

# Community-Led Committee on Police Reform and Racial Justice Draft Recommendations

January 19, 2021

The Community-Led Committee on Police Reform and Racial Equity is a community-led group developing recommendations for changes to policing and methods to address systemic racism in Alameda. At the direction of the Alameda City Council, in August 2020 the City Manager appointed four community members to the Steering Committee to lead this work: Christine Chilcott, Al Mance, Cheryl Taylor, and Jolene Wright. The Steering Committee then selected 60 people to serve on five Subcommittees. The preliminary recommendations in this document are based on months of research and collaboration by the Subcommittees. After a period of public engagement, the Committee will present its final recommendations to the Alameda City Council in spring 2021.

More information is available at: [www.alamedaca.gov/policing](http://www.alamedaca.gov/policing)

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# Status Report of the Subcommittee on Unbundling Services Currently Delivered by the Police Department

## Introduction

This status report provides background on the work and preliminary findings of the City of Alameda's Subcommittee on Unbundling Services Currently Delivered by the Alameda Police Department. Below, we describe our process and initial impressions. We also provide some modest immediate recommendations designed to keep the door open to an unbundling process.

## Process

The Unbundling Subcommittee has met nearly weekly since September. Our members have also participated in meetings of the full Police Reform Committee, consisting of the Steering Committee and all of the sub-committees. Our Chair, Debra Lewis Mendoza, meets regularly with the Steering Committee.

We have sought and obtained a great deal of data and information, including Alameda Police Department (APD) service calls, APD information regarding traffic citations, domestic violence arrests, overdoses and people detained for psychiatric evaluation (pending), AFD information regarding overdoses and people detained for psychiatric evaluation, Community Development Department information regarding social service agreements and reports to the city of Alameda.

We have also sought input and information from individuals outside our sub-committee. On October 29, we had a presentation by Melissa Martin-Mollard, a social worker and researcher with Alameda Family Services, who examined non-police crisis-intervention programs and models. On November 3, we met with Alison DeJung, Executive Director of Eden I & R, which runs the 211 system in Alameda County. On November 4, we met with APD Captain Matthew McMullen who commands the Bureau of Operations and Theresa De La Cruz who is an APD dispatch supervisor. Captain McMullen and Ms. De La Cruz provided great insight into service-call data and dispatch processes.

We have also contacted these local organizations and service providers in order to obtain more information about services offered and their clients' needs: Alameda Point Collaborative, Alameda Food Bank, Building Futures with Women and Children, Mastick Senior Center, Meals on Wheels, Girls Inc of the Island City, Alameda Family Services, Alameda Boys & Girls Club, Operation Dignity, First Five Alameda, Black Achievers Alliance, Alameda Renters Coalition, Centro Legal de la Raza, A Better Way, Crisis Support Services, Felton Institute, East Bay Agency for Children, Youth Activist of Alameda, and Alameda Education Foundation.

In the coming weeks and months, we will be further analyzing data, hearing directly from the community, and learning more about alternative models.

## Initial Impressions

Several overarching principles have surfaced in our work and will inform our ultimate conclusions and recommendations. First, policing in the United States has a culture and history of racism and excessive force, putting people of color and people with disabilities in particular at risk of injuries or death from excessive force at the hands of armed officers. This history (no

matter how present it is in today's APD) causes great distrust and fear, making encounters fraught, and causing some members of our community to forgo help they need, and results in disproportionate outcomes based on race. Second, individuals are best served when a professional with the proper training is providing the services needed, e.g. a mental health professional, not a police officer nor a firefighter, should be the primary (and sometimes only) responder to a person having a mental health crisis. Third, when police officers respond to calls that could be handled by a different professional, the police officers are pulled away from their primary responsibility of preventing, responding to, and investigating criminal activity.

Our initial impressions of the APD data, which we are still analyzing, is that APD responds with police officers to many calls that can be, and should be, handled by a non-police responder or alongside a non-police responder. Moreover, arrests rates of people of color exceed their proportion of the Alameda population, increasing the potential for negative outcomes for our BIPOC community. In addition, other cities have (or are developing) alternative models that need to be further analyzed to determine whether they fit Alameda's demographics, needs, geography, and size. Some other models worthy of further study include, but are not limited to:

- Alameda County's co-responder models in which clinicians respond in conjunction with police officers: Mobile Crisis Team in West Oakland; Mobile Evaluation Team in East Oakland, and the recently-launched Community Assessment and Transport Team (CATT) (contract held by Bonita House);
- Austin-Travis County Emergency Management Services Integral Care's Expanded Mobile Crisis Outreach Team (EMCOT) (24/7 mobile crisis team responding to mental health emergencies);
- BART Crisis Intervention Specialists (civilians with a background in social work who would respond to calls involving people with suspected mental health issues);
- CAHOOTS in Eugene, OR (mobile unit with mental health professional and medic);
- MACRO in Oakland, CA (community representatives responding to individuals in need);
- Mental Health First in Sacramento and Oakland;
- New York City's Crisis Management: teams of messengers who mediate conflicts on the street and connect high-risk individuals to services;
- Psykiatrisk Akut Mobilitet (PAM) in Stockholm, Sweden;
- Street Crisis Response Team (SCRT) in San Francisco.

There are also programs within police departments, designed to improve the police response to emergencies, such as but not limited to:

- Community Intervention Teams: training focused on increasing officers' effectiveness by helping them better understand the state of mind of the mentally ill;
- Community Navigator in Minneapolis, MN: community navigators work within the department to strengthen partnerships between the police and specified communities.

In view of the information we have reviewed and the principles just described, we are anticipating that our final report will recommend that:

1. APD staffing and budget should be maintained only at the level necessary to properly prevent, respond to, and investigate crime, i.e. the activities that require the training of a police officer;
2. Police officers and the APD budget should not be used for other services;
3. The City should contract with non-profit or external governmental organization(s) to respond to non-criminal calls for service, such as those related to individuals in crisis (including those with acute or ongoing mental health needs), unhoused individuals, welfare checks, and substance use.
4. Analyze incoming calls and implement necessary changes to the 9-1-1 system to redirect calls when services can be provided by other professionals.

