing* indicates that police departments are moving towards engaging the community through the use of websites and social media platforms. Figure 13 shows the results of the task force survey on social media use.

Figure 13: Types of Social Media currently used by law enforcement agencies

Social Media Type	Percent of responding agencies currently using	Percent of responding agencies plan to begin using in 2 to 5 years
Agency website	100%	-
Facebook	82%	14%
Twitter	69%	18%
YouTube	48%	20%
LinkedIn	34%	20%

Source: Final Report of the President’s Task Force on 21<sup>st</sup> Century Policing<sup>16</sup>

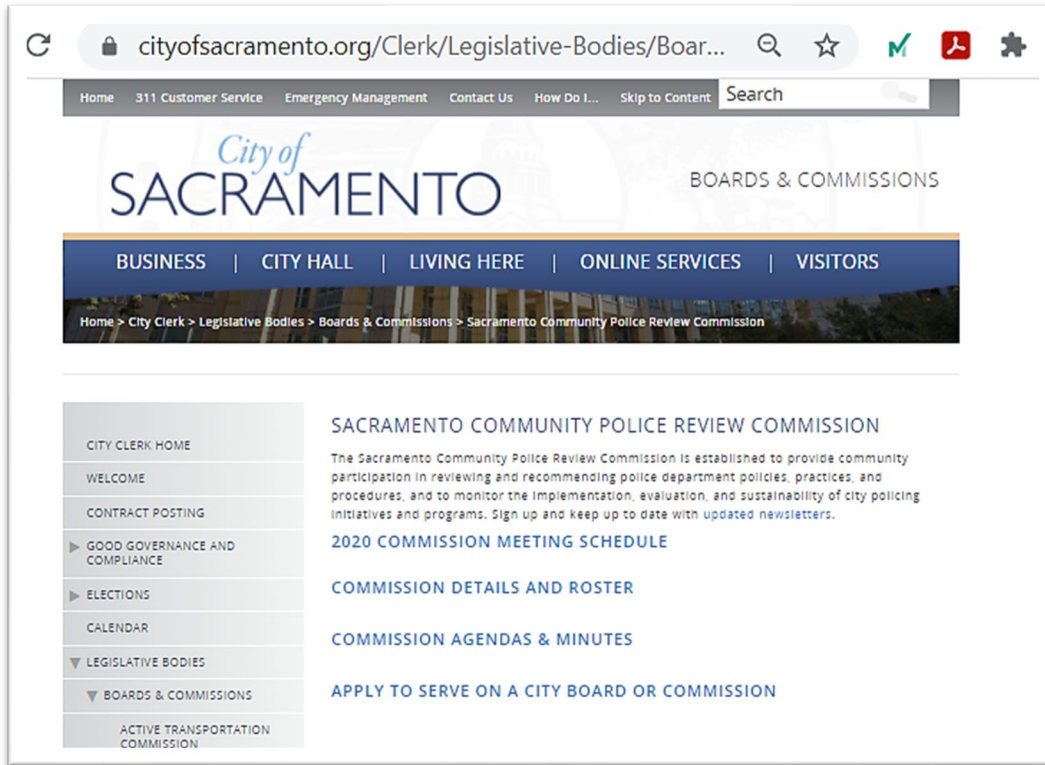
As can be seen, all 200 respondents stated they had an agency website. Additionally, many of these agencies are communicating through social media platforms or plan to do so in the next few years.

Similarly, we found that many civilian oversight agencies have made investments in bolstering their internet presence as a way of reaching the community. We conducted a review of 45 civilian oversight agencies in cities with populations between 250,000 and 1.4 million and found that 39 agencies – nearly 90 percent – maintained websites that included information about the oversight agency, description of its function, its policies and procedures, annual reports, recommendations, meeting minutes, agendas, and accomplishments.

In contrast, the City of Sacramento has provided the SCPRC a bare bones web page that includes only a link to SCPRC agendas and meeting minutes.

<sup>16</sup> Police Executive Research Forum, *Future Trends in Policing* (Washington, DC Office of Community Oriented Policing Services, 2014), (URL: <http://ric-zai-inc.com/Publication/cops-p282-pub.pdf>). Note: PERF, with the support of the COPS Office of Target Corporation, disseminated a “Future of Policing” survey in 2012 to more than 500 police agencies; nearly 200 responded.

Figure 14: Sacramento Community Police Review Commission website.



Source: City of Sacramento

As can be seen above, the SCPRC’s website includes no information about the accomplishments, no access to SCPRC recommendations, no background information, and no information about SCPRC policies and procedures. As discussed above, we conducted a review of 45 civilian oversight agencies in cities with populations between 250,000 and 1.4 million and found that just six agencies – about 13 percent — had a limited internet presence and lack of posted information similar to the SCPRC’s.

According to the SCPRC Chair and Vice Chair, this SCPRC website is the only method the City has provided to communicate with the public, outside of the recorded public agendas and meetings. Members of the SCPRC lamented that its recommendations are only available to the public through the “minutes” portion of the site. In other words, if a member of the public wanted to learn more about a particular Commission recommendation, they would have to review the meeting minutes of every meeting until they located the specific meeting where the recommendation was passed. According to the SCPRC Chair and Vice Chair, requiring a member of the public to engage in this process is overburdensome and unreasonable. Additionally, if the public wanted to see the SPD response, a member of the public must locate the discussion in the City Council meeting agenda item, meeting minutes, or video of the City Council meeting on the City’s website in which the SPD presented recommendation responses.

The SCPRC Chair and Vice Chair stated that they believe the SCPRC is not permitted to utilize social media—such as Facebook—to broadcast information about the SCPRC because the information is considered an official City of Sacramento communication. The SCPRC Chair and Vice Chair stated the lack of communication with the public

is resulting in a loss of faith in the Commission because it has limited options to communicate goals, accomplishments, and no forum to invite dialogue.

We believe the City should seek to increase the SCPRC's outreach to the public in order to enable the agency to build awareness to its existence, share reports and findings with the public, build relationships with stakeholders, recruit volunteers, solicit community input and involvement, facilitate learning and greater understanding, broker improved relationships, build coalitions, and develop a greater capacity for problem-solving.

## **RECOMMENDATION**

**We recommend the City Council:**

- 5. Identify resources to provide the Sacramento Community Police Review Commission with an increased internet presence.**
  
- 6. Work with the Sacramento Community Police Review Commission, the City Manager's Office and City Council to develop policies and procedures for communicating with the public.**

### **The Sacramento Community Police Review Commission does not issue an annual report that comprehensively reflects the agency's work and is available to the community and stakeholders**

The Sacramento Community Police Review Commission (SCPRC) was created to provide a bridge of involvement between the community and Sacramento Police Department (SPD) in creation and application of law enforcement policies and practices. As such, the SCPRC's communication of its goals and accomplishments to the public is critical to its credibility. A civilian oversight agency should, at a minimum, issue one written report to the public each year. Since its inception in 2016, the SCPRC has provided very limited information on its annual activities and has not issued an independent annual report that comprehensively communicates its visions, recommendations, and accomplishments.

The Sacramento City Code states a key purpose of the SCPRC is: "Providing community participation in reviewing and recommending police department policies, practices, and procedures". As such, the City Code requires SCPRC to "[a]t least annually, report and make recommendations to the Mayor and the City Council regarding the activities of the commission and the Sacramento Police Department ...."

This code is consistent with best practices provided by the National Association of Civilian Oversight of Law Enforcement (NACOLE), which states that oversight provides a unique opportunity for the public to learn about misconduct complaints and other areas of the law enforcement agency that serves the community. As such, issuing regular public reports is critical to an agency's credibility. A civilian oversight agency should include in their written report information describing the agency's mission, authority, activity, and accomplishments for the reporting period. Reports should be written in an accessible manner that allows the public to clearly

understand the agency’s authority, purpose, procedures, and accomplishments. The report should include as much information related to the agency’s mandate and operations as can be disclosed by law.

We conducted a review of 45 civilian oversight agencies in cities with populations between 250,000 and 1.4 million to determine whether agencies in similarly sized cities produce an annual report, whether that report lists the recommendations, and if the report is publicly available on the City’s website. We found that 60 percent of these agencies, or 27 of 45, produce an annual report that lists activities, such as recommendations, that are made publicly available on the city’s website. These annual reports provide a breadth of information about the agency’s activities such as accomplishments and recommendations made over the years. Figure 15 provides examples of oversight agencies that produce and issue annual reports publicly. Notably, some of these agencies have different powers and authorities than the SCPRC. However, these are offered to provide examples of information that other agencies include in an annual report.

*Figure 15: Description of contents of annual reports produced and publicly released by civilian oversight agencies*

Civilian Oversight Agency	Contents of Annual Report
<b>City of Anaheim Police Review Board (APRB)</b>	<p>The annual report includes:</p> <ul style="list-style-type: none"> <li>• information about the APRB Board member background, district represented, terms, the training and orientation completed;</li> <li>• outlines APRB responsibilities and the mission statement;</li> <li>• a description of community events attended by the APRB including the date, community groups hosting the event, and which board member attended;</li> <li>• a description of the topics studied by the board and each recommendation made by the APRB that year; and</li> <li>• the APRB’s topics slated for study in the upcoming year.</li> </ul>
<b>City of Cincinnati Citizen Complaint Authority (CCCA)</b>	<p>The annual report includes:</p> <ul style="list-style-type: none"> <li>• an overview of the CCCA including the history and responsibilities;</li> <li>• background of CCCA board members and staff including steps taken for training and development; and</li> <li>• a description of the community engagement including the date and community group event.</li> </ul>
<b>City of Greensboro Criminal Justice Advisory Commission (GCJAC)</b>	<p>The annual report includes:</p> <ul style="list-style-type: none"> <li>• a background about the GCJAC including an overview of its formation, mission, vision, and roles and responsibilities;</li> <li>• the GCJAC Commissioners attendance record and Commissioner appointments and changes;</li> <li>• a description of recommendations made to the Greensboro Police Department;</li> <li>• information about the formation and work conducted by GCJAC subcommittees; and</li> <li>• listing GCJAC goals for the upcoming year.</li> </ul>

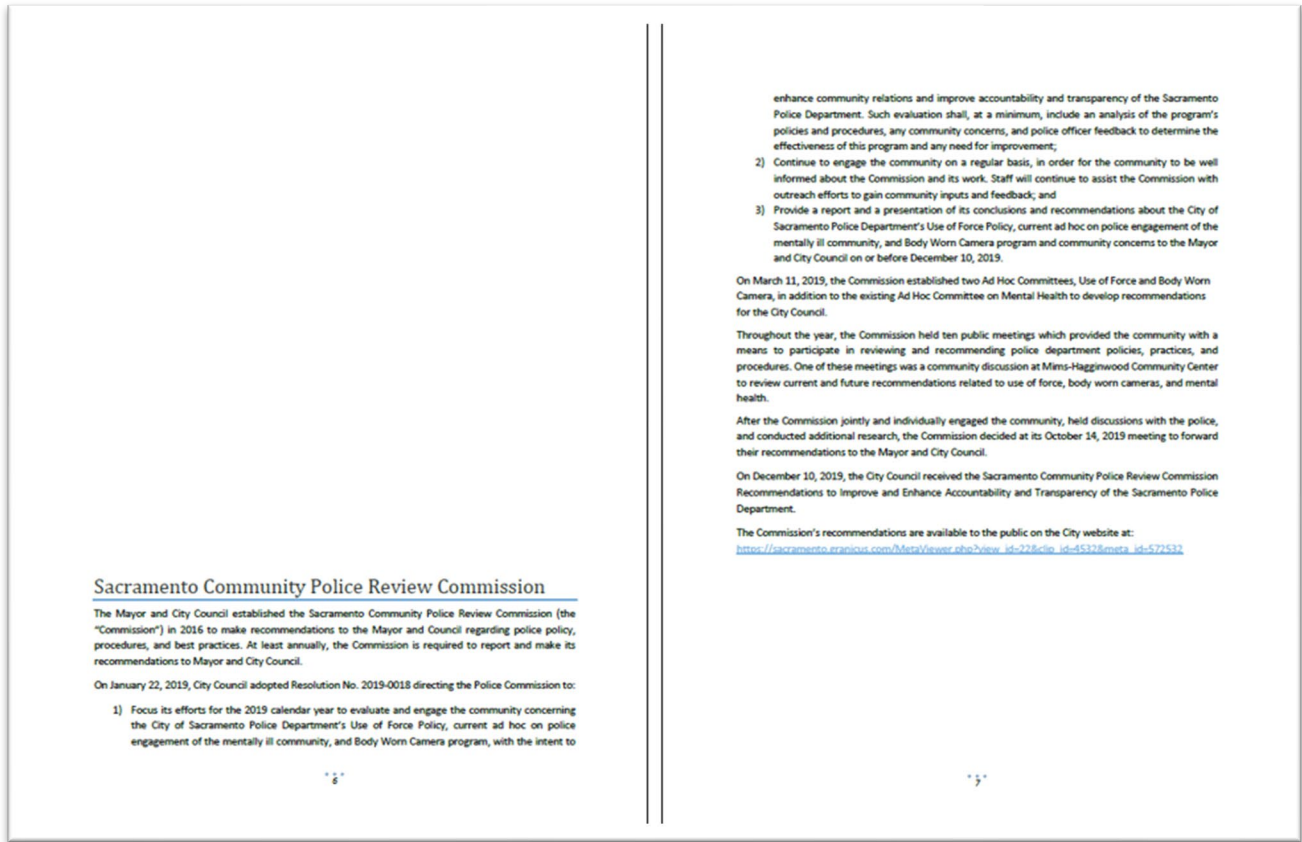


<b>City of Nashville Community Oversight Board (NCOB)</b>	<p>The annual report includes:</p> <ul style="list-style-type: none"> <li>• background information about the NCOB including historical information about its formation, function and mission, hyperlinks to the bylaws, and information about members;</li> <li>• information about a Memorandum of Understanding entered into with the Nashville Police Department;</li> <li>• information about allegations reviews concluded;</li> <li>• information about complaint allegations, demographics, and outcomes;</li> <li>• descriptions of policy reports and recommendations; and</li> <li>• information about community engagement conducted throughout the reporting period including the number of community events attended, concerns raised by the community and responses by the NCOB.</li> </ul>
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*Source: Office of City Auditor, based on oversight agency websites.*

While the SCPRC has not issued its own comprehensive annual report, the SCPRC did make presentations to Council in 2019, 2020, and 2021 that included a list of recommendations. However, these recommendations were not in the form of a comprehensive, annual report and did not provide background or justification in a standardized consistent, annual report format used by other oversight agencies we reviewed. While the City Code does not provide any specific direction pertaining to annual reporting requirements, the Office of Public Safety Accountability’s (OPSA) annual reports for 2018 and 2019 did include a brief description of the SCPRC’s activities such as listing groups and organizations the SCPRC met with. Below is the SCPRC’s annual reporting that was included in OPSA’s annual report for calendar year 2019.

