

**The Bill Blackwood
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**The Benefit of Independent Citizen Review
in Police Critical Incidents**

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**By
Donald W. Fulbright**

**Arlington Police Department
Arlington, Texas
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ABSTRACT

It is important that there is a bond of trust between members of the law enforcement community and the citizens that they serve. Many years of academic research have shown that the public is much more likely to legitimize police outcomes if they believe the police have the authority to enforce the law (President's Task Force on 21st Century Policing, 2015). One way in which many communities have been working to establish trust is to allow community members to review issues commonly only investigated by police departments themselves including officer involved shootings, in-custody deaths, police misconduct, and alleged criminal and civil infractions committed by members of the police department. This concept is commonly known as a citizen review board and allows for members of the community to have a voice in the completion of the investigation. Citizen review boards can allow the community to play a role in the investigative process and further strengthen ties with the community. They allow citizens to participate in shaping police policies and the ways in which a department operates.

This paper seeks to examine the benefits of citizen review boards and their ability to work collaboratively with the community to help build trust, curb police misconduct, ensure fair and impartial investigations, and increase morale (Sen, 2010). The review of reference material attempts to show that the use of citizen review boards will lead to more transparency by showing that agencies are trustworthy and truly have the best interest of the community at their core (Ashton Jr., 2013).

TABLE OF CONTENTS

	Page
Abstract	
Introduction	1
Position	3
Counter Position	7
Recommendation	10
References	13

INTRODUCTION

Never in the history of policing has there been more discord between police officers and the public they serve. Starting with the 1960s, a new trend began to emerge in the way police departments handled citizen complaints and probed into police conduct and accountability (Goldsmith & Lewis, 2000). With the implementation of the philosophy of community based policing by many police agencies in the United States, a concerted effort has begun to become more transparent in the investigation of incidents of alleged police misconduct.

Since the early stages of full-time policing in the United States in the early 1800s, police have struggled with challenges to their authority as keepers of society's norms (Sunshine & Tyler, 2003). Near the middle of the 20th century, beginning with a few large urban areas in America, the effort to implement citizen review for police departments was initiated. While this effort was noble, change has been slow to occur and be accepted by both the police and the citizens, and it has been difficult to achieve and implement. Because of the dissatisfaction with the ability of police departments to investigate misconduct of their own, citizens have continued to demand some type of external oversight into police misconduct (Walker, 1995).

Before exploring the topic of citizen review boards and their implementation in modern policing society, there must first be an understanding of what is meant by civilian oversight. Civilian oversight is a broad term that incorporates using independent (not police affiliated) individuals reviewing and investigating police departments, employees, and holding them responsible for their actions (Miller & Merrick, 2002). Most commonly civilian oversight is conducted in the form of a citizen review board.

Citizen review boards have become synonymous with the terms of citizen committee, citizen oversight agency, independent review board, and other terms associated with the review of police conduct or actions by those not associated with police agencies. For the purpose of this paper the term citizen review board will be used to describe any board or organization comprised of a majority of members that are not police officers or employees of a police department and formed to review, assess, investigate, or otherwise research issues related to police actions or conduct.

Citizen review boards are used increasingly by agencies for the examination of citizen complaints into officer misconduct. The most common function of a citizen review board is to investigate complaints into police officer behavior, a function generally handled by the police department themselves. The use of civilian oversight, which has grown due to public reaction to a lack of confidence in the ability of the police to police themselves, continues to increase in modern policing (Gerdes, 2004). The public, in response to a perceived lack of support, fairness in application of the law, and overall distrust in police departments has in fact demanded this accountability. A report issued by the International Association of Chiefs of Police published in 2009 stated nearly 80% of the public was in favor of some form of independent civilian review. The overall aim of the review is to reestablish trust in the police and improve the overall image and effectiveness of police agencies (Ashton Jr., 2013).