We urge the City of Alameda to not await our final report before taking the following actions which will lay the groundwork for reform:

1. Increase public outreach regarding 211 and other services to help individuals navigate available social services.
2. Advance a dynamic and robust annual assessment of community needs, conducted by individuals outside of APD, using service call data, police dispatch and outcome data, surveys of Alameda residents and visitors, and other community outreach modes.
3. Forgo any new or further commitments (either in budgeting or collective bargaining) to or with the City's public safety agencies and employees until after the police reform process is complete.
4. Continue hiring freeze in APD.
5. Hire a police chief committed to reform and, in particular, to rooting out bias and use of excessive force in policing, and committed to creating a department characterized in its policies and culture by diversity, equity, and inclusion. Special attention should be paid to candidates traditionally underrepresented in police chief positions.
6. Establish a mechanism---such as continuing the work of the Police Review sub-committees---to ensure ongoing community input into the development, implementation, and enduring oversight of the unbundling of police services and the delivery of services by new entities.

These are just preliminary impressions. We will continue to examine the various models and consider the needs of Alameda, and we look forward to working with the community and the city to create service models that are optimized to make Alameda as safe as possible for everyone and to provide all with the services they need.

## Preliminary Recommendations of the Subcommittee on Laws that Decriminalize Survival

### Introduction

In this document, the Subcommittee on Laws Criminalizing Survival provides an introduction of “criminalized” issues in the city of Alameda that create unnecessary burdens for residents, law enforcement, and surrounding communities at large in Alameda. We then provide a list of preliminary recommendations for APD and city leadership on how to address these issues. Ultimately, we hope that by building coalitions of support across residents and policy bodies and committing to larger goals of liberation, we can build towards a community where everyone truly “belongs.”

### Overview on Criminalization of Survival

#### A. Homelessness

While it is not illegal to be homeless in Alameda, unhoused populations face consequences around criminalization and often find themselves involved, as a result, with members of the Alameda Police Department (APD). We recognize that it is the policy of APD to provide law enforcement services to all members of the community while protecting the rights, dignity, and private property of the homeless. However, we would like to explore options that de-center policing through an educational campaign: we hope to provide information for residents that promotes non-police options, all the while providing up-to-date information about resources available for unhoused populations.

Currently, the City of Alameda has put together a page on the city's website that collects the many excellent resources we have available here, but we hope to explore further options. How can we ensure that information on the website is kept up to date? Furthermore, how can we explore alternate forms of communication (snail mail, social media) to ensure that we reach a wide audience?

Nine months into the COVID-19 pandemic, current information is more necessary than ever to ensure that our community remains aware, caring, understanding and helpful. We hope that redirection and resources will direct folks away from intentionally contacting police in retaliatory or vindictive manners, and that social services, rather than criminalization-reliant practices, are emphasized.

#### B. Fines, Fees, and Revenue Generation

The American criminal justice system has developed an increased reliance on the usage of monetary sanctions (fines, fees, restitution, cash bail, traffic ordinances, and others). This has disproportionately affected indigent communities and people of color, who find themselves stuck in “cycles of poverty and punishment”<sup>1</sup>. Locally, Alameda police enforce traffic and vehicle citations in a way that disproportionately target BIPOC and low-income individuals.

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<sup>1</sup> <https://finesandfeesjusticecenter.org/about-fines-fees-justice-center/>

As a whole, the state of California has been on the cutting edge of policy reform around the issues of fines and fees. In 2016, the city of San Francisco became the first in the nation to launch the Financial Justice Project, a government-based program to assess and reform the levying of fines and fees throughout the county. The project has served as a model for cities across California, and we look to the goals of the Financial Justice Project as a template for which the city of Alameda can base its reforms upon. The passage of AB 1869 in September 2020 (which eliminated a multitude of administrative fines and fees imposed in the California justice system) also signifies that Californians are growing increasingly concerned about the entanglement between poverty, debt, and the criminal justice system. As the state legislature found, “Because these fees are often assigned to people who simply cannot afford to pay them, they make poor people, their families, and their communities poorer.” (AB 1869, Sec. 1(g)).<sup>2</sup>

We hope to use our time in this committee to continue this momentum towards progress by exploring possibilities that the City of Alameda can take. We envision, for one, the creation of a Fines and Fees task force with the city, composed of community members, members of law enforcement, and legislative body members. We also hope to further explore the possibility of reforms that allow low-income individuals to pay off traffic fines and citations and to create an income verification database for all city agencies to utilize, and to encourage the City to evaluate the effects of private parking, tow, and traffic fines and fees on BIPOC/low-income residents of Alameda.<sup>3</sup> Our goal reflects those of the San Francisco Office of the Treasurer and other financial advocacy communities: we seek to “alleviate the administrative burden for government entities and for courts,” thereby easing financial and social burdens for all.<sup>4</sup>

### C. Misdemeanors/Low-level Crimes

The State of California is a decade into wide-reaching criminal justice reform, moving away from the mass incarceration which has failed to properly recognize the mental illness, substance abuse, and poverty associated with many low-level offenses, and which also has had a disparate impact on people of color.<sup>5</sup> The City of Alameda’s policing and prosecuting activities should mirror this movement, addressing status-related offenses with services and treatment, rather than arrest and prosecution. A homeless person shoplifting small necessities should be directed to the support services like the Food Bank, rather than being arrested. A substance abuser found intoxicated on the streets should be directed to treatment providers, rather than being prosecuted.

Alameda, however, continues to arrest and prosecute for these low-level crimes associated with poverty, mental illness, and substance abuse. In 2019, the City Council voted to fund a position

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<sup>2</sup> [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200AB1869](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB1869)

<sup>3</sup> <https://www.google.com/url?q=https://m.eastbayexpress.com/oakland/towing-for-dollars-in-alameda/Content?oid%3D22699785%26showFullText%3Dtrue&sa=D&ust=1610910572723000&usg=AOvVaw3EJSe9F0NO4IarXXZ89P5S>

<sup>4</sup> <https://www.brennancenter.org/our-work/research-reports/steep-costs-criminal-justice-fees-and-fines>

<sup>5</sup> See e.g. The Criminal Justice Realignment Act of 2011 (low-level offenders kept in local custody instead of state prison), Proposition 47 (reduction of low-level theft and drug felonies to misdemeanors), Proposition 36 (Three Strikes Law reform), Proposition 57 (earlier parole consideration and judges (not D.A.’s) deciding which minors should be tried in adult court), and The Racial Justice Act of 2020.

in the City Attorney's Office to prosecute crimes. While the intent may have been to prosecute city code violations or more serious offenses the District Attorney chose not to prosecute, the prosecutor's docket includes trespass (Pen. Code sec 602(m)), intoxication in public (section 647(f)), simple possession of narcotics (Health & Saf. Code sections 11350 & 11377), vandalism (Pen. Code sec. 594), rather than offense uniquely in the city's purview, e.g. violations of city ordinances regarding tenant harassment, consumer protection, etc.