Figure 16: Sacramento Community Police Review Commission Annual Reporting for 2019



Source: Office of Public Safety Accountability's annual report covering calendar year 2019.

Notably, the SCPRC in 2019 made a total of 33 separate recommendations and included 30 pages worth of strikeout edits to the SPD's policies covering Foot Pursuits<sup>17</sup> and the Use of Force policy.<sup>18</sup> However, as seen above, the brief report does not identify the recommendations approved by the SCPRC. The report also does not provide information about SPD's efforts to strengthen bias-free policing and community-police relations, as required by the City Code.

According to the SCPRC Chair, a more comprehensive and detailed annual report is not produced because the City Code does not specifically spell out that requirement. Additionally, the SCPRC Chair stated that the workload required to produce an annual report is too great for the volunteer committee already grappling with workloads to review policing issues and formulating recommendations.

As stated above, the City Code does not provide direction on the form the reporting should take. Additionally, the City Code does not indicate what department is responsible for assisting in its production.

<sup>17</sup> Sacramento Police Department General Order 580.13

<sup>18</sup> Sacramento Police Department General Order 580.02

Due to the lack of a publicly disclosed comprehensive annual report, the SCPRC lacks the ability to effectively communicate to the public the work it has completed, the recommendations issued for the year, or provide an outlook for issues the SCPRC will undertake in the upcoming year. In addition, including the SCPRC's annual report within OPESA's report may create the perception that the SCPRC and OPESA are the same entity.

We believe the City could benefit from facilitating discussions between the SCPRC, OPESA, the City Manager's Office, and the City Council to determine whether the SCPRC should be responsible for producing an annual report, identify the desired content of the report, and determine how the report will be produced.

## **RECOMMENDATION**

**We recommend the City Council:**

- 7. Clarify whether the Sacramento Community Police Review Commission is responsible for issuing its own annual report. The clarification should specify the agency required to complete the report, the frequency of the report production and provide direction on the information that should be included in the report, such as recommendations, plans for the upcoming year, and information about public outreach.**

### **The City and the community have not established goals or identified measures to evaluate the long-term performance of the Sacramento Community Police Review Commission**

To ensure continued community involvement in the establishment and review of law enforcement policies and practice, oversight agencies should be periodically evaluated. However, the City has not identified, tracked, or evaluated any performance metrics to measure the success of the Sacramento Community Police Review Commission (SCPRC) since its inception in 2016. We believe the City should engage the community and review best practices to determine SCPRC goals and conduct periodic reviews to evaluate performance.

Oversight agencies are sometimes created in reaction to crisis incidents without careful thought given to long-term functionality, goals, obligations, and performance. The initial focus is usually short-term procedural goals, which are important but can result in agency design that does not sufficiently serve the community in the long run. As such, civilian oversight agencies should be evaluated periodically to identify strengths, weaknesses, accomplishments and promote continuous improvement.

The National Association of Civilian Oversight of Law Enforcement (NACOLE) recommends requiring the tracking of performance indicators, such as recommendations implemented or major police department policy changes, which can increase the overall success of an agency.

We reviewed other civilian oversight boards and found that many of these agencies track and report on specific data points that shed light into their effectiveness. For example, the Albuquerque Community Policing Councils (CPCs) report on the number of community meetings CPC members attended, the number of meetings held by the CPCs and the CPC member and the public in attendance, and number of recommendations issued. Similarly, the City of Seattle's Community Police Commission tracks and reports on the number of engagements and

meetings Commissioners attend, the number of attendees, and the number of different communities engaged. This data is aggregated and presented annually to illustrate the long-term strengths and weaknesses of the agency's work.

NACOLE also recommends occasionally sampling community groups to get a sense of how many people know that your agency exists. It is recommended that each agency sets goals to increase the percentage of citizens that not only are aware of the agency but have had opportunities to meaningfully engage with the process and help improve public safety in their own community.

The City has not established measurable performance metrics or engaged in a discussion about whether the Commission has been effective in meeting its objectives. The Chair and Vice Chair of the SCPRC, stated in interviews that data such as performance indicators have not been tracked to show strengths or weaknesses, such as recommendations implemented, or community members engaged. Additionally, the City has never discussed what performance metrics should be tracked and how often they should be reported.

As a result, the City has no empirical or testimonial evidence from the SCPRC, SPD, and community about whether what they are doing is working. This creates the risk that the community will lose faith in the organization and result in less public support for the police.

We believe the City could benefit from facilitating discussions between the SCPRC, the SPD, the community and relevant stakeholders to determine key performance metrics that should be tracked. These conversations should include input from the SPD and OPSA, as experts in law enforcement policies and practices. We believe it may also be valuable for the City to engage subject matter experts in the formation or revitalization of citizen oversight of law enforcement functions, such as the NACOLE or the U.S. Department of Justice, to provide best practice recommendations and assistance in determining the appropriate performance metrics related to citizen and community oversight of the SPD. The metrics should be recorded by the SCPRC and periodically reviewed by the City and community members in order to determine the successes and failures, and strengths and weaknesses of the SCPRC's work.

## **RECOMMENDATION**

**We recommend the City Council:**

- 8. Identify key performance indicators to gauge the effectiveness of the Sacramento Community Police Review Commission in meeting its purpose and objectives.**

## Sacramento Community Police Review Commission has not been provided City of Sacramento email accounts

Allowing commission-related business to be conducted using personal email accounts could lead to administrative and recordkeeping issues. Sacramento Community Police Review (SCPRC) Commissioners have not been provided City email accounts and are conducting SCPRC business on personal email accounts. We believe the City should provide email accounts, include email requirements in City policies, and provide training on the policies.

There is risk in the use of personal email accounts for commission-related business. Allowing Sacramento Community Police Review Commission members to use personal email accounts to conduct business means that potentially confidential information is being stored on email servers outside of the City's control. In other words, there is no way of knowing all the places where City data is stored or where it is transmitted.

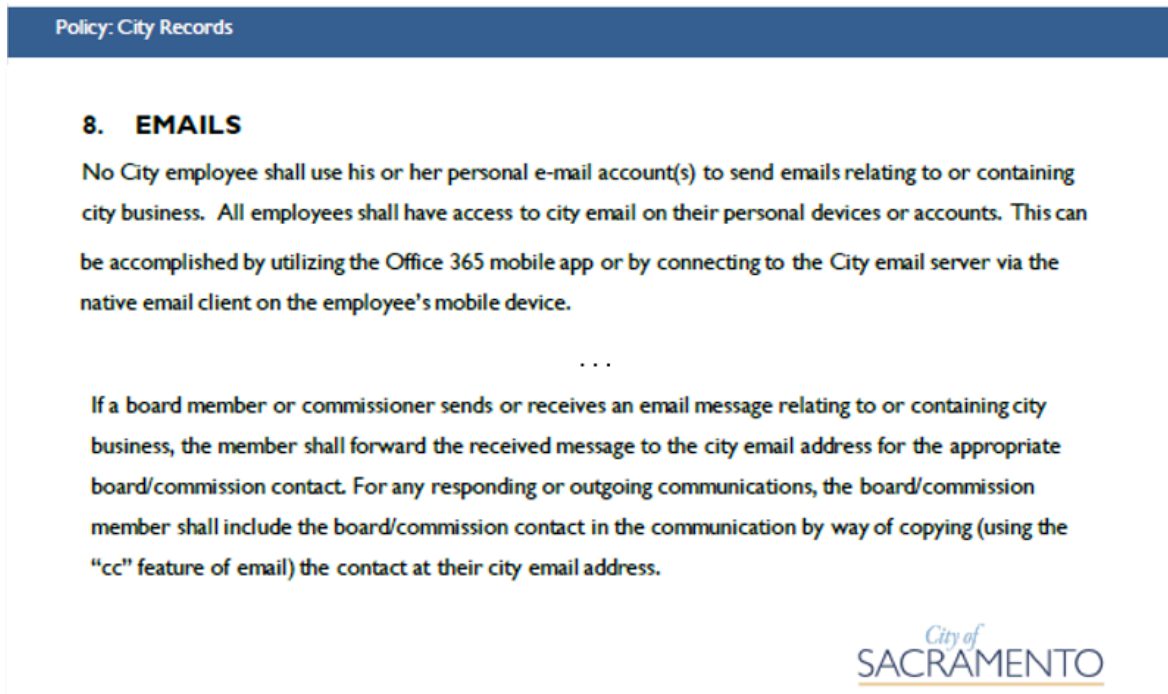
A personal email account used by a Commissioner is not covered by the City's security policies. For example, an employee may have agreed to Gmail's Terms and Conditions, but the City did not. As a result, although the City may have a good data privacy policy in place, an employee could bypass it by sending an email from a personal account. Additionally, a personal email account exists outside of the City Information Technology Department's (IT Department) control. This means that the City's IT Department has no backup, no archives for discovery, no security, no governance related to these communications.

Another concern is that if an employee or Commissioner conducts all of their business through their personal email, the City could lose access to all of that information when the employee or Commissioner leaves their position.

In order to mitigate the potential risk related to the loss of information through commissioner's use of personal email accounts, we recommend providing a City email address and establishing policies against the use of personal email for commission-related business. Best practices also recommend ensuring that remote or field employees can easily access company email systems using their own devices. For example, webmail interfaces are easy to set-up, and any compliance capture will see and preserve those emails even when sent from a home personal computer, laptop, smartphone, or tablet.

The City of Sacramento's current Record Management Policy prohibits City employees use of personal email accounts for City-related business. However, the policy does not appear to restrict a Commissioner's use of personal email for commission business. The policy instead provides specific direction related to Commissioner emails potentially responsive to public records act requests. The policy states:

Figure 17: City of Sacramento Records Management Policy



Source: Relevant portion of City of Sacramento's Records Management Policy

The policy assumes that Commissioners will be conducting City-related business on a personal email account. The policy requires that Commissioners forward any documents related to City business to the appropriate City official. This is the sole guidance pertaining to Commissioner email use.

The SCPRC Commissioners are not provided City email accounts to conduct commission-related business. As a result, Commissioners use their personal accounts for the work conducted as part of their role on the Commission. According to the SCPRC Chair and Vice Chair, personal email accounts are used for communicating with elected officials, the Sacramento Police Department (SPD), the Office of Public Safety Accountability (OPSA), the Sacramento City Attorney's Office (CAO), community leaders and stakeholders.

We believe that SCPRC Commissioners conducting commission-related business over personal email accounts creates a risk that could easily be mitigated by providing commissioners with City email accounts. Further, we believe the City should develop and implement a policy concerning the use of email by SCPRC Commissioners for commission-related business and provide training to the Commissioners concerning new policy requirements.

## RECOMMENDATION

**We recommend the City Council:**

- 9. Provide secure email accounts for Sacramento Community Police Review Commission Commissioners and require the use of these email addresses to conduct Commission-related business.**

**10. Develop and implement policies for email use and provide training to the Sacramento Community Police Review Commissioners.**

**Sacramento Community Police Review Commission access to information should be more clearly defined**

In order to provide effective and reasoned oversight, a civilian oversight agency must have access to police information, records, and personnel. However, the City Code is silent on the Sacramento Community Police Review Commission's (SCPRC) access to records maintained by the Sacramento Police Department and other City departments. This has led to disagreement about what information the SCPRC has access to and the timely production of these records.

The National Association for Civilian Oversight of Law Enforcement (NACOLE), states that access to the law enforcement agency's records is vitally important for effective civilian oversight. The ability to review records relevant to matters within the scope of a civilian oversight agency's authority in a timely manner is essential to providing effective, informed, and fact-driven oversight. Without timely and reliable access to department records, information, and facilities, oversight practitioners and volunteers cannot make decisions that meaningfully address areas of concern. This includes access to police agency records, but it also means access to decision makers in both the law enforcement agency and elected officials.

We conducted interviews with leadership of civilian oversight agencies that echoed the importance of codifying the specific authority provided to the agency in either the City Code, ordinance, or resolution. According to civilian oversight agency leaders, this provides guidance for disagreements but also provides criteria for the agency to point to in event of disputes.

According to the Criminal Justice Administrator for the Greensboro's Criminal Justice Advisory Commission, the information that the Commission has access to is spelled out in the ordinance that creates the civilian oversight agency. This creates the expectation the police will provide what the ordinance requires and also defines the limitations for what the Commission cannot have access to.

The Executive Director of the City of Albuquerque's Civilian Police Oversight Agency (ACPOA) echoed the need to codify the authority of the agency. The inclusion of the authority in the ordinance helps limit confusion about the roles and authorities of stakeholders.

We reviewed the access to records in several cities that have, similar to the City of Sacramento, implemented a Hybrid Civilian Oversight Structure of its law enforcement agency and found that many have codified the access by ordinance.<sup>19</sup> Notably, some of the civilian oversight agencies have different levels of authority and access to

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<sup>19</sup> As discussed in the Background section, according to NACOLE, civilian oversight agencies – particularly new ones – are increasingly adopting forms of oversight that go beyond the traditional review-focused, investigation-focused, and auditor-focused delineations by combining functions of several models. Hybrid civilian oversight exists where a jurisdiction may

information ranging from requiring the police department to provide information to granting subpoena authority to the commission. Additionally, California laws include restrictions on what information can be publicly released. Figure 18 shows the access to information authority granted to various police oversight agencies we surveyed.