With the increase in a demand of transparency and accountability in the actions of law enforcement behavior, one only need to look at the use of citizen review boards to further the efforts of holding police accountable. Police departments should consider expanding the use of independent citizen review boards to also include in depth

analysis of major critical incidents. This type of analysis would include evaluating deadly force incidents, use of force resulting in serious bodily injury, officer-involved vehicle crashes with serious bodily injury, and other incidents the board deems necessary. According to Ashton Jr. (2013), the increase of police agencies supporting civilian review in some form from less than six departments in the 1960s to more than 100 today shows a clear demand for police accountability and transparency.

While current events like officers in Dallas and Baton Rouge being ambushed have led to a resurgence in support of police officers, there is no denying that many in the community still have a lack of faith the internal investigations police conduct. Therefore, police departments should begin to use independent citizen review boards to review and evaluate investigations into officer misconduct, deadly force incidents, and incidents involving serious bodily injury where officers are involved. Citizen review boards could allow the public to have a responsible position and be a part of a critical and thorough examination of some of the major events impacting their community. This system would also ensure that the preliminary investigation conducted is transparent, leaving the community informed.

POSITION

The fundamental belief of the criminal justice system in America is that everyone charged with a crime is considered innocent until proven guilty. This notion also includes the facts and evidence will be judged by someone impartial who will fairly examine the facts given and render a bias-free decision. Traditionally when it became necessary to investigate police officers who were accused of criminal violations of the law or general misconduct, the investigation would be conducted by others in the same

police department where that officer was employed. While often these investigations came to the correct conclusions, there were times when the results appear less than impartial. The use of citizen review boards to review these investigations will allow for a neutral and independent evaluation of the facts.

Independent citizen evaluation is currently used both inside and outside the United States of America. Most of the largest cities in the United States currently employ some version of the concept, and it is becoming more prevalent in medium and small-sized cities as well (Walker, 1995). High profile events, like police shootings, in-custody deaths, and police corruption scandals often are accompanied by intense media coverage.

Because of the explosion of social media in the 2000s, an event in a medium or small sized agency that would only have drawn local attention now has a high likelihood of becoming a national news story. In these events the public often demands to know facts about the case and the results of any internal review. The refusal of an agency to respond to those request gives the appearance that the department is hiding something, regardless of the reason for the lack of response (Ashton Jr., 2013).

A neutral review will not only lead to a more thorough and comprehensive review of the facts, it also can more properly address the needs of the community at large. According to Miller and Merrick (2002), research shows that civilian oversight allows for more in depth and impartial investigations and eventually results in fewer discipline and misconduct issues for departments. Also, the argument can be made that police focus is more in tune with its citizens' needs when its citizens are allowed input.

Often police agencies, usually under pressure from media organizations, will hastily release limited information that upon examination fails to satisfy the public demand for information. This can lead to the belief, right or wrong, that police departments are incapable of investigating their own officers (Ashton Jr., 2013). With the implementation of a citizen review board, a police department can attempt to reassure the public that all facts of the investigation will be audited by a panel of citizens from the community who have the best interest of justice as a result.

Prenzler (2016) states the lack of quality police investigations into police misconduct, scandals, and deadly force incidents have brought to light ineffective and poor investigations into those matters. This has led to a belief that officers are safe from being held accountable for their misdeeds and created a culture of protectionism and isolationism. Allowing the investigation to not only be conducted by the policed but also reviewed by an independent review board further reinforces the citizens demand that the initial internal investigations are being conducted with the utmost integrity.

Not only will citizen review boards allow for a neutral review of the facts, this process also allows for citizens in the community to have a voice in the evaluation of critical police incidents and investigations. The public has begun to expect accountability and transparency in the legal process. The use of review boards to allow members of the community to play a role in the process demonstrates the willingness of police departments to heed that concern and provide an opportunity for the community to feel satisfied with not only the internal process but also the investigative results (Ashton Jr., 2013).