Addressing offenses like trespass, intoxication in public, and simple possession through arrest and prosecution is antithetical to the contemporary societal recognition that services and treatment, not incarceration, is the solution, and is antithetical to the contemporary societal recognition that prosecution and punishment for such offense disproportionately impact people of color.

In these respects, we support the recommendations of the Unbundling Subcommittee. We further recommend that the City forego any increased funding to, and freeze hiring within, the City Attorney's prosecutorial unit until the work of the Police Reform committees is complete.

#### D. Laws that Criminalize Youth

Minors who commit a crime are considered "delinquent." Minors who otherwise violate established rules and statutes (status offenses) are identified as "incorrigible minors." Status offenses include curfew violations, truancy, running away, being beyond control of parents or disobedient to lawful parent rules.<sup>6</sup> Law enforcement agencies can counsel and release the juvenile, refer an arrested juvenile to a probation department, or turn the juvenile over to another agency.

In 2019, 4,057 status offenses were reported in California. Truancy violations accounted for 3.6%; runaways accounted for 50.1%; curfew violations accounted for 17.6%; incorrigible violations accounted for 3.3% and other violations (including minor beyond parental control and failure to obey a juvenile court order) accounted for 25.4%.<sup>7</sup> In Alameda, juvenile arrests pursuant to W&I 601 are considered Part Two crimes. The number of juvenile arrests has been going down (2012: 61; 2013: 80; 2014: 62; 2016: 59; 2016: 52; 2017: 27; 2018: 29.)<sup>8</sup> How these arrests break down into behavior, curfew, and truancy is key to understanding how these laws interact with other behaviors including mental health and homelessness.

There are several issues that this committee will be exploring: first and foremost, we wish to reprioritize funding that was previously dedicated towards SROs to enhance counseling and citywide/countywide support services for students and families. We also hope to continue to minimize the relationship between APD and school operations, particularly in cases relating to delinquency or punishment, and to support the district's measures to follow models of restorative justice to engage youth.

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<sup>6</sup> CA Welfare & Institutions Code Section 601

<sup>7</sup> Juvenile Justice in CA 2019 report

<sup>8</sup> APD Crime Report

## E. Mental Health

The premise put forward as part of our inquiry is that “individuals with mental illnesses” (IMI) are a significant component of our most vulnerable citizen population whose survival is disproportionately threatened by police practices that criminalize their survival. IMI status is often confounded with criminal behavior. Recent DOJ reports note that IMI: tend to be **40%** of incarcerated individuals; over **90%** had a history of multiple arrests; and, IMI are **twice as likely** to recidivate vs. non-IMI<sup>9</sup>. Additionally, “the risk of being killed during a police incident” is **16 times** greater for people with untreated mental illness<sup>10</sup>.

The following questions emerge:

- What is the % of IMI encounters with APD and how and when is that initial determination of mental health made?
- Does the APD use evidence-based tools like the **Brief Jail Mental Health Screen** to efficiently identify IMI at the point of first encounter?

Historically, communities have relied on the criminal justice system and law enforcement to provide mental health care and as a result, every year over 2 million people with mental illness are booked into America’s jails and prisons (NAMI, 2019). A non-exhaustive list of aspects in this issue would include the possible absence of an effective mental health system and/or, the existence of a punitive oriented judicial system, and/or less effective practices by law enforcement.

- How does APD fit in the ecosystem of mental health? Moreover, how do APD and the City of Alameda coordinate with county-level social, mental, and health care services?
- What budgetary implications flow from a more engaged presence of mental health professionals at the initial encounter of IMI with APD?

In 2015, Governor Brown signed Senate Bill 11 which mandates POST to create, maintain, and make available a three-hour mental health course.

- How is this implemented for APD? Is this the extent of mental health training provided?
- What practices and procedures are in place to help identify those suffering from mental illnesses?

Officers are required to respond to “5150” calls<sup>11</sup>.

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<sup>9</sup> For more detailed findings, see final report to DOJ for award #2015-MO-BX-0222 (McCline, Meehan & Brown, 2017)

<sup>10</sup> 2015 study, “Overlooked in the Undercounted: The Role of Mental Illness in Fatal Law Enforcement Encounters,” by the Treatment Advocacy Center.

<sup>11</sup> A reference to the state Welfare and Institutions Code that sets criteria for detaining someone for 72 hours who is deemed “a danger to self or others.”

- How often does this happen in Alameda; what is the APD involvement after the 5150 call is made?
- Are these statistics made public?

Our neighbors in Oakland in June, 2020, voted to fund a \$1.35<sup>12</sup> million pilot program that will send emergency medical technicians and trained counselors to respond to non-violent calls. San Francisco Mayor London Breed announced in June 2020 that trained, unarmed professionals will soon replace police officers in responding to noncriminal crises involving people who are homeless or have mental illness, among others.

- How can Alameda learn from Oakland and SF experiences in piloting these programs?

Given the availability of evidence-based practices highly recommended by DOJ, the questions for APD include:

- What such practices have been incorporated into APD policies that tend to minimize how we “criminalize” the behavior of IMI, a significant segment of our more vulnerable individuals?
- Can we estimate the extent to which incorporation of evidence-based practices relative to IMI might enhance APD effectiveness with this population subgroup?

### **Sub-Committee Recommendation Summary**

The following recommendations are preliminary frameworks that we hope to expand upon in detail and scope with APD and city leadership.

1. Create a Citizens’ Police Oversight Committee tasked with holding APD officers accountable with current and future documentation.
  - A. The Task Force should work to ensure that qualitative data on police-civilian interactions is documented and released for public oversight.
  - B. The City should also conduct further analysis of fines and fee revenue to determine their extent and effects on poor people of color. The City should also consider how these fines and fees can escalate to criminal offenses, further harming affected BIPOC residents.
2. Expand the city of Alameda’s OpenGov online reporting of crimes to include additional categories outside categories required by the FBI’s UCR (Universal Crime Reporting) and NIBRS (National Incident Based Reporting System).