*Figure 18: Authorities prescribing powers and duties to different civilian law enforcement oversight agencies.*

City – Agency	Authority Related to Access to Information
<p><b>City of Albuquerque, New Mexico</b></p> <p><b>Community Police Commissions</b></p>	<p>The City of Albuquerque established a hybrid oversight structure that includes the Civilian Police Oversight Agency, the Civilian Police Oversight Agency Board, and the Community Policing Councils (CPC). The City of Albuquerque provide direction in its Code of Ordinances related to the duties and responsibilities and information the CPC have access to:</p> <p><u>Code of Ordinances sec. 9-4-6-6 – DUTIES AND RESPONSIBILITIES.</u>            Each Community Policing Council shall:            (A) Facilitate communication, collaboration, consensus-building, and cooperation between the Albuquerque Police Department and the community. . . .            (D) Provide advice and recommendations to the Albuquerque Police Department in areas including:                (1) Reviewing and assessing the propriety and effectiveness of law enforcement priorities and related community policing strategies, materials, and training;                (2) Reviewing and assessing concerns or recommendations about specific Albuquerque Police Department policing tactics and initiatives;                (3) Obtaining information from the Albuquerque Police Department and conveying feedback from the community to the Albuquerque Police Department.</p> <p><u>Code of Ordinances sec. 9-4-6-7 – CITY COLLARBORATION WITH AND STAFFING THE COMMUNITIY POLICING COUNCILS.</u>            (1) Regularly communicating with the Community Policing Councils and the Community Policing Council Liaison;            (2) Providing information and speakers for meetings of and inquiries by the Community Policing Councils; . . .            (5) Holding an annual meeting between the Chief of Police, Mayor and the Chair of each Community Policing Council to present their annual reports, discuss progress and concerns.</p>
<p><b>City of Seattle, WA</b></p> <p><b>Community Police Commission</b></p>	<p>The City of Seattle’s Police Accountability System is comprised of the Office of Police Accountability (OPA), the Office of the Inspector General, and the Community Police Commission (CPC). The City of Seattle’s ordinance related to civilian and community oversight of the police provides specific direction related to the CPC’s access to records in pursuit of its purpose.<sup>20</sup></p>

have multiple agencies overseeing the same department, such as an independent investigative agency and a civilian board acting in an advisory capacity. Individual agencies assuming hybrid forms are increasingly common, but several jurisdictions have also created multiple agencies responsible for performing different oversight functions of the same law enforcement department.

<sup>20</sup> City of Seattle Ordinance 125315, Chapter 3.29 CIVILIAN AND COMMUNITY OVERSIGHT OF POLICE – 3.29.010 Purpose – Enhancing and sustaining effective police oversight (B) Oversight of SPD shall be comprised of . . . a Community Police Commission (CPC) to help ensure public confidence in the effectiveness and professionalism of SPD and responsiveness of the police accountability system to public concerns by engaging the community to develop recommendations on the police accountability system and provide a community-based perspective on law enforcement-related policies, practices, and services affecting public trust; all for the purpose of ensuring constitutional, accountable, effective, and respectful policing.



	<p><u>City of Seattle Ordinance 125315, sec. 3.29.380 (A), titled Community Police Commission – Access to and confidentiality of files and records</u></p> <p>For the purpose of reviewing closed [Office of Public Accountability] investigations to identify opportunities for systematic improvements, CPC and the Office of the CPC shall have access to unredacted complaint forms of all OPA complaints and unredacted files of all closed OPA investigations, except for information OPA would be required to withhold from persons not members of the criminal justice agencies pursuant to the Criminal Records Privacy Act, chapter 10.97 RCW.</p> <p>Notably, the ordinance includes language establishing limits to access by pointing to records that the agency does not have access to.</p>
<p><b>City of Pasadena, California</b></p> <p><b>Community Police Oversight Commission</b></p>	<p>The City of Pasadena recently created a hybrid system comprised of the Independent Police Auditor and the Community Police Oversight Commission (CPOC). The purpose of the CPOC is to enhance, develop, and strengthen community-police relations and review and make recommendations regarding the operations of the police department.<sup>21</sup> The City included in the City’s Code of Ordinances, the CPOC’s authority to request information through the issuance of subpoenas. Notably, the ordinance expressly limits the CPOC from directly or indirectly taking a role in personnel matters, using records developed to take personnel actions, and directing action be taken over police department employees.</p> <p><u>City of Pasadena Code of Ordinances sec. 2.60.110 – Purposes and functions.</u></p> <p>7. Administer oaths and issue subpoenas for the production of records (in any form, other than personnel records) and attendance and testimony of witnesses (not employed by the city at all relevant times) to carry out the commission’s functions, to the extent permitted by law; with the city clerk issuing such subpoenas under the seal of, and the chief of police causing such subpoenas to be served.</p> <p><u>City of Pasadena Code of Ordinances sec. 2.60.120 - Subpoenas.</u></p> <p>A. Subpoenas issued by the commission and/or the independent police auditor shall:</p> <ol style="list-style-type: none"> <li>1. Identify the commission as the body, or the independent police auditor as the person, issuing the subpoena;</li> <li>2. Identify the name and address of the party subpoenaed.</li> <li>3. State the time, place and location for the production of the records and/or testimony, at least seven days after service of the subpoena;</li> <li>4. Be narrowly tailored, and specifically describe the information which is sought;</li> <li>5. Identify the relevance of the records and/or testimony to the matters at issue;</li> <li>6. Notify the served party that if the records are not produced or the testimony is not given, the subpoenaing party may apply to the city council for an appropriate order or other remedy;</li> </ol> <p>B. Within no more than five (5) calendar days of being served with a subpoena issued in accordance with this article, the recipient of the subpoena may file a motion to quash the subpoena with the commission.</p> <p>C. If the records are not produced or the testimony is not given, the subpoenaing party may apply to the city council for an appropriate order or other remedy.</p>

*Source: Office of the City Auditor generated based on public records*

<sup>21</sup> The City of Pasadena concurrently created an Independent Police Auditor position tasked with advising and serving as a best-practice advisor to the CPOC; review categorical uses of force by Pasadena Police Department personnel to assess whether the police department's investigation was complete, thorough, objective, and fair; review investigations of personnel complaints of bias-based policing; where directed by or in conjunction with the commission, recommend changes to police department policies; and issue public reports.

As can be seen in the table, many of the ordinances noted above detail the level of access to information but also place limits on the access to information.

As discussed in the Background section, the City Council in November 2016 augmented the roles and responsibilities of the SCPRC. However, the City Code remains silent about the level of SCPRC's access to City records needed to fulfil its duties to make recommendations to City Council regarding SPD's policies, procedures and best practices, and monitoring the implementation, evaluation, and sustainability of city policing initiatives and programs.

According to the Chair and Vice Chair of the SCPRC, requests for information have been submitted by the SCPRC that SPD has not fully responded to. SCPRC leaders pointed to an instance where one of the SCPRC Commissioners requested information from the SPD a number of times through the end of 2020 through early 2021 but only received a partial response. Due to the incomplete response, the SCPRC sought assistance from the City Manager in accessing this information. The SPD provided a written response to the request in June 2021 stating part of the request was fulfilled while part of the request was still outstanding.

More recently, the SCPRC submitted a data request to the SPD seeking the cost of each program compared with the total dollar cost of staff time assigned to each program covered under SPD's budget. The request also sought a list of police positions converted into real dollars. In response, OPSA forwarded language from the City Manager's Office denying the request. The language stated:

“specific budget recommendations such as the allocation of funding amounts, priorities, and funding sources is budgetary information outside the purview of the scope of work for the commission. Any requests for producing reports that outline costs for individual police programs, costs for full-time employees, etc.... which is beyond what has been publicly published within the city budget is outside the policy-practice focus of the Commission...”

Therefore, according to the email response from the City Manager's Office, the request was denied because the SCPRC is only entitled to publicly available information that has already been published. Additionally, SPD representatives stated the methods currently used to track SPD's budget are not capable of providing reliable information in response to the request. Notably, the SCPRC Commissioner that submitted the request did not agree with this interpretation.

According to SPD officials, SCPRC records requests are sometimes voluminous and require extensive staff time to analyze and assemble. Representatives of SPD stated that they are not opposed to providing information that requires the department to conduct in-depth research and produce a unique report for the SCPRC. However, SPD officials stated that the department is not funded to allocate sufficient staff time to respond to such large data requests. SPD stated that if the SCPRC is provided authority to request information beyond what is currently publicly available, which may require significant research and reporting, this direction should be established by the City Council. In addition, SPD officials state that direction from the City Council should be provided to prioritize the SCPRC's data requests ahead of other data requests or public records requests

received by the SPD from the public. SPD notes that in order to accommodate the additional work associated with large requests, additional funding should be provided to SPD.

The lack of sufficient detail in the City Code pertaining to SCPRC's access to records has occasionally set these agencies in adversarial positions without definitive statutory or legislative guidance. Leaders of SCPRC and SPD independently agreed that these disagreements have amplified tension between the agencies. Meanwhile, it is unclear whether -- as the City Code directs OPSA to provide staff support for SCPRC -- OPSA should be advocating for the SCPRC to have the requests filled or simply pass along the SPD's denials of the requests.

We believe the City could benefit from facilitating discussions between the SCPRC, SPD, and OPSA, in consultation with the City Attorney's Office, to determine the level of access to information that the SCPRC needs to fulfill its City Code mandated powers and duties. This discussion should specifically define the information that SCPRC should have access to, and equally important, the information the SCPRC should not have access to. We believe it may also be valuable for the City to engage subject matter experts in the formation or revitalization of citizen oversight of law enforcement functions, such as the NACOLE or the U.S. Department of Justice, to provide best practice recommendations and assistance in determining the appropriate access to information needed for effective citizen and community oversight of the SPD. These authorities should be presented to the City Council and memorialized in resolution, ordinance, or codified in the City Code.

## **RECOMMENDATION**

**We recommend the City Council:**

- 11. Determine the level of access to information across City government needed by the Sacramento Community Police Review Commission to fulfill its City Code mandated duties. The City Council should memorialize the Sacramento Community Police Review Commission's access to information in either resolution, ordinance, or in the City Code.**

### **Finding 3: The Sacramento Community Police Review Commission is in Need of a Recommendation and Follow-Up Process to Ensure the Recommendations are Documented, Presented to the City Council, and Recommendations that are Approved are Implemented by the Relevant Department**

A primary purpose of the Sacramento Community Police Review Commission (SCPRC) is to review and recommend police department policies, practices, and procedures to the Sacramento Police Department (SPD) and City Council. However, we found that the majority of SCPRC’s recommendations lingered for years without a formal, publicly available response by the SPD or a vote by the City Council, leaving most not publicly responded to. We believe that opportunities exist to strengthen the recommendation proposal, review, adjudication, and implementation process to allow the SCPRC to complete its City Code mandated objectives.

Oversight agencies can improve department policies and procedures that have proven to be deficient and assist in liability management by reducing the likelihood of costly litigation. Policy recommendations can prevent future issues and potential liability by identifying areas of concern and subsequently offering options and proposing corrective measures to improve policing.

A critical element of success for the effectiveness of policy recommendations is communication between the commission, the police, and the community. Best practices state that: 1) legislation should require the oversight group to provide sufficient documented justification for a recommendation; 2) the police and other departments subject to the recommendation must provide a publicly available written response; 3) the legislative body should review the recommendations and responses, discuss, and make a public determination on whether recommendations should be implemented and; 4) the recommendation and its status should be tracked and posted to a publicly available forum.

In our review of the SCPRC, we found:

- City Code does not require SCPRC recommendations to include sufficient information, reasoning, or justification that would facilitate a formal, reasoned response from SPD or City Council;
- SPD is not required to provide a formal response to SCPRC recommendations which results in a lack of sufficient information presented to the City Council to facilitate a dialogue and vote;
- City Code does not require City Council to discuss and vote to approve or reject SCPRC recommendations; and
- SCPRC and SPD do not have a formalized process to track whether recommendations have been implemented, partially implemented, or not implemented.

The lack of a process requiring the SCPRC to provide written justification for recommendations, the lack of a public written response by the SPD and other departments subject to the recommendation, and the lack of consideration and adjudication by the City Council has resulted in significant delay to the implementation of police reforms. In fact, we found that between 2018 and 2021, the SCPRC issued 110 recommendations for changes to SPD policies and procedures and the City Council voted on one of them. SPD frequently appeared at SCPRC meetings and provided verbal responses to recommendations at the meetings. However, it was not until

June 2021, that the police department issued a formal written response to about half of the SCPRC recommendations – leaving half of the recommendations unresolved. It remains unclear how many of the recommendations have been implemented.<sup>22</sup> The SCPRC Chair and Vice Chair believe that this has caused significant reputational damage to the Commission.

We recommend the City Council in conjunction with the SCPRC, the SPD, the Office of Public Safety Accountability (OPSA), and the City Attorney’s Office engage in a public dialogue on amendments to the SCPRC recommendation process to strengthen the pace of consideration, adjudication, and implementation of recommendations. We believe there is a benefit to specifying the roles, responsibilities and the output for each step of the recommendation creation, response, approval, and implementation process. We believe that formalizing the recommendation process will increase the accountability and transparency of efforts to reform and improve law enforcement policies and practices by the SCPRC and the SPD.

### **City Code does not require SCPRC recommendations to include sufficient information, reasoning, or justification that would facilitate a formal, reasoned response from SPD or City Council**

Civilian oversight recommendations to law enforcement agencies should include specific information about the recommendations to provide the public, the police, and legislators with ample justification to support the change. The recommendations issued by SCPRC contain little to no background information or legal foundation to support its importance or justification. As a result, the community, Sacramento Police Department, and the City Council are not provided sufficient information to support, respond to, or implement SCPRC recommendations.

According to the National Association of Civilian Oversight of Law Enforcement (NACOLE) oversight agencies can improve department policies and procedures that have proven to be deficient and assist in liability management by reducing the likelihood of costly litigation. By making policy recommendations, a city can lower its risk profile by preventing future issues and potential liability by identifying areas of concern and subsequently offering options and proposing corrective measures to improve policing.

Best practices also provide that those recommendations made by civilian oversight agencies should include, to the greatest extent possible, specific details, relevant examples and resources, and actionable language to guide proposed actions for the law enforcement agency.

As part of our fieldwork, we conducted interviews with several agencies that echoed these best practices. For example, the Criminal Justice Administrator for the City of Greensboro’s Criminal Justice Advisory Commission (GCJAC) stressed the importance of providing adequate information to support the implementation of the

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<sup>22</sup> SPD officials stated that the City Manager’s Office and SPD are currently working on a plan to periodically make presentations to City Council to respond to all outstanding SCPRC recommendations. However, at the time this report was published, no formalized policy or process has been implemented.

recommendation. The recommendation should include a comprehensive explanation of what the GCJAC wants and why they want it.