Despite the fact people feel dissatisfied with police service in general, many citizens still want to work together with cities and police agencies to be a part of the solution that improves the process. The inclusion of the community should be viewed as an opportunity to create another layer of accountability which will ultimately lead to better policies, better community relationships, and better trust in the profession as a whole (Ashton Jr., 2013). The ability of those living in the areas where police serve to be accountable in the way they are policed and to be able play a small part in the review of major incidents will go a long way to strengthening community and police ties and assuring the public that their voice matters.

Demand from the public played a large role in a decision made by the commissioner of the Boston Police Department to allow for an outside review of the death of a citizen at the hands of the police. In 2004 the Boston Red Sox had just won the World Series, and the celebration resulted in a large crowd gathering in the area outside of Fenway Park. During an attempt by police to disperse the crowd, Victoria Snellgrove was shot with a non-lethal bean bag round and was killed (Bushway, 2005). Realizing the seriousness of the event and in an attempt to improve relationships with the community, Police Commissioner Kathleen O'Toole appointed an independent panel to investigate the case (Bushway, 2005). This was not a small step as it deviated from standard operating procedure of the Boston Police Department. However, this move helped with establishing trust and building stronger relationships with the community as a whole.

Allowing citizens to participate in the process of reviewing critical incidents also provides a critical step in providing legitimacy to the final outcome of investigations. It is

important to members of the community that they be able to have faith in the independent review process. The relationship between the police and its citizens hinges on legitimacy. Researchers believe that when people believe a process has legitimacy they will more likely comply with the demands and limits placed on them (Sunshine & Tyler, 2003).

The introduction of citizen review boards will further allow the independent oversight that many in the community crave. Ashton Jr. (2013) noted that in the structured process of civilian oversight, the transparency afforded to the public is crucial. This process shows that police departments are no longer willing to keep their internal investigations concealed and want to be seen as trustworthy. Those who champion the use of citizen review have argued that allowing independent review of a process historically a closed-off, private internal process will only enhance the thoroughness of the original investigations into police misconduct (De Angelis & Kupchik, 2007).

According to Miller and Merrick (2002), the legitimacy of an investigation is even more important to consider than the actual effectiveness of the investigation. This reaffirms the notion that police departments derive their authority from those they serve and that the citizens have some influence in that process. This is important whether or not the community believes the internal processes put in place to investigate police conduct is actually effective.

COUNTER POSITION

The review of any incident is an extremely critical matter which needs to be handled with professionalism, integrity, and by those with experience in dealing with

extremely complex issues. Some believe that the process of allowing citizens from the community, especially those without any formal or specialized training, to investigate complex matters such as deadly force encounters, police tactics, and highly specialized accident reconstruction would be unwise. Many numbers of police administrators, officers, city council members, and some citizens themselves believe that cooperation would not be possible between agencies and independent review boards. This attitude is further reinforced by the belief that if citizens do not have any understanding of the laws, customs, and procedures of local departments, or of issues faced every day in police work, the public cannot have a grasp of evaluating the outcomes (Sen, 2010).

When looking deeper into the issue it becomes clear that many advances over the last thirty years have helped overcome this very issue. Many nonprofit organizations have been created to help create a framework that can serve as a training platform for those that may not have classical training in this area. De Angelis et. al (2016) noted that organizations such as the National Organization for Civilian Oversight of Law Enforcement, the Police Assessment Resource Center (PARC), and the Center for Policing Equity have been instrumental in serving as a starting point for those who wish to learn more about the civilian oversight process. As for the actual research conducted into the effectiveness of civilian review boards, Sinclair (2000) notes that when properly utilized and trained review boards are a useful tool to recognize deficiencies and prevent further occurrences. Further research also supported that when conducting investigations independent review boards are not likely to be abusive to police officers (Sinclair, 2000).

In addition to believing that many in the civilian process will be untrained, there are those who believe there are already enough systems in place to deal with the very issues that citizen review boards will address (De Angelis & Kupchik, 2007). Currently a multitude of venues are established to investigate critical incidents within police departments. The majority of police agencies already employ some version of internal investigations which go by many different names. Despite being reviewed through internal channels, deadly force incidents will also be investigated by the court system through both the criminal investigation as well as the grand jury process.