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<https://www.eastbaytimes.com/?returnUrl=https%3A%2F%2Fwww.eastbaytimes.com%2F2020%2F06%2F15%2FAlameda-puts-the-brakes-on-police-chiefs-decision-to-halt-response-to-mental-health-calls%2F%3FclearUserState%3Dtrue>

- A. The department should release data that codes and specifies youth interactions without compromising the confidentiality of minors.
  - B. The “all other” category for reported Part II crimes should be specified.
  - C. Daily reports should be archived alongside yearly numerical reports. Citizens should be able to delineate data that spans periods of days, weeks, and months.
  - D. The department should track and publicize data on police stops and use of officer force.
3. Continue the current campaign to partner with Compstat for Justice, the Center for Policing Equity, and other outside nonprofits for additional recommendations and reports on clarity, transparency, and equity.
- A. Collaborate with Oversight Committee, civilian committees, policy organizations, the APD IT department and other advocacy organizations in this engagement.
  - B. The department should be transparent about their process of communication with the Center for Policing Equity and seek to release all reports and analysis conducted by the Center.
4. Rehire a full-time “Crime Analyst” position and expand the statistical/data arms of the police department.
- A. Report requests for public information in a timely fashion (14 business days).
  - B. Continue to improve data collection and transparency without compromising resident integrity, privacy, and increasing the department’s reach in the usage of unnecessary criminological surveillance.
5. Conduct a “Did You Know” social media campaign using Instagram, Facebook, and Twitter to direct folks away from emergency police reporting.
- A. Campaign will mobilize a “What To Do If ...” strategy to connect engaged viewers with city and county services for issues on unhoused populations, animal control, and other non-emergency referrals
  - B. Extend operations of “Block by Block” Campaign past January 2021.

## A Review of Police Department Policies and Practices Subcommittee Preliminary Recommendations

### 1. We Recommend That the City of Alameda Engage A Professional To Review and Propose Revisions to Alameda's Police Policies and Procedures

We are a group of volunteers with no particular expertise in this area. We are aware that there are professionals who have devoted entire careers to studying police practices and developing policies that implement the values identified by communities. Alameda's police practices and policies encompass over \_\_\_ pages. A comprehensive, word-by-word review of these practices and policies is far outside the scope or capacity of this committee.

Accordingly, as we dig deeper into the minutiae that is police policy and procedure, it appears that our most important recommendation is that the City of Alameda hire a professional consultant to bring our police department's policies and procedures in line with contemporary best practices, informed by the values of our community as identified above.

We recommend that the professional engagement include the following elements:

1. A community engagement process, including public forums, to identify the priorities of the community. This process should be open to all and should explicitly solicit the voices of economically marginalized "Alamedans", BIPOC Alamedans, and others who have been historically the subject of policing.
2. A comprehensive set of proposals for the reform of police procedures and policies, based on contemporary best practices, driven by data, and reflecting the priorities of the community as established in the public forums identified above.
3. A review and feedback process for the public to reflect on and provide input into the set of proposals before they are finalized.
4. Training for Alameda police officers on reformed police policies and practices.

### 2. We Recommend That APD's Policies and Procedures Include Procedural Justice As A Core Value

A recurring theme of complaints that we are hearing from community members, particularly people of color, is the lack of respect displayed by police officers during interactions with the public.

This is corroborated by a recent study completed by Stanford researchers in which they analyzed the body camera footage from 981 traffic stops conducted by OPD over one-month. The researchers found that white residents were 57 percent more likely than black residents to hear a police officer say the most respectful utterances, such as apologies and expressions of gratitude like "thank you." Meanwhile, black community members were 61 percent more likely than white residents to hear an officer say the least respectful utterances, such as informal titles like "dude" and "bro" and commands like "hands on the wheel."

<https://news.stanford.edu/2017/06/05/cops-speak-less-respectfully-black-community-members/>

Encouragingly, “a majority (65%) of officers say that today in policing it is very useful for departments to require officers to show respect, concern and fairness when dealing with the public – an approach referred to as procedural justice.” It seems it would go without saying that an interaction that starts out with a negative or disrespectful tone is more likely to escalate into a violent encounter.

In 2014, the White House convened the President’s Task Force on 21st Century Policing, which published its report (pdf) in 2015. Its first recommendation: build trust and legitimacy, using procedural justice. Since the publishing of the president’s report a number of large police departments, including New York City have begun to implement procedural justice policies (though progress was slowed during the Trump administration?)

We recognize that respectful conduct, without substantive reform, is inadequate. However, respectful conduct is a necessary, though not sufficient, component of establishing trust between the policed and the police. We recommend that procedural justice be enshrined in the written policies and procedures of the Alameda Police Department and that an appropriate training program be instituted to support this new policy.

### 3. We Recommend that APD Require Mental Health and De-Escalation Training on an Annual or Semi-Annual Basis

In recent years, police forces have found themselves moved toward militarization by the threat of terrorism and the fear of mass shooting events combined with the ready availability of cheap or free military surplus vehicles. It is increasingly common to see police officers donning olive drab or camouflage uniforms rather than the traditional black or blue. This turn toward militarization has resulted in increased time spent training for violent and sustained confrontation and a corresponding reduction in time spent training on everyday issues such as de-escalation to avoid use of force and interacting with people with mental health issues.

The training that officers receive should reflect the majority of the type of work that they do. The reality is that the vast majority of APD calls are not violent in nature, but instead reflect mental health, homelessness, and other distress. To the extent that these calls continue to be handled by police officers, rather than by social workers or mental health professionals, police officers must have training to equip them to handle these calls without resorting to the use of force or to arrests.

Currently, APD officers are mandated to receive fire-arms training on an annual basis. Conversely, officers are only trained in so called “soft skills,” such as de-escalation, cultural diversity training and crisis intervention training one time, often at the police academy before actually beginning their careers.<sup>[1]</sup>

We will be recommending that APD conduct de-escalation and crisis intervention training on a at least a semi-annual basis, with the goal of creating a culture of non-violent dispute resolution within APD and ensuring that patrol officers have the skills they need to avoid resorting to the use of force.

