



City Manager Office
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Item # 38

City of Santa Ana
20 Civic Center Plaza, Santa Ana, CA 92701
Staff Report
April 5, 2022

TOPIC: Police Oversight

AGENDA TITLE:

Police Oversight Ad Hoc Committee Informational Report

RECOMMENDED ACTION

Accept informational report and provide direction to staff.

DISCUSSION

Background

Police oversight has been a topic of discussion at various City Council meetings. Most recently, this discussion began as a councilmember requested item at the June 16, 2020 City Council meeting (requested by Mayor Pro Tem Bacerra, with support from Mayor Sarmiento and Councilmember Penalozza). Subsequently, staff presented informational reports to the City Council on September 15, 2020, December 15, 2020, and September 7, 2021. Concurrently, staff engaged the community through two community feedback surveys and a community forum that included a moderated panel of subject matter and experts. The data collected from the surveys, along with comments submitted during the community forum, were shared with the City Council for their consideration as they discussed police oversight.

The informational reports have included staff presentations that provide overviews of the various models of police oversight, structure, scope of authority, staffing, and access to information. While there appears to be consensus among the City Council to support police oversight in Santa Ana, the City Council is interested in narrowing the scope of what a police oversight mechanism might look like in Santa Ana. To that end, on September 21, 2022, Mayor Sarmiento appointed Mayor Pro Tem Bacerra, Councilmember Hernandez, and Councilmember Lopez to the Police Oversight Ad Hoc Committee to discuss those details. To date, the Ad Hoc Committee meetings have consisted of in-depth discussions of variations in police oversight models, the Peace Officer Bill of Rights (POBR), and initial recommendations on a police oversight mechanism for Santa Ana.

Ad Hoc Committee Recommendations: Police Oversight Model

A majority of the Ad Hoc Committee has indicated a preference of a hybrid Investigation-Focused and Auditor/Monitor-Focused model. Notably, there is significant variation among police oversight mechanisms; this means that not all police oversight mechanisms that are categorized under one or more models are the same. To guide the Ad Hoc Committee through identifying their preferred police oversight mechanism, staff prepared (and the Ad Hoc Committee members responded to) a survey, based upon the National Association of Civilian Oversight of Law Enforcement (NACOLE)'s [Civilian Oversight Agency Directory](#). This directory was developed in partnership with the U.S. Department of Justice to standardize a publicly available database of police oversight mechanisms. Below is a summary of the Ad Hoc Committee's recommendations, based upon their majority response for each criteria:

Oversight Functions

- In addition to the oversight functions associated with the preferred primary oversight model, the police oversight model engages in the following functions:
 - Reviewing investigations (Reviews completed complaint investigations conducted by the overseen law enforcement agency's internal affairs unit for thoroughness, completeness, or accuracy.)
 - Auditing investigations and/or policy compliance (Audits of completed department investigations and/or compliance with department policy and procedures.)
 - Monitoring open investigations (Active monitoring of open department investigations and/or compliance with department policies and procedures.)
 - Independent investigations (Investigates civilian complaints separately and independently of the overseen agency's internal affairs unit.)
 - Pattern or trend analysis (Conducts analyses of patterns or trends in complaints, discipline, and/or department activities, policies, and/or procedures.)
- The police oversight mechanism oversees the Santa Ana Jail.
- The police oversight mechanism publishes the following reports: annual reports, special reports, complaint information or statistics, and analyses of department practices.

Local Structure

- The police oversight mechanism is established by a Charter amendment, to be followed by an ordinance of the City Council with additional policy and procedure that aligns with the provisions of the Charter.
- The police oversight mechanism reports to the City Council.

Board/Commission

- The police oversight mechanism includes a board or commission (i.e., a “Police Oversight Board” or “Police Oversight Commission”).
- The Police Oversight Board/Commission is trained on Police Department policies and procedures.
- Members of the Police Oversight Board/Commission receive a stipend for serving on the board/commission.
- Current law enforcement officers are not permitted to serve on the Police Oversight Board/Commission.
- Former law enforcement officers are not permitted to serve on the Police Oversight Board/Commission.

Staffing

- The police oversight mechanism would include the following staff: director, attorney from the City Attorney’s Office, investigator, auditor, analyst, and administrative assistant.

Scope of Authority

- The police oversight mechanism’s scope of authority would include the following:
 - Accepts anonymous complaints
 - A complainant would not be required to submit an affidavit or notarized statement
 - Does not have a mediation program
 - Cannot respond to the scene of critical incidents
 - Can recommend and implement new or revised departmental policies/procedures
 - Can recommend and implement discipline
 - Can recommend investigative findings
 - Can recommend and implement training or retraining
 - Can require the Police Department to respond to recommendations

Information Access

- The police oversight mechanism has access to the following departmental records:
 - Computer-aided dispatch records
 - Personnel records
 - Body-worn / in-car video
 - Stop, search, and arrest records
 - Use of force reports
 - All electronic databases, including, but not limited to, the items listed above
- The police oversight mechanism has access to the following Internal Affairs records:
 - Copies of open Internal Affairs files and investigations
 - Copies of closed Internal Affairs files and investigations
 - Front-end access to Internal Affairs database

- Back-end access to Internal Affairs database

The police oversight mechanism's access to records is secured by the Charter.

Subpoena

- The police oversight mechanism has subpoena authority.

The City Council may consider supporting any or all of these recommendations for a police oversight mechanism.

Ad Hoc Committee Recommendations: Enabling Legislation

There are various methods by which a police oversight board/commission could be established. These include a Charter amendment to be submitted to the voters, an ordinance of the City Council, or resolution of the City Council. Among these, the options that would require voter approval include a Charter amendment and an ordinance submitted to the voters. In contrast, an ordinance or resolution of the City Council would be considered by the City Council only. At their meeting on March 11, 2022, the Ad Hoc Committee recommended that the City Council consider preparing a Charter amendment to be submitted to the voters, asking whether or not the City Council shall adopt an ordinance establishing a police oversight board/commission as outlined in the Charter amendment. Under this recommendation, the City Council would prescribe the minimum requirements for the structure and scope of authority of the police oversight board/commission in the Charter amendment, and submit the Charter amendment to the voters. Any additional details, such as the mechanics or procedure relating to the police oversight board/commission, would be established by ordinance of the City Council—and the ordinance would need to comply with the Charter amendment.

Next Steps / Options

At this time, staff seeks direction from the City Council. The City Council may consider the recommendations from the Ad Hoc Committee and direct staff as follows:

- Direct staff to prepare a Charter amendment establishing a police oversight board/commission to be submitted to the voters at the November 2022 election.
- Direct staff to return with more information.
- Take no action.

ENVIRONMENTAL IMPACT

There is no environmental impact associated with this action.

FISCAL IMPACT

There is no fiscal impact associated with this action.

Submitted By: Kristine Ridge, City Manager

Approved By: Kristine Ridge, City Manager