Sen (2010) points out that in the United States the grand jury process is an important tool used to investigate police corruption and misconduct. This process does not need to have the cooperation of police officers or even police departments for that matter. These matters are conducted in private to provide protection to the proceedings as well as ensure the cooperation of witnesses, many of whom would be reluctant to discuss the matter with a police investigation for fear of reprisal. While processes like criminal trials and grand juries do go a long way in holding individual officers accountable for any criminal acts they may commit, there is a need to do more. These proceedings by themselves do little to punish the agency or hold them accountable for any change that may be needed, only punishing the individual officer involved.

Citizen review boards, on the other hand, do exactly that. Despite the belief that review boards are an unnecessary extra burden, the opposite is quite true. The aim of this system is not to individually punish police, but to hold the police agencies accountable and to identify problems if left unchecked and not corrected will continue to plague communities. The process that some police believe is unnecessary actually will

end up helping departments avoid future issues, identify problem areas is policy and training, and boost officer morale and citizen support (Sen, 2010).

RECOMMENDATION

More and more, police agencies are looking at the communities they serve as partners and allies rather than adversaries. The impetus of community based policing policies demands that the community play a larger role in the development of policing strategies, tactics, and response to community concerns. In his review of policing innovations, Worrall (2001) found that not only has there been a substantial increase in the use of the citizen review process but that this process will continue to be remain a popular issue. It is clear that police departments should implement a citizen review process which review investigations into police misconduct, deadly force incidents, and major critical incidents in which their officers are involved.

In *Community Policing Defined* (2014), the Community Oriented Policing Services office states that organizational transformation is one of the key tenants of community policing. Organizational transformation is the alignment of a police department to support the needs of the community by building collaborative partnerships and taking proactive approaches to solving issues (Community Oriented Policing Services, 2014). The use of citizen review boards will help achieve this aim by allowing independent and neutral evaluations of investigations. This will enable the public to have faith in the overall process of internal police investigations.

The community which feels it has a voice in the way it is being policed is more likely to trust the intentions of the police department are in the best interest of the citizens they serve. This also has the potential to make a tremendous impact on the

support a community either gives or withholds from its police officers during times of crisis. Often the reason the public loses faith in the internal investigative process is because of the lack of information. It is unreasonable to believe a community would have faith in the investigative process without some assurance of the trustworthiness of the agency and the investigation.

The community as a whole generally wants to be a part of the process, and it is the responsibility of community police departments to help ensure help is utilized and appreciated (Ashton Jr., 2013). Establishing an independent citizen review board which gives community members an opportunity to evaluate critical incidents does more than simply provide goodwill and generate public attention for police agencies. This process provides a voice for citizens to air concerns, allows for an additional layer of review to some of the most important events to happen in their city, reinforces the police department's commitment to the community policing model, and shows that the department, wants to be transparent in its dealings with the community.

A crucial element to ensure that the implementation of citizen review boards is successful is complete buy in from the police department, including both administration and the line-level officers. According to Miller and Merrick (2002), unreceptive and antagonistic behavior on the part of officers is one of the main causes of citizen review board failures. In many instances it has been the actions of police departments themselves, whether through the officers or through union activity, that has led to the dismissal of oversight agencies. This behavior cannot be laid solely at the feet of officers or dismissed as union activity. Miller and Merrick (2002) also note that

department leadership and city management play a role in this process as well by not properly managing the process.

Like many organizations, especially large ones, police departments in general are reluctant to change the way they do business. There are many reasons to want to avoid independent citizen review boards for the process would likely add another additional layer of investigation and review on an already lengthy and stressful process. Also, many systems are already in place to potentially accomplish the same goals. The literature has shown that this simply is not the case. Civilian review boards are a benefit to police departments and the citizens they serve. They have proven to be a useful tool to curb police misconduct, hold departments accountable for the internal investigations they conduct, have the potential to reduce incidents of future liability, and when used properly can possibly increase morale (Sen, 2010). The research supports that this step is important to establish and maintain trust with the community.

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