## 4. We Recommend Consideration of an Alameda Police Department Code of Conduct

### Preparatory Formal Review Process

The Policies and Procedures Subcommittee has interest in considering the role a formal Code of Conduct might play in police department policies and procedures. In support of a full review of this option, it is requested that the City of Alameda (or a subject matter expert) provide assistance with research and written or verbal summary of:

- Existing approaches in policies, procedures, accountability and/or oversight in the City of Alameda of police officer misconduct,
- National trends and examples of Police Officer Codes of Conduct or equivalent Codes of Ethics or equivalent guidelines for general police conduct in the performance of the duties. This is not a request for examples of conduct guidelines in specific tactical police operations. Research and examples should include, at a minimum, conduct that could be described as “dereliction of duty” or “conduct unbecoming of an officer”.
- National trends and examples of internal police department use, accountability and oversight of a Police Officer Code of Conduct or equivalent Codes of Ethics or equivalent guidelines for general police conduct in the performance of the duties.
- National trends and examples of Municipality, Elected Official (like our City Council) and civilian Community Oversight structures and processes for oversight of internal police department use, accountability and oversight of a Police Officer Code of Conduct or equivalent Codes of Ethics or equivalent guidelines for general police conduct in the performance of the duties.

### Proposals Under Consideration Once A Formal Review Is Completed

1. The Policies and Procedures Subcommittee (“PPS”) proposes that the Alameda Police Reform Committee (“Committee”) consider developing and recommending to the City of Alameda City Council a Police Code of Conduct. The Code of Conduct is proposed as a permanent part of the Alameda Police Department Policy Manual, to which all City of Alameda police officers and police managers would agree to follow as a condition of continued employment in the City of Alameda. We note that the City currently has codes of conduct and a Code of Ethics in its existing policies and procedures, and we expect that this work would build on those existing documents.
2. The PPS further proposes that the Committee consider developing and recommending to the City of Alameda City Council an Alameda Police Department internal accountability and oversight process for specifically enforcing the Police Code of Conduct.
3. The PPS proposes that the Committee consider developing and recommending to the City of Alameda City Council a City Council and Community Oversight process that includes enforcement of the Police Code of Conduct. The recommendation should include, as a minimum, a preferred model of a Community Oversight structure, conditions under which there is a mandatory review of incidences of potential police officer misconduct as defined under the Code, a legal review of the legal authority structure necessary for potential oversight actions and a recommended timeline for all required City Council action on any necessary revisions to the City Charter.

## Background

### Why Consider a Code of Conduct?

Police departments have long had policies and procedures and Codes of Ethics that reside in their operational manuals and guiding documents. We believe that these guiding principles are in need of a full discussion, with stakeholder input, and that this discussion will help reinvigorate those standards and create shared expectations around police conduct. We further believe that these shared expectations need to be monitored through internal accountability systems and civilian oversight.

### What Could Be Included in a Code of Conduct?

There would be codes dedicated to general conduct and specific conduct. Examples could include:

- General Conduct Affirmative Code
  - Conduct unbecoming of an officer
  - Dereliction of duty
  - Racist or anti-LGBTQ+ group affiliation
  - Racist or anti-LGBTQ+ actions
  - Use or affirmation of racist or anti-LGBTQ+ language
- Specific conduct (see #8CANTWAIT.org)
  - Duty to Intervene
  - Require De-escalation
  - No Choke/Strangle/Sleeper Holds
  - Require Warning before Shooting
  - Ban Shooting at Moving Vehicles
  - Requirement to Exhaust Alternatives Before Shooting
  - Require Use of Force Continuum
  - Require Comprehensive Force Reporting

### Why a “Code” Versus Better Policies and Procedures

Policies and procedures are guidelines for behavior that rely on a police officer’s skills, knowledge, and judgement to prioritize, use or, if appropriate, ignore, depending on each unique tactical situation faced in policing the Community.

A Code of Conduct is not a set of behaviors that can be prioritized or ignored nor are dependent on a tactical situation.

A Code of Conduct is a social contract between a police officer and the Community that is, in exchange for agreeing to follow the code, granting the officer special policing powers. A code can be used by officers to build a baseline set of behavioral standards they can rely on to guide their engagement with the Community.

## 5. We Recommend That the City Create a Police Policies and Procedures Review Board

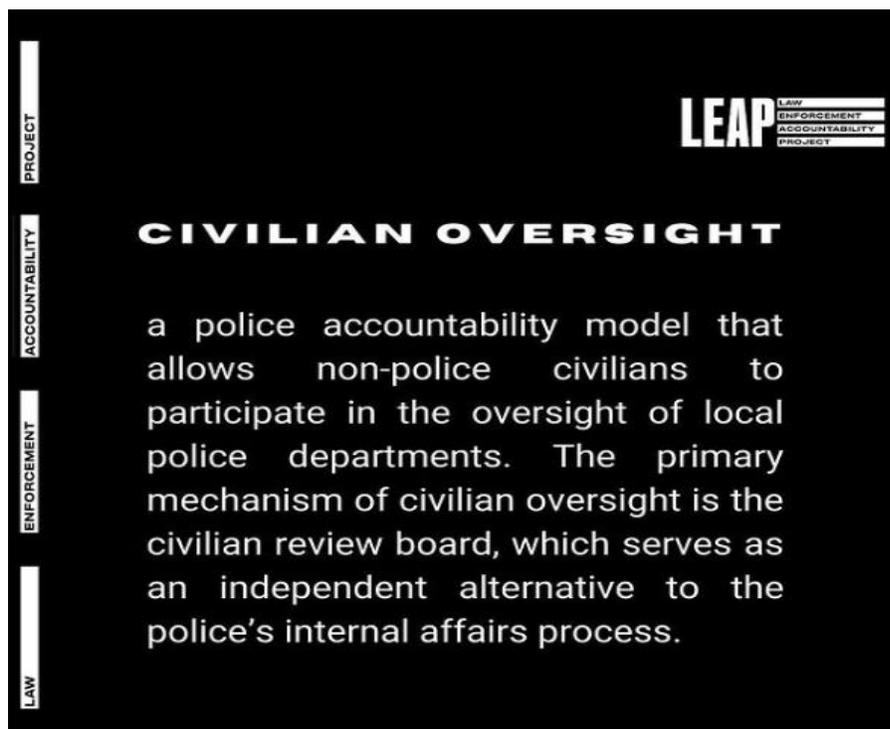
A policies and procedures review board will be formed including members of the public chosen from those who apply\*, at least one member of the police commission and a representative of city staff, such as the Assistant city manager or city counsel.

The Policies and procedures review board will meet at least quarterly but as often as is necessary for timely review of proposed permanent changes and/or additions to APD policies and procedures.