The GCJAC Administrator stated the GCJAC and the police department agreed on a form used to communicate the recommendations. The use of the form is “critical” for the GCJAC to articulate the purpose of the recommendation that identifies the need for the change, provide evidentiary support, and clearly states the recommendation. Below is an example of the recommendation form used by the GCJAC:

Figure 19: Greensboro Criminal Justice Advisory Commission Recommendation Form

 <p style="text-align: center;"><b>Recommendation from the Greensboro Criminal Justice Advisory Commission on hemp versus marijuana</b></p> <p><b>Purpose</b> The NC legislatures had the opportunity to ban smokable hemp and chose not to in 2019. There is a serious loophole in the full legalization of Hemp when Marijuana is still illegal and now it is up to municipalities to determine how to rectify this. The NC legislators has begun the process of making expurgements easier for non-violent offenders</p> <p><b>Materials used in making this determination</b> *There is no easy way for law enforcement to distinguish between industrial hemp and marijuana. There is currently no field test which distinguishes the difference. Hemp and marijuana look the same and have the same odor, both unburned and burned. This makes it impossible for law enforcement to use the appearance of marijuana or the odor of marijuana to develop probable cause for arrest, seizure of the item, or probable cause for a search warrant. In order for a law enforcement officer to seize an item to have it analyzed, the officer must have probable cause that the item being seized is evidence of a crime. The proposed legislation makes possession of hemp in any form legal. Therefore, in the future when a law enforcement officer encounters plant material that looks and smells like marijuana, he/she will no longer have probable cause to seize and analyze the item because the probable cause to believe it is evidence of a crime will no longer exist since the item could be legal hemp. Police narcotics K9's cannot tell the difference between hemp and marijuana because the K9's are trained to detect THC which is present in both plants. Law enforcement officers cannot distinguish between paraphernalia used to smoke marijuana and paraphernalia used to smoke hemp for the same reasons. The inability for law enforcement to distinguish the difference between hemp and marijuana is problematic in all marijuana prosecutions, from small amounts to trafficking amounts of plant material.* -North Carolina State Bureau of Investigation</p> <p>*The North Carolina Senate recently passed legislation loosening the requirements to expunge a criminal record. Offenders could wipe out multiple nonviolent misdemeanor or low level felony convictions, regardless of age, and the bill expands expungements for misdemeanors and minor felonies committed by 16- and 17-year olds. Currently, only nonviolent, first-time convictions qualify. The bill also automatically wipes away charges that resulted in a not guilty verdict or were dismissed. Countering decades of tough-on-crime legislation, North Carolina is among a growing number of states making it easier to wipe records clean.* - Associated Press: "North Carolina moves to help offenders clear their records"</p> <p><b>Long term consequences that were factored in to NOT changing the SB 315</b> *The unintended consequence upon passage of this bill is that marijuana will be legalized in NC because law enforcement cannot distinguish between hemp and marijuana and prosecutors could not prove the difference in court. Every quantity of hemp and/or marijuana is important for police investigations, from the cigarette to the "dime" bag to a bale.* -North Carolina State Bureau of Investigation</p>	<p style="text-align: center;"><u>GCJAC Proposal Regarding Conflation of Hemp and Marijuana</u></p> <p>Hemp, including smokable hemp, was declared lawful by the North Carolina legislature in 2015. It has been shown that the odor and appearance of hemp are the same as marijuana, which remains illegal in North Carolina. As stated by the North Carolina Special Bureau of Investigation, "Hemp and marijuana look the same and have the same odor, burned and unburned. This makes it impossible for law enforcement officers to use the appearance of marijuana or the odor of marijuana to develop probable cause for arrest, seizure of the item, or probable cause for a search warrant." Thus, any police stops, searches and seizures without warrants based on the odor or appearance of alleged marijuana are no longer grounded on a reason, but rather a guess. Such a guess is insufficient for such stops, searches and particularly arrests, and will not meet a probable cause standard under Illinois v. Gates, 462 U.S. 213 (1983). Arrests have far-reaching adverse consequences for employment, livelihood, and education of the person arrested, even if there is no conviction that results. Further, data shows that marijuana arrests 3.6 times more likely to occur with African Americans than with White persons. Even though usage among both races is similar. There is also no consensus across the country that marijuana prosecution serves even a weak government purpose. In fact, at least 27 states and the District of Columbia have decriminalized marijuana.</p> <p><b>Recommendation of the GCJAC</b></p> <ul style="list-style-type: none"> <li>As marijuana and hemp are indistinguishable from each other by field tests, the presence of the odor of hemp or marijuana should not be used as a reason for probable cause to search.</li> <li>Marijuana be deprioritized within the City of Greensboro and the Greensboro Police Department. Due to the indistinguishable nature of hemp and marijuana, the GCJAC is recommending that marijuana be deprioritized and to immediately cease possession charges for marijuana. Unless possession can be determined by other means.</li> </ul> <p><b>Supporting Documents</b></p> <p>We Change Laws <a href="https://www.mpp.org/states/north-carolina/">https://www.mpp.org/states/north-carolina/</a></p> <p>NORTH CAROLINA STATE BUREAU OF INVESTIGATION Industrial Hemp/CBD Issues <a href="https://www.sos.nc.gov/sites/www.sos.nc.gov/files/doc_warehouse/NC%20SB%20315%20Issues%20with%20Hemp%20and%20CBD%20Bill.pdf">https://www.sos.nc.gov/sites/www.sos.nc.gov/files/doc_warehouse/NC%20SB%20315%20Issues%20with%20Hemp%20and%20CBD%20Bill.pdf</a></p> <p>North Carolina moves to help offenders clear their records Associated Press, By Amanda Morris, May 26, 2019 <a href="https://apnews.com/b60954746464ed4845e8a9a901aa2b6de">https://apnews.com/b60954746464ed4845e8a9a901aa2b6de</a></p> <p>A TALE OF TWO COUNTRIES: RACIALLY TARGETED ARRESTS IN THE ERA OF MARIJUANA REFORM <a href="https://www.esk.com/food/bale-hemp-countries.html#:~:text=street,era,marijuana,reform">https://www.esk.com/food/bale-hemp-countries.html#:~:text=street,era,marijuana,reform</a></p>
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Source: Greensboro Criminal Justice Advisory Commission<sup>23</sup>


As illustrated above, the GCJAC recommendation includes a section describing the purpose of the recommendation, an explanation of the materials used to support the recommendation, a thorough discussion of the proposed recommendation including the legal justification, the text of the recommendation, and links to various supporting research and documents. The GCJAC Administrator stated that including this information is also important to provide adequate reasoning and support for the community and the City Council. All the recommendation write-ups are posted on the GCJAC website. The GCJAC Administrator added that if the police

<sup>23</sup> This Figure is also provided in Appendix A.

department does not agree to implement the recommendation, the information is publicly available, and the community can address the issue to the City Council.

Similarly, the Executive Director of the Albuquerque Civilian Police Oversight Agency (CPOA) agreed that it is also important that the civilian oversight entity and the police department discuss and agree on a format that recommendations will be delivered and the specific information that should be included. As seen below, the Albuquerque Community Policing Councils (CPCs) use a form that includes the recommendation, the date, and the justification supporting the recommendation.

Figure 20: Albuquerque Community Policing Council Recommendation Form

 <p style="text-align: center;"><b>Recommendation Submission/Response Form</b></p> <p>Referenced CASA area (A,B,C,D,E): <u>  C  </u>          This response is in reference to recommendation #19-06 – Violent Crime Statistics / Area Command Foothills          Responsible SME: DC J. Griego          Date received: 5/16/19 – Re-submitted 12/11/19          Date returned: 1/6/20</p> <p><b>RECOMMENDATION (Recommendation/Reasoning):</b>          APD provide violent (murder, rape, aggravated assault, robbery) and property crime statistics monthly.</p> <p><b>Reason:</b> Violent crime has been an important under-reported topic at our CPC meetings for years. Therefore, APD should provide violent crime (murder, rape, aggravated assault, robber) statistics monthly for each area command for the previous month (and the current year to date) by the 7<sup>th</sup> following month. Use FBI categories and criteria. Provide the same for property crime. We recognize that the statistics are preliminary and subject to change.</p> <p><b>APD RESPONSE/REASONING:</b></p> <p>We are currently in the process of reviewing and addressing inconsistencies across our data systems. Our desire is to produce accurate and timely data to the public. We are in the nascent phase of the project, which includes how this data will be presented.</p> <p>In the interim there are three options. Area Command Crime Prevention personnel can pull "call for service" data. As stated above, this data is extremely preliminary. Another option is the website Crimemapping.com. This website is based on the same data that the crime prevention personnel would utilize and is linked to the City of Albuquerque website. Lastly, we will be submitting the 2019 NIBRS report (We have not used UCR since</p>	<p>2018) to the FBI. That data will be publicly available once it is verified by the FBI. It will likely be at least 60-90 days before we can be confident in property crime numbers 7 days after the end of the month. Homicide and shooting data is tracked manually and is updated after each occurrence and can be presented at any time.</p> <p>Chief made aware of recommendation: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>Recommendation Status: Approved <input type="checkbox"/> Denied <input type="checkbox"/> Needs more time <input checked="" type="checkbox"/></p>
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Source: City of Albuquerque Community Policing Councils<sup>24</sup>

According to the Executive Director of the Albuquerque CPOA, the completion of the recommendation on a specified form is critical to standardize what must be included to substantiate an actionable recommendation. This allows the police to have enough information to provide a response and the policy makers enough information to make a decision on whether to approve the implementation.

<sup>24</sup> This Figure is also provided in Appendix B.

Sacramento City Code sec 2.110.030 provides the SCPRC “shall advise and make recommendations to the City council regarding police policy, procedures, and best practices, including those related to community relations, hiring, and training best practices.” However, the code is silent on how the recommendations should be communicated to the SPD and the City Council.

Since its inception in 2016, we found the SCPRC has issued and presented 110 recommendations to the City Council. These recommendations were approved by the SCPRC and presented to the City Council in three tranches in 2019, 2020, and in 2021. We found that the recommendations presented in 2019 and 2020 were written largely as stand-alone recommendations without sufficient support or justification when compared to other civilian oversight agencies. Below is an example of a series of recommendations presented to the City Council in December 2019 from the SCPRC:

*Figure 21: Sacramento Community Police Review Commission Recommendations - 2019*

**Use of Force Workgroup Recommendations**

**Use of Force Standard**

- Adopt the “necessary” standard for use of force included in AB 392 (Weber-2019) and recommended by the SCPRC including a definition for UOF.

**Duty to Render Aid**

- Duty to render aid should be a stand-alone policy.
- Officers should render medical aid as soon as possible.

**De-escalation**

- De-escalation tactics shall be used unless a life is in immediate danger as referenced in AB 392 (Weber – 2019).
- Include language giving examples of de-escalation techniques.

**Foot pursuit**

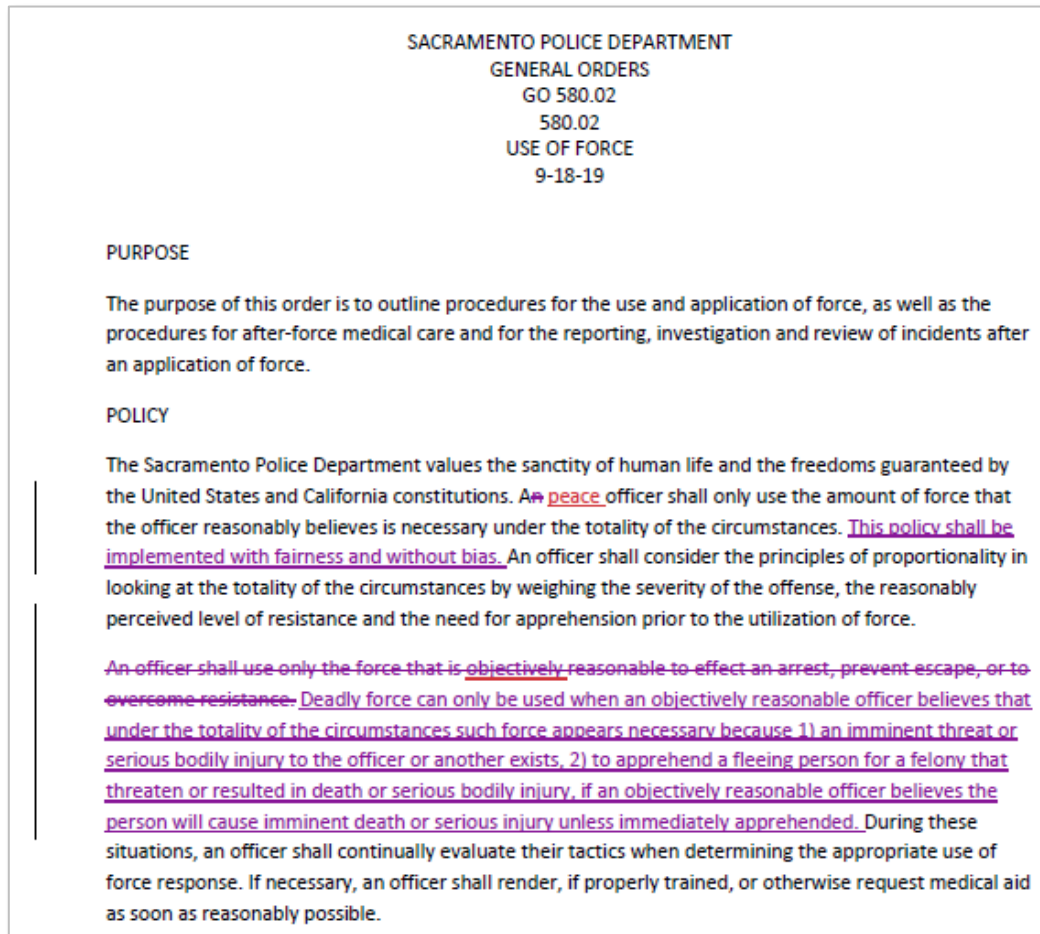
- Under factors to consider when initiating, continuing or terminating a foot pursuit:
  - Include the gravity of the suspected activity.
  - Include: The officer initiating a foot pursuit should always, unless physically unable, activate their Body Worn Camera. If physically unable, an officer shall active their body worn camera as soon as physically able and follow policy.

*Source: City of Sacramento, City Council Report 2019-01741, December 10, 2019*

As can be seen above, the recommendations have come in the form of a single sentence, or two. The recommendations are not paired with any explanation or any research to justify the recommendation. Additionally, the SCPRC presented many recommendations in the form of a strikeout version of the SPD’s current policy as shown in figure 22.



Figure 22: Sacramento Community Police Review Commission – Use of Force Recommendations - 2019



Source: City of Sacramento, City Council Report 2019-01741, December 10, 2019

As can be seen above, the recommendation is essentially a strike-out version of the SPD’s General Order pertaining to Use of Force. The document lacks the provision of any research, reasoning or justification, or documentary support for the change in the policy.

These recommendations stand in sharp contrast to the form recommendations used by other civilian oversight agencies, such as the City of Albuquerque, New Mexico, CPOA and the City of Greensboro, North Carolina, GCJAC. As stated above, both agencies utilize a form document for each recommendation that provides justification of the need for the change and research to support the assertion.

As mentioned previously, the City Code sec 2.110.030 creating the duty for the SCPRC to issue recommendations is silent on the form and content that each recommendation should include. The SCPRC’s Policies and Procedures are also silent on the form and content of recommendations. Additionally, according to interviews with officials from the SCPRC and the SPD, there has been no formal discussion about the format and content required when the SCPRC issues recommendations.

The lack of detail and information included in the recommendations provided the SPD, the public, and City Council very little information to gauge the importance, context, and justification for the need to implement the recommendations. Representatives of the City Council have also questioned the legality of some of the SCPRC recommendations and stated that more legal analysis should be provided to facilitate an informed decision about the implementation.

We believe that the continued lack of information provided to support the importance, justification, and legality of the recommendation creates the risk that the SCPRC will suffer reputational damage resulting in a lack of confidence and an erosion of support for its work.

We believe the City could benefit from facilitating discussions between the SCPRC, SPD and OPSA, and consult with the City Attorney's Office, to establish a form for the presentation of recommendations and identify the exact type of information that should be included. During our interviews, both SPD and OPSA expressed support for an agreed-upon format for the SCPRC to present its recommendations. Finally, we believe this agreed-upon format should be presented to the City Council and its description should be codified, at minimum, in ordinance or the SCPRC's policies and procedures.

## **RECOMMENDATION**

**We recommend the City Council:**

- 12. Determine an agreed-upon format for Sacramento Community Police Review Commission recommendations. The format should direct the specific information to be required in each recommendation. Finally, the process should be memorialized in City Council resolution or ordinance.**

### **The Sacramento Police Department is not required to provide a formal response to the Sacramento Community Police Review Commission recommendations which results in a lack of sufficient information presented to the City Council to facilitate a dialogue and vote**

Requiring the law enforcement department to publicly respond in writing to a civilian agency's recommendations can improve transparency and accountability. However, the Sacramento City Code does not require the Sacramento Police Department (SPD) to provide written responses to SCPRC recommendations. As such, we found that between 2018 and early 2020, SPD regularly attended SCPRC meetings and provided verbal responses. However, we found the City Council did not request, and the SPD did not provide publicly accessible written responses to SCPRC recommendations.

According to the National Association of Civilian Oversight of Law Enforcement (NACOLE), legislation establishing civilian oversight should require that law enforcement agencies provide timely, written, and public responses detailing why a particular recommendation was either accepted or rejected. These responses are crucial to informing the public of how, if, and why or why not issues identified by the civilian oversight agency will be addressed. Additionally, these responses are critical to holding the overseen law enforcement agency's executives accountable.

As part of our fieldwork, we reviewed the practices of several agencies that implement many of these best practices. We found that a number of different processes exist for police departments to issue a written response to each citizen review commission recommendation. For example, some police departments issue a written response to recommendations while other police departments respond to recommendations in an annual report. We found there were key similarities, as described in greater detail below, including a description of the current policy, an explanation of whether the police department is in agreement or disagrees with the recommendation, and a cogent explanation of why.


In addition, we also found that some municipalities have placed time limits for police departments to provide a response to civilian oversight agency recommendations and requirements on what responses must include.

For example, the City of Albuquerque Police Department (Albuquerque PD) must provide a written response to recommendations issued by the Albuquerque Community Policing Councils (CPC).<sup>25</sup> As shown in figure 23, the CPC issues each recommendation on a separate form and the Albuquerque PD provides a response.

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<sup>25</sup> According to the Albuquerque Code of Ordinances sec. 9-4-6-7(B)(3): “The Albuquerque Police shall collaborate with the Community Policing Councils by, at a minimum . . . Reviewing, assessing, and responding to Community Policing Council recommendations within 45 days of receiving a recommendation; informing the Community Policing Council of whether the recommendation will be implemented; and providing rationale for rejecting recommendations.”

Figure 23: Albuquerque Police Response to Albuquerque Community Police Council Recommendation

 <p style="text-align: center;"><b>Recommendation Submission/Response Form</b></p> <p>Referenced CASA area (A,B,C,D,E): <u>    C    </u>          This response is in reference to recommendation #19-06 – Violent Crime Statistics / Area Command Foothills          Responsible SME: DC J. Griego          Date received: 5/16/19 – Re-submitted 12/11/19          Date returned: 1/6/20</p> <p><b>RECOMMENDATION (Recommendation/Reasoning):</b>          APD provide violent (murder, rape, aggravated assault, robbery) and property crime statistics monthly.</p> <p><b>Reason:</b> Violent crime has been an important under-reported topic at our CPC meetings for years. Therefore, APD should provide violent crime (murder, rape, aggravated assault, robber) statistics monthly for each area command for the previous month (and the current year to date) by the 7<sup>th</sup> following month. Use FBI categories and criteria. Provide the same for property crime. We recognize that the statistics are preliminary and subject to change.</p> <p><b>APD RESPONSE/REASONING:</b></p> <p>We are currently in the process of reviewing and addressing inconsistencies across our data systems. Our desire is to produce accurate and timely data to the public. We are in the nascent phase of the project, which includes how this data will be presented.</p> <p>In the interim there are three options. Area Command Crime Prevention personnel can pull “call for service” data. As stated above, this data is extremely preliminary. Another option is the website Crimemapping.com. This website is based on the same data that the crime prevention personnel would utilize and is linked to the City of Albuquerque website. Lastly, we will be submitting the 2019 NIBRS report (We have not used UCR since</p>	<p>2018) to the FBI. That data will be publicly available once it is verified by the FBI. It will likely be at least 60-90 days before we can be confident in property crime numbers 7 days after the end of the month. Homicide and shooting data is tracked manually and is updated after each occurrence and can be presented at any time.</p> <p>Chief made aware of recommendation: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>Recommendation Status: Approved <input type="checkbox"/> Denied <input type="checkbox"/> Needs more time <input checked="" type="checkbox"/></p>
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Source: Albuquerque Community Policing Councils

As can be seen above, the Albuquerque PD discloses whether the Chief of Police has been notified, and also discloses whether the Albuquerque PD approved, denied, or needed more time to make a determination and implement the recommendation. These recommendations and responses are made publicly available through the CPC’s website.

The City of Atlanta Police Department (Atlanta PD) uses a different response format but is required to provide a response to the Atlanta Citizen Review Board (ACRB) recommendations within 30 days.<sup>26</sup> The Atlanta PD provides written responses to the ACRB in a table format that is published in the ACRB’s Annual Report.

<sup>26</sup> The Atlanta, GA, Code of Ordinances sec. 12 (o): “Within 30 days of the submission of a recommendation for action by the board to the chief of police or corrections, the chief of police or the chief of corrections shall respond in writing regarding which recommendations are accepted, rejected, held due to a pending OPS investigation or will be implemented with modifications. The responses from the chief of police and chief of corrections shall provide a legal or factual justification or indicate a managerial prerogative that clearly states the reason for the acceptance, rejection, or implementation with modifications of the board's recommendations. For those recommendations held by the chief of police or chief of corrections because the investigation has not been completed, the police department and department of corrections shall provide a status update in writing every 45 days from the date of the initial notification letter. Once a final

Figure 24: Atlanta Police Department Response to Atlanta Citizen Review Board Recommendations

2019 Board's Additional Recommendations to APD and APD's Responses		
Additional Recommendations	Date Letter Sent to APD	APD's Response & Date Received
The Executive Director ("ED") recommended to the APD that all officers, specifically those who work extra jobs, who have direct contact with citizens be assigned Body Worn Cameras.	May 30, 2019	Chief responded June 3, 2019 and agreed with the ACRB and is working to ensure that all employees who work extra jobs are assigned BWCs.

Source: Atlanta Citizen Review Board Annual Report

As can be seen, the report lists the recommendation, the date the recommendation was sent to the Atlanta PD, Atlanta PD's response, and the status of the implementation of the recommendation. These responses to the recommendations are made publicly available through the ACRB's issuance of its annual report.

The City of Seattle Police Department (Seattle PD) is required to respond to recommendations within 30 days.<sup>27</sup> The Seattle Police Chief issues a separate letter communicated to the Seattle Police Commission for recommendations issued, as shown in figure 25.

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decision is reached, the chief of police or chief of corrections shall respond to the board no later than 90 days with a final decision and action on the recommendation."

<sup>27</sup> City of Seattle Code of Ordinances sec. 3.29.410(A)(1): "SPD and OPA shall confer with and respond in writing within 30 days to any oversight entity issuing written recommendations contained in reports required by this Chapter 3.29. For any accepted recommendations, the response shall provide a plan for implementation including a plan for regular written progress reports. For any recommendations not accepted or not scheduled for implementation, the response shall provide an explanation of why not. If the lead entity responsible for the implementation of any recommendation is a City department or officer other than SPD or OCA, the Mayor's Office shall coordinate providing the necessary information to include in the response."

Figure 25: Seattle Police Department Response to Seattle Community Police Commission Recommendations

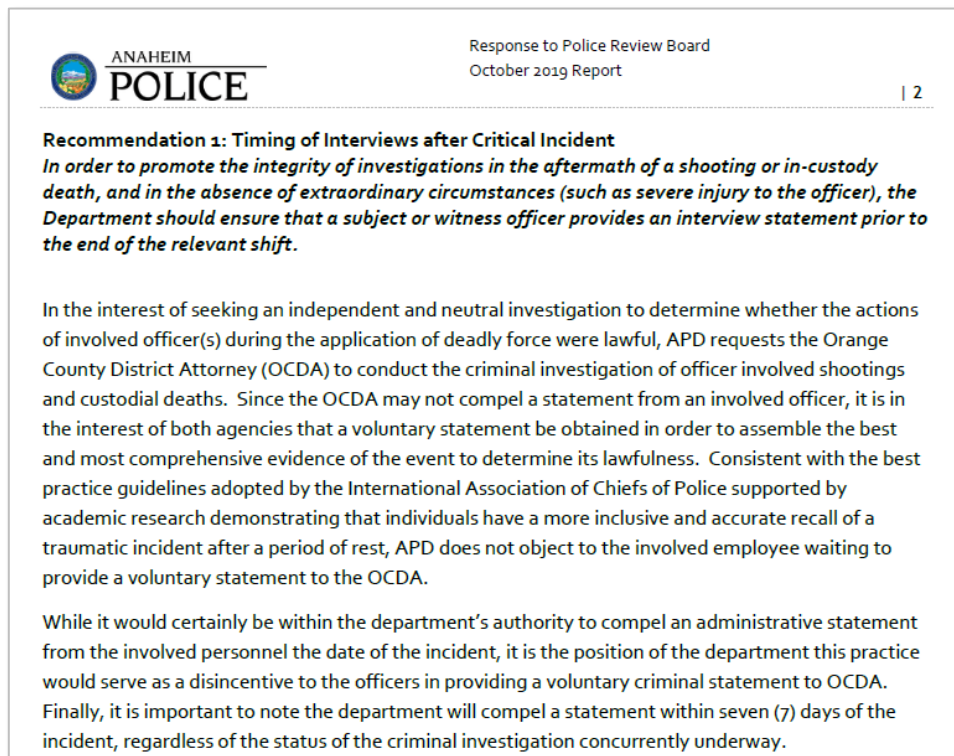


Source: Seattle Community Police Commission

The Seattle Police Chief issues a response detailing the actions the agency is taking, or has taken, to implement the CPC's recommendation. These letters are subsequently posted on the CPC's website.

The Anaheim Police Department (Anaheim PD) also provides a written response to each Anaheim Police Review Board (APRB) recommendations. The Anaheim PD's written responses are included in the APRB's annual report.

Figure 26: Anaheim Police Department Response to Anaheim Police Review Board Recommendation



Source: Anaheim Police Review Board Annual Report

As can be seen above, the Anaheim PD's response lists the recommendation, provides a recitation of the current policy, and describes whether the recommendation will be implemented or provides an explanation why Anaheim PD disagrees with the recommendation. These responses are made publicly available through the APRB's issuance of the annual report.

As stated above, there are no requirements in SCPRC's or Sacramento Police Department's (SPD) policies, resolution or ordinance, or the Sacramento City Code requiring the SPD to provide verbal or written responses to recommendations.

We reviewed the public record for SCPRC meetings and City Council meetings where the SCPRC presented recommendations between April 2018 and May 2021 and found the SCPRC made 27 recommendations in 2018, 40 recommendations in 2019, and 43 recommendations in 2020 – totaling 110 recommendations.<sup>28</sup>

While the SPD has regularly attended SCPRC meetings and provided verbal responses, SPD did not provide written responses to SCPRC recommendations until May and June 2021. We reviewed the SPD written responses and found that of the 110 recommendations issued by the SCPRC since 2018, the SPD has not

<sup>28</sup>Notably, the recommendations approved by the SCPRC in 2018 were presented to City Council in March 2019, the recommendations approved by the SCPRC in 2019 were presented to the City Council in December 2019, and the recommendations approved by the SCPRC in 2020 were presented in April 2021.

provided written responds to 53 (or about 48 percent.) As can be seen in figure 27, the majority of written responses they did provide targeted the most recent recommendations.

*Figure 27: Percentage of Sacramento Community Police Review Commission Recommendations Without Written Responses*

Year of SCPRC Recommendations	Number of Recommendations	Recommendations Not Responded to in Writing by SPD	Percentage of Recommendations Without a Written Response
<b>2018</b>	27	21	78%
<b>2019</b>	40	27	68%
<b>2020</b>	43	5	12%
<b>Total</b>	<b>110</b>	<b>53</b>	<b>48%</b>

Source: Sacramento City Auditor’s Office based on SCPRC meeting minutes and video archives, City Council Reports, and City Council minutes and video archives held in 2021.

As the table illustrates, the majority of SCPRC recommendations from 2018 and 2019 have not been responded to in writing by the SPD. This is in stark contrast to cities that require the police department to respond within a certain time frame. However, it is important to note that, both SCPRC and SPD officials stated that SPD frequently attended SCPRC Ad Hoc meetings and contributed to discussions about recommendations.