The review board will report and make recommendations to the city counsel before said changes are adopted.

\*All efforts should be made to include a cross section of the city taking into consideration race, sexual orientation, socio-economic status, age, and residence within the 5 districts.

## Systemic & Community Racism Subcommittee Recommendations



### 1. BUSINESS RACIAL ACCOUNTABILITY PLEDGE:

City will offer anti-racism training for businesses led, at least in part, by black or POC facilitators. Experienced facilitators will work with all stakeholders in advance of the training to ensure the training is tailored to the needs of our community. As part of the training business owners and their employees will work through an anti-racist curriculum including readings, videos, role playing exercises, and assessments to evaluate their understanding of the material. Upon successful completion of the training businesses will sign an anti-racist accountability pledge and be given a plaque/decal to indicate their commitment to actively pursuing the tenets of anti-racism as laid out in the curriculum they use. Biennial recertification will be granted after the completion of continuing education about the topic.

### 2. CREATE AND ADOPT A CLEAR AND CONCISE PROTOCOL FOR SOCIAL MEDIA:

After reviewing other policies and best practices within other (larger) police departments, we would like to advise the Alameda Police Department to adopt a similar protocol. **Guidelines need to be in place for Social Media.** Recently, APD posted a Black man's face on their Facebook, **after** he'd been taken into custody, NOT convicted. They showed it to make other Alameda's citizens aware of "bad people." They allowed open, non-moderated public comment. At the very least, we feel comments should have disabled. This is damaging, especially if they arrested the wrong person.

- Our subcommittee will share some best practices such as the SFPD’s practices. For example, SFPD does not share pictures of folks who’ve already been taken into custody.
- Upon further review and RFIs from the city, we have determined that no such protocol currently exists. We are happy to help implement and outline these practices, as needed.
- Attached are the SFPD’s current Social Media practices and policies:  
<https://drive.google.com/file/d/1MSS95aXwhuPi7WVut4oYhd7YRmlnqaQc/view?ths=true>

### 3. PUBLIC FEEDBACK PORTAL | “Public Safety Accountability Tool”:

We recommend that the city add an additional reporting and feedback system (i.e. “City of Alameda Antiracism Reporting/Feedback Tool”) for residents to report instances of prejudice, abuse of power, and racism that they witness. Once a report is received, that data shall be provided to city staff for assessment. We recommend amplifying this portal’s existence to the community once it’s active, via all communication methods the city currently utilizes to communicate with its residents.

Once this data is collected from this portal, it shall be assessed and/or addressed, much like the current data from the policing portal but with a larger scope. Any instances of prejudice/racism within our local healthcare providers, landlords, and City Services (Fire/EMT, code enforcement, building inspection) will be documented in this database and shared with the appropriate parties to be assessed accordingly.

We have identified this existing portal, and we feel like it is a good place to start:

[Share Feedback](#) -- Presently, this feedback goes into the pipeline and gets routed depending on the nature of the feedback. We are recommending these options be amended to include more explicit, unambiguous language about racism, racial profiling, and implicit biases (**Image 1**). The link/badge for our recommended upgrade to the current portal will be located on the APD page (where the existing feedback portal is currently located), on the main APD page (**Image 2**) near the “contact us” link, as well as on the homepage of the City of Alameda’s website to ensure it’s easily accessible.

### 4. BUDGETS ARE ALIGNED WITH ANTI-RACISM & EQUITY STRATEGY

We recommend that the city examine the budget allocations across different areas including, policing, education, staffing, and specifically, this program. We are asking for more focus to be placed on this work after March, 2021. Working alongside the Alameda Board of Education, we are hoping to implement a racial awareness and education program in all Alameda schools by September, 2021.

Image 1

## Share Police Personnel Feedback

My progress: 0%

---

### Tell us about your feedback

What type of feedback are you looking to provide?

- Personnel Recognition/Appreciation
- Personnel Safety Concern
- Unprofessional Behavior
- Dissatisfied with Service

[Back](#) [Save](#) [Continue](#)

Powered by [OpenForms](#)

Image 2

HOME / Residents / Police Department

## Police Department



The Police Department has 88 sworn officers and 33 non-sworn full-time personnel and is responsible for protecting the City's residents, property owners and businesses. The department fosters a problem-solving, community policing philosophy and works collaboratively with policymakers, the City Manager's Office,

### Contact Us

**Phone**  
[510-337-8340](tel:510-337-8340)

---

**Location**  
Alameda Police Department  
1555 Oak Street  
Alameda  
94501  
[View Map](#)

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**File an Online Report**  
File a police report online and print for your records.

[File an Online Report](#)

**SUMMARY OF CURRENT RECOMMENDATIONS as of 14 January 2021:**

- “Public Safety Accountability Tool”
- Incident Reporting Database System (Anonymously or not anonymous, with a request for follow up)
- Social Media strategy protocol
- Budget allocations for ongoing social justice and equity work
- Local Business Accountability Pledge

# Police Department Accountability and Oversight Draft Recommendations

## **Board Format**

### *Board or commission with between 7 and 13 members*

Boards established in the Alameda City Charter currently have between five and seven members. We feel that a larger number of members is necessary in order to get representation from as many impacted communities as possible.

### *Core powers established by City Charter*

A Police Oversight Board needs to be written into the City Charter. This will provide the longevity, strength, reliability and legally sound effectiveness the community needs. In places where such a board was not written into the charter, it was in short order made largely ineffective by political erosion of rights and powers. If we are to have accountability -- and the members of the subcommittee are in complete agreement that we need accountability -- it must be effective.

### *Accommodations for member participation*

The Alameda City Charter specifically denies compensation to those serving on charter-established boards. This means that many people cannot participate in city boards because of the time commitment; if you are working multiple part-time jobs, you may not be able to afford to give up work to be able to regularly attend meetings and do the work required to prepare for those meetings, and especially the work required for participating in hearings about complaints. A board that pays members a stipend for their time will be a board that can have representation from all parts of the community, and without that representation, no accountability board will win the trust of all members of the community.

### *Board staffing*

The board should have full-time support staff, including some administrative aides to help with the details of hearings, and at least one data analyst. In other cities, there have been positive results from having a staff data analyst who will determine what police activity data needs to be collected, and review that data to help guide policy, both on an ongoing basis and in response to complaints. We recommend that this person be attached to the accountability board to keep them free from conflict of interest with the police department while also allowing them to benefit from the guidance of all the viewpoints of the board.

Administrative aides will handle such things as receiving and properly documenting complaints; scheduling rooms for meetings and hearings; assembling information packets; receiving, labeling, and filing documents for evidence; scheduling witness testimony; submitting evidence requests.

## **Independent from the police department**

### *Not co-located at police department*

The board should be independent of the Police Department and should not share space with the Police Department. Independence is an important feature to prompt public trust and accessibility.

### *Strongly community driven*

The board should be largely community-driven, aiming to meet the accountability needs of the community, including those who are rarely represented at the city governmental level.

### *Commitment by city manager*

Just as the Taskforce has benefited from the support of the city manager, the board's strength will be determined by the actions of the city manager in maintaining it and giving it power.

### *Free from political influence*

In no way should the need to have strong community connections mean that the process of getting onto the board should be a political process. We recommend the board be appointed to avoid the need for campaigning and fundraising.

## **Residency requirement & Homeless persons invited**

As with other city positions, the members of this board should be made up of people who reside in Alameda, both those with permanent homes, those who face housing insecurities and those without. Because the homeless population is significantly over-policed in many places, representation on the board would help the board have a broader perspective on the real lives of the community. The board should determine criteria for establishing whether a recently evicted or homeless person is a resident of Alameda, including last known permanent address and social/familial ties to the city.

## **Board requirements**

- Member is not an employee of the city
- Member is not an employee of the police force
- Member is not a member of the police union
- Member is not a sworn officer

The point of an oversight board is to give citizens a voice in how they are policed. Therefore, we believe that appointed members should not currently be sworn officers or members of the Police Union. Those members should be chosen to represent members of a wide range of demographic groups in Alameda. There are many discussions still to be had about the details of who can serve on the board and what the demographic makeup of the board should be, but in order to preserve the impartiality of the board, it should be made up of members of the community, rather than law enforcement.

## **Board terms**

We recommend members of the board serve two-year terms, with a two-term limit. This will ensure that a wider range of voices are heard. We recommend against long terms or unlimited numbers of terms in order to give more voices a chance to be heard.

### *Removal from the board*

The board should make provisions for removal of board members. There should be a review of membership on the board when a member's circumstances change (such as being sworn in as a police officer, taking a job with the city, deciding to run for office, or moving out of Alameda). In addition, there should be a process for removing members of the board who do not or cannot fulfill the goals of the board, by a supermajority vote of  $\frac{3}{4}$  of all other members. In order to

prevent lengthy attempts at removal for political reasons, the board should establish a cooldown period between failed removal actions.

#### *Board vacancies*

In order to keep board seats from remaining vacant and to prevent a lack of quorum from keeping the board from doing its work, vacancies should be filled promptly by the city manager.

#### *Chair of the board*

As in all other charter-established boards, the chair should be chosen by a vote of the board on the charter-designated date.

#### *Quorum provisions*

\*\*\*\*Board alternates to ensure quorum (no details on this, let's discuss)

#### *Board powers*

The board should have a broad set of powers to investigate where appropriate.

#### *Power to make policy recommendations*

In response to complaints, the board should have the power to remove existing policy and recommend redefined policy so that the behavior in the complaint is not repeated. At its heart, this is about not just accountability for the individual officer or officers involved, but a commitment by the department to police better based on evidence.

#### *Power to make recommendations even in unsustained complaints*

At times, it may be discovered that while a complaint could not be sustained against an officer because the incident in question was in accordance with policies and procedures, the nature of the incident is such that the board wants to make a recommendation about the policies and procedures and make some changes in how the police department handles future incidents. An example of this might be around policy on handling hate crimes. While an officer's actions may be in accordance with department current policy, it is very possible that policy may need revision.

#### *Power to make recommendations in response to data analysis or changing social environment*

We have also seen good reviews of using that data in an Early Warning System, where problematic patterns of police behavior can be spotted early and addressed proactively before there is a major incident. It is better to pay a lot of attention to small problems early than to try to address a big problem later. Alameda does not currently use such software with civilian participation, but it is being used to success in neighboring jurisdictions. This would be a valuable way to catch weaknesses in training or understanding of the role of police before they turn into major incidents.

#### *Power to receive complaints against the police*

In order to remove barriers to accountability the board should be given the power to receive complaints directly. Ideally, complaints directed to the police should automatically be sent to the board without being reviewed by the police first.

### *Power to receive complaints against non-sworn personnel of the police department*

Not all members of the police department are sworn officers, but the public perception is that they are all “the police.” So the board should be empowered to receive and handle complaints against all employees of the police department.

Where the complaint is about an agency outside of the Alameda Police Department (Alameda County Sheriff's office, East Bay Regional Park Police, etc.), the board should make a referral policy, and also a follow-up policy to confirm that complaints to those agencies are being handled properly. There cannot be accountability for agencies outside jurisdiction, but when official boards follow up on complaints they tend to be given more careful consideration.

### *Power to advise on type of discipline*

The board should have the power to advise the police department on appropriate discipline for offenses against which they find that there was improper behavior. In addition, the board should establish a policy for how subsequent complaints against the same personnel will be handled, in particular how they will be handled if the advised discipline was not carried out.

### *Power to recommend dismissal/reassignment*

Current laws and union contracts set limits on disciplinary actions. This should not stop the board from making the recommendation that such action be taken, including recommending, where relevant, that the subject be ineligible for re-hire within the department.

### *Authority to investigate complaints*

In order to provide a fair hearing, the board should have the authority to investigate complaints, and additional powers that will enable that investigation to be thorough and fair.

### *Ability to monitor police internal investigation*

Where a parallel Internal Affairs investigation is being carried out, the board should have the responsibility to monitor that investigation and its findings in order to ensure that it is being conducted fairly, and evidence both in favor of and against the officer involved is being reviewed.

### *Power to review internal affairs file*

The Internal Affairs file may contain information not specifically requested by the board which sheds light on the incident in a complaint. The board should have the right to review that file, though not to make it public.

### *Power to re-open closed investigations*

When the board comes into existence, there will be a history of complaints and investigations made about those complaints. The board should have a limited power to reopen some investigations and pursue resolution and justice as necessary.

### *Mandating complaints about the police filed with any department be forward to the Board*

In cities where there is no requirement that complaints about the police be forwarded to their accountability board, such complaints get buried and hidden from oversight. This does not serve justice.