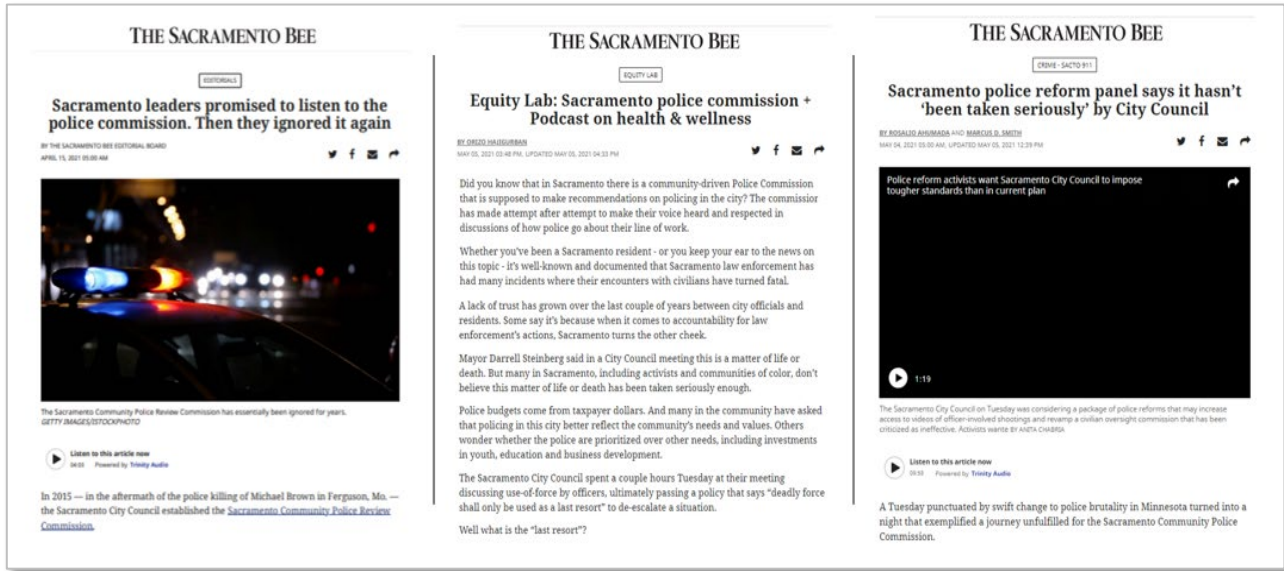
We also found that during that time, as discussed in greater detail below, the City Council never voted to approve or deny any of the recommendations. Rather, the 2018, 2019, and 2020 recommendations presented to the City Council in 2019, 2020, and 2021 were labelled as “received and file” or “receive and provide direction.” This meant that the City Council received these as informational items and provided direction to City staff but did not vote to adopt any of the recommendations for implementation.

Additionally, we found issues with the clarity and organization of the presentation which made it more difficult for a member of the community to track the SPD responses. The SPD in its June 2021 presentation to City Council did not always respond to the text of the recommendation as written by SCPRC. In some cases, SPD summarized and condensed the recommendations, and then provided a condensed response. For example, the SPD conflated three separate recommendations pertaining to the SPD’s body cameras into one recommendation and provided one response. We believe that commingling the recommendations could negatively impact the transparency of the process.

Recently, the lack of SPD and City Council response to the SCPRC recommendations was highlighted in the *Sacramento Bee* in a series of media reports in April and May 2021. These reports criticized public officials lack of responsiveness to recommendations presented by the SCPRC.



Figure 28: Sacramento Bee coverage of Sacramento Community Police Review Commission



Source: The Sacramento Bee

In turn, the City Council directed the SPD to provide responses to the SCPRC recommendations. As shown in figure 29, the SPD returned to the City Council in June 2021 with a table of responses. The format used by the SPD in presenting its responses to the SCPRC recommendations was clearer and more organized, and more in-line with the format used by the Atlanta Police Department.

Figure 29: Sacramento Police Department June 2021, Response to Sacramento Community Police Review Commission Recommendations

Sacramento Police Department's Response to the Sacramento Community Police Review Commission's 2020 Recommendations: June 1, 2021		
Ref #	SCPRC Recommendations:	SPD Response
1	SCPRC have access to legal counsel independent of the City Attorney's Office.	Not applicable to SPD. Requires further input from other city departments and offices.
2	The commission needs additional staff support.  At a minimum, OPSA should be authorized to hire another person to help fully staff the SCPRC.	Not applicable to SPD. Requires further input from other city departments and offices.
3	Sacramento Police Department liaison should meet with Chair, Vice Chair, OPSA staff to address requests and respond directly instead of having to use OPSA as an intermediary.	The City is currently following the standard practice for commissions to liaison with City Staff.  SPD regularly meets with the Chair, Commissioners, and ad hoc groups to discuss items, answer questions, and provide additional information as needed. SPD is also given the opportunity to provide feedback during these meetings outside the normal meeting schedule.  For formal requests, presentations, or report backs that require a commitment of staff or resources, the Commission is using the same standardized process as other boards and the Council by directing requests through the Commission's assigned staff (OPSA). This allows for formal tracking of the requests, proper prioritization of these requests, and workload management of City Staff.

Source: City of Sacramento

The SPD stated, prior to 2021, they have limited their responses to verbal discussions in SCPRC meetings and have not provided written responses to SCPRC recommendations because the City Code does not require it and, therefore, there has not been any direction on the format of the responses. In fact, SPD officials stated they can publicly respond only if the City Council requests it. In the absence of a City Council request, SPD officials stated there is “no space” for the SPD to provide a response. SPD officials noted they have been ready and have always complied with City Council requests to present responses to SCPRC recommendations.

We believe the lack of direction requiring written responses deprives the SCPRC, the SPD, the City Council, and the public an opportunity to be involved in the formulation of recommendations pertaining to law enforcement policies and policing in many ways. First, the SPD does not believe that it has a formal opportunity to provide feedback on recommendations and explain the SPD's positions on either accepting or disagreeing with a recommendation.

Second, the public is not provided information on justification for SPD's agreement or disagreement with SCPRC recommendations. A key risk, as raised by the community surveys in the Background section and *The Sacramento Bee*, is that the public may lose confidence in the SCPRC's ability to be effective which may exacerbate the low public trust the community has in the SPD.

Finally, the City Council is not provided sufficient information about the recommendations, information about the current SPD policies, whether the SPD agrees or disagrees with the recommendation and why, to have a constructive role in the decision-making process.

We believe that City leaders have expressed an interest in establishing more clearly articulated standards and processes for SCPRC recommendations and the SPD responses to the recommendations. Additionally, both the SPD and Chair and Vice Chair of the SCPRC expressed a willingness to discuss, design, and implement a more thorough, consistent recommendation response process. We believe the City could benefit from facilitating discussions between the SCPRC, SPD, and OPSA, in consultation with the City Attorney's Office, on defining processes and requirements. These requirements should clarify what the recommendations should include and specific requirements for SPD responses.<sup>29</sup> Finally, we believe these requirements should be presented to the City Council and memorialized in policies and procedures, and either resolution, ordinance, or codified in the City Code.

## RECOMMENDATION

**We recommend the City Council:**

- 13. Determine whether the Sacramento Police Department should provide written responses to Sacramento Community Police Review Commission recommendations. This dialogue should identify the form the response will be provided in. Finally, the City Council should consider memorializing the process in resolution or ordinance.**

### **City Code does not require the City Council to discuss and vote to approve or reject Sacramento Community Police Review Commission recommendations**

To be effective, a civilian oversight agency should be given sufficient authority and support in order to achieve goals of increasing transparency and community engagement in law enforcement. The City Council has not established a process or requirement to vote on whether to implement recommendations issued by the Sacramento Community Police Review Commission (SCPRC). This lack of a process to solicit legislative support for SCPRC recommendations increases the risk that the Sacramento Police Department (SPD) will not implement many recommendations. We believe the City Council should adopt a process to vote to implement or not implement SCPRC recommendations.

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<sup>29</sup> SPD officials stated that the City Manager's Office and SPD are currently working on a plan to periodically make presentations to City Council to include written responses to all outstanding SCPRC recommendations. However, at the time this report was published, no formalized policy or process has been implemented.

In our review of civilian oversight agencies, we found that several civilian oversight agencies forward recommendations on to the City Council for approval and direction to the police department to implement the changes. We found various procedures and scenarios that require a City Council to vote on a recommendation. For example, we found that in some instances all recommendations are forwarded to the City Council, while in other agencies the City Council votes when the police department disagrees.

*Figure 30: Comparison of Authorities Requiring City Council Review of Civilian Oversight Agency Recommendations and Findings*

Agency	Description of Procedure
<b>City of Oakland Police Commission (OPC)</b>	<p>The OPC is authorized to propose changes and modifications to the Oakland Police Department’s policy, procedure, General Order, which governs use of force, use of force review boards, profiling based on any of the protected characteristics identified by federal, state, or local law, or First Amendment assemblies.</p> <p>“All such proposed changes and modifications shall be submitted by the Commission Chair or her or his designee to the City Council for review. The City Council shall consider the Commission's proposed changes or modifications within one hundred and twenty (120) days of the Commission's vote on the proposed changes, and may approve, modify and approve, or reject the changes. If the Council does not approve, modify and approve, or reject the Commission’s proposed changes or modifications, the changes or the modifications will become final.”<sup>30</sup></p>
<b>City of Portland Citizen Review Committee</b>	<p>In the City of Portland’s Citizen Review Committee, the procedures spell out a policy in instances where the Portland Police Department does not agree with a recommendation or finding. In these instances, the Commission presents the finding or recommendation to the Portland City Council to adjudicate the issue.</p> <p>“(b) If, by majority vote, the Committee can not reach an agreement with the Bureau on the proposed findings, the Committee shall vote whether to present the appeal to City Council. (c) If, by majority vote, the Committee decides to present the appeal to City Council, the Director and the Committee Chair will schedule an appeal hearing before City Council. The Committee shall appoint one of its members to present its recommended findings during the appeal to City Council.”<sup>31</sup></p>

Source: Office of City Auditor based on public records

These policies are intended to guarantee the civilian oversight agency recommendations do not languish due to a lack of agreement or are ignored. The policies finalize the recommendation and provide direction to the police department to either implement the recommendation or decline to implement the recommendation.

As stated above, the SCPRC and the City Council have not adopted a procedure to require that recommendation implementation or non-implementation is voted on by the City Council. All 110 SCPRC recommendations were brought before the Council as “receive and file” items. This means the recommendations were entered into the public record without any direction from the City Council on whether SPD should implement the recommendations.

<sup>30</sup> City of Oakland Charter sec. 604(b) Police Commission Powers and Duties.

<sup>31</sup> City of Portland City Code sec. 3.21.160 Independent Police Review Hearing Appeals (A)(2)(b).

However, in April 2021, City Council directed the SCPRC and the SPD to provide a presentation to City Council that would facilitate a discussion and vote on some of the recommendations. As shown in figure 31, during a May 2021 City Council meeting, a staff report was included that provided the SCPRC recommendation on the Use of Force, the SPD response, a response from the City Attorney’s Office, a response from the Human Resources Department, and a response from the Office of Public Safety Accountability.

Figure 31: SCPRC Use of Force Recommendation Response Form Used by Staff in May 2021

CITY OF SACRAMENTO Sacramento Community Police Review Commission’s Use of Force Policy Recommendation				
SCPRC Use of Force Recommendation	Sacramento Police Department (SPD)	Office of the City Attorney	Human Resources Department	Office of Public Safety Accountability (OPSA)
<p>Adopt a Higher Use of Force Standard.</p> <p>A peace officer is justified in using deadly force upon another person only as a last resort and when reasonable alternatives have been exhausted or are not feasible and the officer reasonably believes, based on the totality of the circumstances, that such force is necessary.</p>	<p>The Police Department has adopted the language from AB 392 into the Use of Force Policy. The “last resort” language is not included as part of that legislation. In fact, it leads to an inherent conflict with the current legislation. AB 392 states that “(2) As set forth below, it is the intent of the Legislature that peace officers use deadly force only when necessary in defense of human life. In determining whether deadly force is necessary, officers shall evaluate each situation in light of the particular circumstances of each case, and shall use other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer.”</p> <p>The law requires that officers shall use other resources and techniques if reasonably safe and feasible.</p> <p>While there is no legal definition of “last resort,” it can be defined as “something done only if nothing else works,” “a final course of action, used only when all else has failed,” Or, the <i>last resort</i> is something you choose only after you’ve eliminated every other possibility.</p> <p>This could mean, to a reasonable person, that an officer must exhaust ALL options available to them, prior to utilizing deadly force. Regardless of the seriousness or an immediate and imminent threat.</p> <p>Additionally, in the entirety of the 122 page POST Learning Domain on Use of Force (LD 20) the term “last resort” is never used.</p> <p><a href="https://post.ca.gov/portals/0/post_docs/basic_course_resources/workbooks/LD_20_V_5.3.pdf">https://post.ca.gov/portals/0/post_docs/basic_course_resources/workbooks/LD_20_V_5.3.pdf</a></p>	<p>The Ninth Circuit Court of Appeals stated, “Requiring officers to find and choose the least intrusive alternative would require them to exercise superhuman judgment.” (<i>Scott v. Henrich</i> (9th Cir. 1994) 39 F.3d 912, 915.) “Imposing such a requirement would inevitably induce tentativeness by officers, and thus deter police from protecting the public and themselves. It would also entangle the courts in endless second-guessing of police decisions made under stress and subject to the exigencies of the moment.” (<i>Ibid</i>; emphasis added.)</p>	<p>The Meyers-Milias-Brown Act requires the City to negotiate wages, hours, and other terms and conditions of employment with public employee organizations. With some decisions to implement new policies or procedures, the law requires the City to negotiate the decision to change items, in some cases it requires the City to negotiate the impacts of implementing a decision, but in most cases it requires the City to negotiate both the decision and the impacts of the decision. “Other conditions of employment” includes a very extensive list of items related to employees and how they perform their jobs. In addition to being subject to negotiations, decisions and impacts of decisions in the City of Sacramento are also subject to binding arbitration pursuant to Sacramento City Charter § 503 Impasse Resolution Procedures.</p>	<p>OPSA does not agree with an adoption of this standard.</p> <p>The concept ‘only as a last resort’ is too ambiguous. A legal definition does not exist and allows for multiple interpretations of its meaning.</p>

Source: City of Sacramento

The presentation of the materials to the City Council in this new format provided sufficient information for the City Council to engage in a dialogue, weigh the arguments, and work to craft an agreeable policy. Notably, the City Council discussed these recommendations over the ensuing months, traded draft recommendations with the SCPRC, and voted to approve a change to the Use of Force policy at a June 2021 meeting.

Critically, throughout the discussions of the SCPRC’s use of force policies, several Councilmembers applauded the new format of the recommendation presentation that included the recommendation and responses from SPD, the City Attorney’s Office, and the OPSA. Additionally, the Mayor, City Councilmembers, and the City Manager agreed on the need to create a procedure where the full City Council votes on the implementation or non-implementation of SCPRC recommendations. The City Manager stated that a process to bring SCPRC recommendations to City Council for a vote is underway.

We believe the City should create a policy or procedure that requires the City Council to vote on SCPRC recommendations, or at minimum, the recommendations that SPD disagrees with. We believe requiring the City Council to vote would put pressure on the SPD and SCPRC to negotiate in good faith to reach compromise on contentious issues and provide the public added transparency throughout the recommendation process.

We believe the lack of procedure requiring the City Council to vote on, at least, SCPRC recommendations that the SPD disagrees with, deprives the process of a conflict resolution path where the SPD and SCPRC are not in agreement. Whereas a consistent process of public discussion and vote on SCPRC recommendations will help to improve transparency, build public trust, and increase cooperation between the SPD and the communities it serves. We believe the City could benefit from facilitating discussions between the SCPRC, the City Manager's Office, SPD, and OPSA, in consultation with the City Attorney's Office, to determine whether the City Council should vote on SCPRC recommendations.

## **RECOMMENDATION**

**We recommend the City Council:**

- 14. Determine whether the City Council should vote on SCPRC recommendations. This dialogue should identify a process for the presentation of the recommendations and vote. Finally, the process should be presented to City Council to be memorialized in City Council resolution or ordinance.**

### **The Sacramento Community Police Review Commission and the Sacramento Police Department do not track whether recommendations have been implemented, partially implemented, or not implemented**

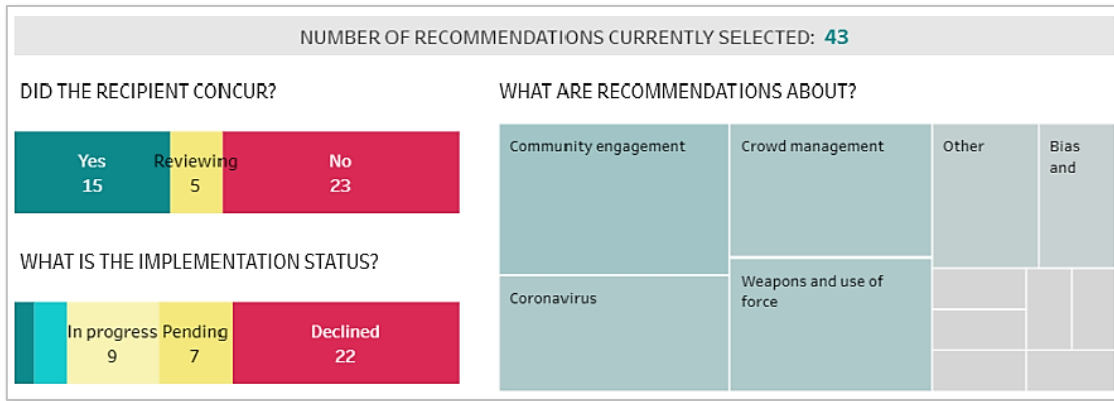
A civilian oversight agency that can document and communicate to the community the implementation status of its recommendations and major police department policy changes is more likely to succeed in fulfilling its purposes and objectives. However, neither the Sacramento Community Police Review Commission (SCPRC) nor the Sacramento Police Department (SPD) have implemented a process to track and publicly report on the implementation status of the SCPRC recommendations. As a result, the SCPRC, the SPD, the City Council, and the public do not have access to track progress or view whether recommendations have been implemented.

According to the National Association for Civilian Oversight of Law Enforcement (NACOLE), oversight agencies should track and report on the status of recommendations issued to the law enforcement department. If the law enforcement department has accepted a particular recommendation, the oversight agency should follow-up on its status, and assist with its implementation where possible. According to NACOLE, tracking the work of the oversight agency, should include documenting police department policy changes that have taken place as a result of agency work and should provide data that illustrates any resistance to a recommended policy change as well.

We reviewed the tracking practices of other civilian oversight agencies and found that many have implemented systems to monitor and publicly communicate information about police department responses to, and status of, recommendations. These tracking systems and reports vary in the detail provided and the frequency of the updates. For example, some tracking information is maintained on the agency website while others include the information in annual reports.

Based on our research, we noticed the City of Seattle, Washington, Community Police Commission (CPC) issues recommendations to the Seattle Police Department (Seattle PD). The CPC recommendation progress is tracked and publicly available through the City’s “Police Accountability Recommendations Tracker.” The page has several key functionalities. First, as seen below, the tracker provides data on the number of recommendations submitted.

Figure 32: Seattle Community Police Commission Recommendation Data Tracking



Source: City of Seattle Community Police Commission Recommendation Tracker

As seen above, the table provides aggregated data about the recommendations. The table lists the number of recommendations that the Seattle PD has concurred with, not concurred with, or is in the process of reviewing. The table also provides aggregated data on the number of recommendations implemented, in progress, pending, and declined. Finally, the table provides a graphical representation of the subject matter of the recommendation, such as “community engagement” and “crowd management.”

Second, the tracker also provides the specific information about each individual recommendation submitted by the CPC to the Seattle PD.

Figure 33: Seattle Community Police Commission Recommendation Tracking

FROM	TO	DATE	RECOMMENDATION SUMMARY	RESPONSE SUMMARY	
CPC	SPD	Jan 29, 2021	Disclose within 60 days how SPD incorporated community feedback and thes..	This letter achieves that level of feedback; SPD will provide more explanation after re..	▲
CPC	SPD	Jan 29, 2021	Publicize annual schedule of when SPD policies that will be reviewed and deadlines..	Have previously shared schedule with CPC; CPC used to maintain a separate schedule ..	✘
CPC	SPD	Jan 29, 2021	Humanize language to prompt culture change (“subject” to “person,” “tools” to “w..	Changed “tools” to “weapons”; SPD does not agree with other recommended change..	▲
CPC	SPD	Jan 29, 2021	Do not charge SPD officers with investigating the actions of their fellow offi..	The chain of command review is rooted in principle of organizational reform	✘
CPC	SPD	Jan 29, 2021	Do not use weapons that are not in policy and do not introduce new weapons without	Seattle Charter places responsibility on Chief to determine Department’s rules; pe..	✘

Source: City of Seattle Community Police Commission Recommendation Tracker

As can be seen above, the table includes the date the CPC submitted the recommendation, a summary of the recommendation, and a symbol denoting the status. Additionally, by clicking on either the text of the *Recommendation Summary* or the text of the *Response Summary*, a user can access the actual recommendation submitted by the CPC to the Seattle PD and the response letter. Finally, the table presents a graphical illustration of whether the recommendation is implemented. Notably, the red “x” indicates the Seattle PD did not concur with the recommendation while the yellow triangle indicates the recommendation is under review.

Similarly, the City of Albuquerque, New Mexico, Community Policing Councils (CPC) issue recommendations to the Albuquerque Police Department (Albuquerque PD). The CPC posts information about the status of Albuquerque PD’s response to each separate recommendation.

*Figure 34: Albuquerque Community Police Council Website Listing Recommendations and Status*

Recommendation	Status
18-05: Community Patrol Officers	Completed
18-04: Bicycle Evidence	Completed
18-03: Vehicle Ambush Prevention Technology	Completed
18-02: Naloxone Training and Equipment	Completed
18-01: APD Show Cars	Completed
17-03: Safe Exchange Zone	Submitted
17-02: Mail Theft and Vandalism	Submitted
16-03: Rescue Devices to Ensure Public Safety	Completed
16-02: Hearing Protection for Animals	Completed

Source: City of Albuquerque Community Policing Councils

As can be seen above, the website includes the number of the recommendation, the title of the recommendation, and the status. The status classifications used by the CPCs includes “Submitted”, in “Review”, and “Completed”. These definitions include:

- **Submitted:** Community Policing Council has submitted a recommendation.
- **In Review:** Recommendation has been routed to the appropriate Albuquerque PD Division Section for a response.
- **Completed:** Response to recommendation has been provided to the submitting Community Policing Council.

Additionally, the CPC recommendation tracking table also provides a link to a form, called a *Recommendation Submission/Response Form*, that includes the recommendation and the Albuquerque Police Department response.

As a comparison, the City of Atlanta, Georgia, Citizen Review Board (ACRB) utilizes a less sophisticated method of tracking recommendations and responses. As can be seen below, the ACRB summarizes the recommendation information in a table format.



Figure 35: Atlanta Citizen Review Board Recommendations Table

2019 Board's Additional Recommendations to APD and APD's Responses		
Additional Recommendations	Date Letter Sent to APD	APD's Response & Date Received
The Executive Director ("ED") recommended to the APD that all officers, specifically those who work extra jobs, who have direct contact with citizens be assigned Body Worn Cameras.	May 30, 2019	Chief responded June 3, 2019 and agreed with the ACRB and is working to ensure that all employees who work extra jobs are assigned BWCs.
The Board recommended that the APD require all officers, who are authorized to performed extra off-duty jobs, wear a Body Worn Camera while working those assignments.	April 24, 2019	No Response; however, the ED sent the Chief a letter on May 30, 2019 addressing this issue and a response was provided on June 3, 2019 (see above).

Source: Atlanta Citizen Review Board

As seen above, the table includes the recommendation issued and the date sent from the ACRB to the Atlanta Police Department (Atlanta PD). The table also includes a summary of the Atlanta PD's response. This table is included as an attachment to the ACRB's Annual Report.

As an example of a recommendation follow-up process already in use by the City of Sacramento, the Sacramento City Auditor's Office has implemented a recommendation follow-up process that lists the recommendation, the feedback from the department that received the recommendation, and the status of the implementation. An example of the recommendation follow-up results are shown in figure 36.

Figure 36: Sacramento City Auditor's Recommendation Tracking System

<b>Audit of Retiree Health Benefits</b> Recordkeeping of Retiree Benefit Eligibility and Elections Could be Strengthened	1	Develop a process to ensure compliance with the City's Records Management Policy that maintains complete personnel information for all retirees.	No additional progress on this item during the reporting period.	<b>Partly Implemented</b> The Human Resources Department updated their retiree checklist to include scanning and indexing paperwork. However, when we sampled ten retiree files from 2020, we found that two of the files did not include the checklist. In order for the checklist to be effective, employees must consistently use the checklist.
<b>Audit of Retiree Health Benefits</b> Recordkeeping of Retiree Benefit Eligibility and Elections Could be Strengthened	2	Establish a process to validate that health benefit enrollment forms and confirmation letters are being retained, as applicable.		<b>Implemented</b> Human Resources has developed a process to scan open enrollment forms and retiree confirmation statements into CARA.
<b>Audit of Retiree Health Benefits</b> Recordkeeping of Retiree Benefit Eligibility and Elections Could be Strengthened	3	Work with the IT department to identify and resolve eCAPS health benefit report errors for retirees.	This issue was not able to be resolved during the reporting period. We hope to have the IT consultant working on another eCAPS project assess this issue.	<b>Started</b> Human Resources is working with IT to identify and resolve eCAPS health benefit reporting errors for retirees.

Source: Sacramento City Auditor

We found that the City Code does not require the SCPRC or the Sacramento Police Department (SPD) to track or publicly report on SPD's response or implementation of recommendations. Neither the SCPRC nor the SPD have developed or implemented a consistent process to monitor, document, or communicate any information about recommendations after they are presented. We found that as of May 2021, neither the SCPRC nor the SPD were able to show, in a centralized database or spreadsheet, the status of the 110 SCPRC recommendations. The lack of a defined tracking and follow up process has resulted in a glut of recommendations that have not been resolved. This was noted in May 2021 by the media and resulted in a Council request for some of the recommendations to be brought before Council. In response, in June 2021, the SPD provided responses on the implementation status of 57 recommendations, leaving 53 recommendations without responses or implementation updates.<sup>32</sup> However, the SCPRC and SPD have still not defined a process or procedure to consistently provide information about the status of SCPRC recommendations to either the City Council or the public going forward. The lack of a consistent tracking and follow up process will continue to result in a number of unresolved recommendations.

According to the Chair and Vice Chair of the SCPRC, the SCPRC has never attempted to develop a database that tracks the implementation of recommendations. They stated, at this point, tracking this data would not be feasible due to a poor flow of information between the agencies and a lack of resources to develop and maintain tracking and reporting activities.<sup>33</sup> Similarly, SPD stated that they maintain correspondence related to recommendations that have been implemented but have also not developed a centralized tracking process.

The lack of a process to monitor, document, and communicate the SPD's implementation status deprives the City Council and the public of the opportunity to determine whether recommendations are implemented and their impact. Additionally, we believe the lack of a transparent tracking process creates a risk that the community will lose confidence in the SCPRC and reduce overall public participation in efforts to engage the community in the law enforcement policymaking process.

We believe the City could benefit from facilitating discussions between the SCPRC, SPD, and OPSA, to define a process for the tracking and reporting of SPD's responses and the implementation status of SCPRC recommendations. We believe these discussions should identify the staff or department responsible for tracking, aggregating, and communicating the recommendation status. Additionally, we believe these discussions should include the potential allocation of resources to make information about recommendation response and status publicly available in a transparent and timely manner. Finally, we believe the City Council should ultimately determine whether the City should track and report on the implementation status of the SCPRC's recommendations.

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<sup>32</sup> See Figure 31 for example of SPD response to SCPRC recommendations presented to the City Council in May 2021.

<sup>33</sup> The issues surrounding access to information and allocating of resources to the SCPRC are discussed in Finding 1 and Finding 2 of this report.

## RECOMMENDATION

We recommend the City Council:

15. Determine whether the City should track and report on the implementation status of Sacramento Community Police Review Commission recommendations. The City Council should consider adopting a process to track and report on the implementation status of SCPRC recommendations that includes the department responsible. Finally, the City Council should consider whether to memorialize the requirement and process in resolution or ordinance.
16. Determine whether to provide resources for making SCPRC recommendation responses and implementation status publicly available in a transparent and timely manner. The City Council should identify additional funding for the tracking process. Finally, the City Council should consider whether to memorialize the funding provision in resolution or ordinance.