### *Explore scope of subpoena power with advice from the city attorney*

In order to properly conduct an investigation, the board may need to obtain documents such as security camera footage from private businesses or residences, camera phone video from individuals, or other evidence. The ability to subpoena those documents will substantially improve the power of the board to hold a fair hearing. Further advice from the city attorney's office is recommended here.

### *Access to police body camera or vehicle camera footage*

The board should be given access to unedited body camera and vehicle camera footage of incidents as a routine part of the investigation into incidents. The board should consider these videos confidential material, but also should have full access.

### *Power to compel police attendance at hearings and establish penalties for officers failure to cooperate or attend hearings*

In cities where participation in hearings by the oversight board is optional, we see a pattern of law enforcement choosing never to participate, thus cutting off the ability of the board to make meaningful change.

### *Power to adopt its own rules for its own operating procedures*

All current charter-established boards have the right to operate under clarifying rules and regulations.

### *Ability to recommend trainings and training memos*

The board should have the ability to recommend either specific training or suggest subject areas for ongoing training for the department.

### *Systems of accountability for management staff*

While officers on the streets are more easily identified by the public when they overstep authority or worse, a system which does not see these problems as systematic will fail. Management staff should also be accountable for their actions and to a degree the actions of those they supervise.

### *Complaint Procedure*

The board should establish a clear process for filing a complaint, including establishing who can file a complaint, who they can file a complaint against, whether complaints can be dismissed, making special accommodations for complaints in litigation or where criminal charges are being pressed. Standards for when an investigation starts, how long the investigation may take, and how soon a hearing should be scheduled should be established. Information on this process in plain, easy to understand language should be published.

### *Establish who can file a complaint*

The board should establish who can file a complaint, including making allowances for complaints that may at least initially be anonymous. They should establish protections for complainants and witnesses, including whistleblower protections for officers or employees of the police department who make complaints about others, and anti-retaliation protections for all. Because the existence of criminal charges pending may affect the ability of a person to make a complaint, there should be special provisions for such a complaint allowing the investigation and hearing to be conducted after criminal proceedings are complete.

### *Special Provision for Complaints in litigation*

In many cities, oversight boards are ignored in favor of civil litigation. We find this process, while helping one person find some justice, does not meet the desire we have for this board to act proactively to address future injustices. Therefore we recommend that the board make special provisions for complaints in litigation, and encourage complainants to both continue with their civil suit while also making a complaint to the board so that investigation can be done and changes can be made to police policy. We hope that moving forward, more complaints can be handled at the board level without needing to put complainants and the city through a lengthy civil lawsuit procedure. This can only happen when all members of the community feel that they will get justice and fair treatment through the board.

### *Investigation*

Justice delayed is justice denied, so we recommend the general requirement that an investigation into the matters of the complaint be substantially complete within 90 days of commencement. But also because some cases are more complex and require more work, we make the provision that the board may vote to extend the deadline for completion.

### *Hearing Procedures*

Hearings should be held promptly. We recommend that a hearing be scheduled within 14 days of the completion of the investigation. Provisions should be clearly established for postponement requests.

### *Recusal*

In order to maintain not only fairness but a very strict appearance of fairness, the board should set a recusal policy that errs on the side of removing those with the possibility of a conflict of interest from a position to judge. In addition to self-recusal, the policy should allow the complainant to request the recusal of a member of the board, providing reasons for that recusal.

### *Board Acquisition of Evidence*

Board operating procedures should:

- Address rules of evidence
- Address right to cross examine
- Provision for continuances
- Require witness testimony to be under oath
- Set a standard for the burden of proof
- Provide for designating documents as public or confidential

### *Written findings required*

Findings from the investigation should be provided in writing. Findings in writing can be checked for factual accuracy, they can be given in identical form to both the complainant and the defensive party(ies), and they can be referred back to by all parties.

### *Complainant support*

- Right to have an attorney
- Right to have a non-attorney advocate
- Right to request mental health support at hearing/investigation
- Right to accessible access to hearing room and evidentiary materials
- Interpretation provided when needed at hearings

### *Rules for Obtaining Police Evidence*

The board should have broad powers to get evidence from the police department. - This includes clear, fast access to complete video evidence, penalties for police withholding of evidence, and provisions for interviewing officers. The policy of the board should reflect the importance of this evidence being turned over, and penalties for failing to turn it over

### *Justice for All*

In order to make a more just society, the board should provide for models of investigation and hearing that are not modeled directly from criminal or civil legal proceedings. Where possible the focus should be on restorative justice and mediation, finding a way to hear community voices and make positive change in policing, rather than models of punishment and uneven power. The board should review the city's Sanctuary City policy to determine how best to support immigrants' ability to come forward regardless of the status of their documentation.

The board should create a strong, broad non-discrimination policy including race, nationality, religion, veteran status, sexual orientation, gender identity, HIV status, economic status, or housing status.

### *Transparency*

Above all else, the board should promote transparency in the process and in the culture of the board. Materials should be in plain language rather than legalese, and should be easily accessible.

### *Outreach*

One of the responsibilities of the board should be educating the public on their rights and the complaints process, and protecting the right to make complaints, including offering protections against retaliation and assistance with any disabilities or language barriers in filing a complaint, and whistleblower protections.

Board materials must be available in multiple languages, including both languages spoken by residents of Alameda and languages spoken by those who work, visit, or worship here.

Materials should include information on how to file a complaint and what the complaints process will be like, know-your-rights information in general, and know-your-rights information for youth.

The board should make a plan for outreach to the most-affected communities, such as Black residents and the homeless.

Reshaping the police

The goal of the board is not just accountability, but a re-shaping of the police department to meet the policing needs of the community. To that end, the board should have an active role in hiring for the department at all levels. That includes participation in oral boards/hiring for officers, and input into the hiring process for the police chief. This can build bridges of cooperation between the community and the department.

#### *Proactive Accountability*

The board should, as part of its regular work, perform an annual review of the police department's Policy Manual and Procedures and determine which policies and procedures need revision or removal/replacement.

#### *Public Accountability*

The board should be accountable to the public, as much as it holds the police accountable. They should produce an annual report to the public on board work, including an evaluation of the board's effectiveness and follow-up surveying on participant experience. They should be active participants in NACOLE (National Association for Civilian Oversight of Law Enforcement).