## **Recommendation from the Greensboro Criminal Justice Advisory Commission on hemp versus marijuana**

### **Purpose**

The NC legislatures had the opportunity to ban smokable hemp and chose not to in 2019. There is a serious loophole in the full legalization of Hemp when Marijuana is still illegal and now it is up to municipalities to determine how to rectify this. The NC legislators has begun the process of making expungements easier for non-violent offenders

### **Materials used in making this determination**

“There is no easy way for law enforcement to distinguish between industrial hemp and marijuana. There is currently no field test which distinguishes the difference. Hemp and marijuana look the same and have the same odor, both unburned and burned. This makes it impossible for law enforcement to use the appearance of marijuana or the odor of marijuana to develop probable cause for arrest, seizure of the item, or probable cause for a search warrant. In order for a law enforcement officer to seize an item to have it analyzed, the officer must have probable cause that the item being seized is evidence of a crime. The proposed legislation makes possession of hemp in any form legal. Therefore, in the future when a law enforcement officer encounters plant material that looks and smells like marijuana, he/she will no longer have probable cause to seize and analyze the item because the probable cause to believe it is evidence of a crime will no longer exist since the item could be legal hemp. Police narcotics K9’s cannot tell the difference between hemp and marijuana because the K9’s are trained to detect THC which is present in both plants. Law enforcement officers cannot distinguish between paraphernalia used to smoke marijuana and paraphernalia used to smoke hemp for the same reasons. The inability for law enforcement to distinguish the difference between hemp and marijuana is problematic in all marijuana prosecutions, from small amounts to trafficking amounts of plant material. “

-North Carolina State Bureau of Investigation

“The North Carolina Senate recently passed legislation loosening the requirements to expunge a criminal record. Offenders could wipe out multiple nonviolent misdemeanor or low level felony convictions, regardless of age, and the bill expands expunctions for misdemeanors and minor felonies committed by 16- and 17-year olds. Currently, only nonviolent, first-time convictions qualify.

The bill also automatically wipes away charges that resulted in a not guilty verdict or were dismissed. Countering decades of tough-on-crime legislation, North Carolina is among a growing number of states making it easier to wipe records clean.”

- Associated Press: “North Carolina moves to help offenders clear their records”

### **Long term consequences that were factored in to NOT changing the SB 315**

“The unintended consequence upon passage of this bill is that marijuana will be legalized in NC because law enforcement cannot distinguish between hemp and marijuana and prosecutors could not prove the difference in court. Every quantity of hemp and/or marijuana is important for police investigations, from the cigarette to the “dime” bag to a bale.”

-North Carolina State Bureau of Investigation

## **GCJAC Proposal Regarding Conflation of Hemp and Marijuana**

Hemp, including smokable hemp, was declared lawful by the North Carolina legislature in 2015. It has been shown that the odor and appearance of hemp are the same as marijuana, which remains illegal in North Carolina. As stated by the North Carolina Special Bureau of Investigation, "Hemp and marijuana look the same and have the same odor, burned and unburned. This makes it impossible for law enforcement officers to use the appearance of marijuana or the odor of marijuana to develop probable cause for arrest, seizure of the item, or probable cause for a search warrant."

Thus, any police stops, searches and seizures without warrants based on the odor or appearance of alleged marijuana are no longer grounded on a reason, but rather a guess. Such a guess is insufficient for such stops, searches and particularly arrests, and will not meet a probable cause standard under *Illinois v. Gates*, 462 U.S. 213 (1983). Arrests have far-reaching adverse consequences for employment, livelihood, and education of the person arrested, even if there is no conviction that results. Further, data shows that marijuana arrests 3.6 times more likely to occur with African Americans than with White persons. Even though usage among both races is similar. There is also no consensus across the country that marijuana prosecution serves even a weak government purpose. In fact, at least 27 states and the District of Columbia have decriminalized marijuana.

### **Recommendation of the GCJAC**

- As marijuana and hemp are indistinguishable from each other by field tests, the presence of the odor of hemp or marijuana should not be used as a reason for probable cause to search.
- Marijuana be deprioritized within the City of Greensboro and the Greensboro Police Department. Due to the indistinguishable nature of hemp and marijuana, the GCJAC is recommending that marijuana be deprioritized and to immediately cease possession charges for marijuana. Unless possession can be determined by other means.

### Supporting Documents

We Change Laws

<https://www.mpp.org/states/north-carolina/>

NORTH CAROLINA STATE BUREAU OF INVESTIGATION

Industrial Hemp/CBD Issues

[https://www.sog.unc.edu/sites/www.sog.unc.edu/files/doc\\_warehouse/NC%20SBI%20-%20Issues%20with%20Hemp%20and%20CBD%20Full.pdf](https://www.sog.unc.edu/sites/www.sog.unc.edu/files/doc_warehouse/NC%20SBI%20-%20Issues%20with%20Hemp%20and%20CBD%20Full.pdf)

North Carolina moves to help offenders clear their records

Associated Press; By Amanda Morris, May 26, 2019

<https://apnews.com/ceb0954746464edab5e8a6b01aa8b6de>

A TALE OF TWO COUNTRIES: RACIALLY TARGETED ARRESTS IN THE ERA OF MARIJUANA REFORM

<https://www.aclu.org/report/tale-two-countries-racially-targeted-arrests-era-marijuana-reform>

**Appendix B: Albuquerque  
Community Policing Council  
Recommendation Form**



# Recommendation Submission/Response Form

Referenced CASA area (A,B,C,D,E):   C  

This response is in reference to recommendation #19-06 – Violent Crime Statistics / Area Command Foothills

Responsible SME: DC J. Griego

Date received: 5/16/19 – Re-submitted 12/11/19

Date returned: 1/6/20

**RECOMMENDATION (Recommendation/Reasoning):**

APD provide violent (murder, rape, aggravated assault, robbery) and property crime statistics monthly.

Reason: Violent crime has been an important under-reported topic at our CPC meetings for years. Therefore, APD should provide violent crime (murder, rape, aggravated assault, robber) statistics monthly for each area command for the previous month (and the current year to date) by the 7<sup>th</sup> following month. Use FBI categories and criteria. Provide the same for property crime. We recognize that the statistics are preliminary and subject to change.

**APD RESPONSE/REASONING:**

We are currently in the process of reviewing and addressing inconsistencies across our data systems. Our desire is to produce accurate and timely data to the public. We are in the nascent phase of the project, which includes how this data will be presented.

In the interim there are three options. Area Command Crime Prevention personnel can pull “call for service” data. As stated above, this data is extremely preliminary. Another option is the website [Crimemapping.com](http://Crimemapping.com). This website is based on the same data that the crime prevention personnel would utilize and is linked to the City of Albuquerque website. Lastly, we will be submitting the 2019 NIBRS report (We have not used UCR since

2018) to the FBI. That data will be publicly available once it is verified by the FBI. It will likely be at least 60-90 days before we can be confident in property crime numbers 7 days after the end of the month. Homicide and shooting data is tracked manually and is updated after each occurrence and can be presented at any time.

Chief made aware of recommendation: Yes  No

Recommendation Status: Approved  Denied  Needs more time

November 11, 2021

Mr. Jorge Oseguera  
City Auditor  
Historic City Hall, Floor 2  
915 I Street  
Sacramento, CA 95814

**RE: The Audit of the Sacramento Community Police Review Commission (SCPRC)**

Dear Mr. Oseguera,

Thank you for the opportunity to write in response to your audit of the Sacramento Community Police Review Commission. We agree with your audit findings that the relationship between OPSA, SPD, the City of Sacramento, and the Commission needs to be formally clarified by the city, that the commission needs additional staffing resources, and that the city should adopt a clear transparent process by which to consider the Commission's recommendations so that the work of the commission is strengthened. This would also better prepare the Sacramento City Council to act on Commission recommendations.

These findings are largely in line with the Commission's recommendations from the Commission's Internal Ad Hoc Committee from 2020. This ad hoc committee was formed specifically to try to improve interactions by all parties with the commission and to help the City act on Commission recommendations. These recommendations included:

- The commission needs additional staff support. SCPRC is currently staffed by the Office of Public Safety Accountability (OPSA), but OPSA has extremely limited staff and has its own workload it must complete.
- Sacramento Police Department liaison should meet with Chair, Vice Chair, OPSA staff to address requests and respond directly instead of having to use OPSA as an intermediary.
- The IG position should be independent of OPSA supervision and should be granted subpoena power. This change would require a charter amendment. Sacramento City Charter Section 34 limits the subpoena power to the City Council or to any committee of the City Council Members.
- The city council should adopt a process or policy that requires the body to vote on the recommendations received by the SCPRC no later than three months from receipt.

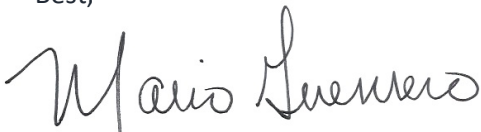


- SCPRC should be given the authority to review and provide feedback to the SPD, Mayor and Council, before the adoption of any new SPD general orders or updates to these dealing with Body Worn Cameras, Foot Pursuit, Use of Force and Discipline.
- Require that the Police Chief, or his representative, to meet with the SCPRC at a minimum once a year and prior to the submission of the annual report to the City Council to provide feedback to SCPRC about its recommendations.
- The SPD should have a police liaison present at all the SCPRC monthly meetings to respond to questions and information request.
- Once recommendations are shared with City Council and SPD at the end of the year, SPD should report to the SCPRC on the status of the recommendations. SCPRC recognizes that some of the recommendations will require the city to amend its statutes or provide resources for SPD to comply, however, some recommendations might be accomplished through administrative changes. To that end, SPD should communicate to SCPRC on each recommendation - if it was adopted fully, partially, not at all.

The recommendations above (with the exception of the last resort for use of deadly force policy) have yet to be acted upon by the city council including recommendations from 2018, 2019, and 2020. In addition, we have 2021 recommendations headed to the city in December of this year. We hope that when the city adopts the recommendations of the audit, the city will finally be able to consider and vote on the remaining recommendations.

Thank you for the opportunity to work with you on this audit. We look forward to concrete actions by all parties so that the Commission, SPD, and the city can live up to our commitment to meaningful public input and public service as the Commission continues its work looking at SPDs policies and programs.

Best,



Mario Guerrero  
Chair, Sacramento Community Police Review Commission



Renee Carter  
Vice Chair, Sacramento Community Police Review Commission

CC: Lynn Bashaw, Assistant City Auditor  
Kevin Christensen, Senior Fiscal Policy Analyst

DANIEL HAHN  
Chief of Police

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## MEMORANDUM

**TO:** Jorge Oseguera, Auditor, City of Sacramento  
**DATE:** November 18, 2021

**FROM:** Katherine Lester, Deputy Chief  
Sacramento Police Department  
**REF:** OOO 11-10

**CC:** Howard Chan, City Manager  
Christopher Conlin, Assistant City Manager

**SUBJECT: The Audit of the Sacramento Community Police Review Commission**

The Sacramento Police Department appreciates the opportunity to review this report and respond to the recommendations proposed by the Office of the City Auditor. These recommendations are listed below and are followed by the Department's response for each:

1. The City Council should clarify the purpose, powers and duties of the Sacramento Community Police Review Commission and how it interacts with other City departments to achieve its objectives. The City Council should memorialize the specific purpose, powers and duties, through resolution, ordinance, or codifying the changes in the City Code.

Response: Concur.

2. The City Council should determine the staffing needs and responsibilities, and funding for the Sacramento Community Police Review Commission. The City Council should memorialize the specific role of staff provided, the funding source, and what City office or department will house the position, through resolution or codifying the changes in the City Code.

Response: Neutral. Neither agree nor disagree.

3. The City Council should determine the training curriculum that SCPRC Commissioners should be required to complete and potential remedies if training is not completed.

Response: Concur. Also recommend that the City Clerk, Police Department, OPSA and the City Attorney's Office work together to provide standardized training to commissioners.

4. The City Council should codify the training requirements for the Sacramento Community Police Review Commission in, at minimum, City Council ordinance. The Sacramento Community Police Review Commission also should include the training requirements in its policies and procedures.

Response: Concur. Also recommend that the City Clerk, Police Department, OPSA and the City Attorney's Office work together to provide standardized training to commissioners.

5. Identify resources to provide the Sacramento Community Police Review Commission with an increased internet presence.

Response: Neutral. Neither agree nor disagree.

6. Work with the Sacramento Community Police Review Commission, the City Manager's Office and City Council to develop policies and procedures for communicating with the public.

Response: Neutral. Neither agree nor disagree.

7. Clarify whether the Sacramento Community Police Review Commission is responsible for issuing its own annual report. The clarification should specify the agency required to complete the report, the frequency of the report production and provide direction on the information that should be included in the report, such as recommendations, plans for the upcoming year, and information about public outreach.

Response: Neutral. Neither agree nor disagree.

8. Identify key performance indicators to gauge the effectiveness of the Sacramento Community Police Review Commission in meeting its purpose and objectives.

Response: Neutral. Neither agree nor disagree.

9. Provide secure email accounts for Sacramento Community Police Review Commission Commissioners and require the use of these email addresses to conduct Commission-related business.

Response: Neutral. Neither agree nor disagree.

10. Develop and implement policies for email use and provide training to the Sacramento Police Review Commissioners.

Response: Neutral. Neither agree nor disagree.

11. Determine the level of access to information across City government needed by the Sacramento Community Police Review Commission to fulfill its City Code mandated duties. The City Council should memorialize the Sacramento Community Police Review Commission's access to information in either resolution, ordinance, or in the City Code.

Response: Concur.

12. Determine an agreed-upon format for Sacramento Community Police Review Commission recommendations. The format should direct the specific information to be required in each recommendation. Finally, the process should be memorialized in City Council resolution or ordinance.

Response: Concur.

13. Determine whether the Sacramento Police Department should provide written responses to Sacramento Community Police Review Commission recommendations. This dialogue should identify the form the

response will be provided in. Finally, the City Council should consider memorializing the process in resolution or ordinance.

Response: Concur. If Recommendation 12 is adopted, this recommendation could be incorporated into that agreed-upon format.

14. Determine whether the City Council should vote on SCPRC recommendations. This dialogue should identify a process for the presentation of the recommendations and vote. Finally, the process should be presented to City Council to be memorialized in City Council resolution or ordinance.

Response: Neutral. Neither agree nor disagree.

15. Determine whether the City should track and report on the implementation status of Sacramento Community Police Review Commission recommendations. The City Council should consider adopting a process to track and report on the implementation status of SCPRC recommendations that includes the department responsible. Finally, the City Council should consider whether to memorialize the requirement and process in resolution or ordinance.

Response: Concur.

16. Determine whether to provide resources for making SCPRC recommendation responses and implementation status publicly available in a transparent and timely manner. The City Council should identify additional funding for the tracking process. Finally, the City Council should consider whether to memorialize the funding provision in resolution or ordinance.

Response: Concur with the proposal for Transparency. Regarding the funding provision, SPD is neutral-neither agree nor disagree.