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**The New, More Powerful Wave of Civilian Oversight of Police BY:** [**J.B. Wogan**](http://www.governing.com/authors/JB-Wogan.html) **| February 27, 2017**

In Oakland, Calif., police will soon answer to civilians newly entrusted with the power to discipline officers and fire the chief. Last November, the city's residents voted to create a civilian-run commission with a level of authority over law enforcement that is rare in this country.

“This was a no-brainer given Oakland’s history,” says Rashidah Grinage, coordinator of the Coalition for Police Accountability, a group that helped write the ballot measure, which faced no formal opposition and passed with 83 percent of the vote. “Most people realized that it would be futile to try to argue against instituting a police commission of this nature.”

The Oakland Police Department has been under federal oversight since it settled a lawsuit in 2003 for $10.5 million. More than 115 plaintiffs alleged in the suit that four rogue officers had beat and planted evidence on them.

The reforms in Oakland parallel similar changes in large cities around the country. In the last election alone, voters strengthened civilian oversight of police in Denver, [Honolulu](http://honoluluchartercommission.org/images/questions/Description_of_Proposed_Charter_Amendment_01.pdf), Miami, New Orleans and San Francisco.

“We’re in the middle of a national police crisis, and that’s created a lot of public support for a stronger form of citizen oversight,” says Samuel Walker, author of the book *Police Accountability: The Role of Citizen Oversight.* In the 1980s, when Walker began studying the issue, he found only 13 civilian oversight agencies in America. Today, there are more than 200.

The notion that a civilian-led organization should police the police has received a spike in attention since the fatal 2014 shooting of Michael Brown, an unarmed black teenager, in Ferguson, Mo. In the wake of Brown's shooting, former President Obama's Task Force on 21st Century Policing recommended that localities adopt some form of civilian oversight “to strengthen trust with the community.” Similarly, the Ferguson Commission -- an independent study group appointed by the Missouri governor -- and Campaign Zero, a national group associated with Black Lives Matter, have also called for more civilian oversight.

Historically, police unions have opposed greater oversight by civilians, says Walker. In some places, that was still true in the last election. The Oakland Police Officers Association, for example, [spent](http://www.eastbayexpress.com/SevenDays/archives/2016/10/10/oakland-police-union-spending-thousands-on-effort-to-unseat-councilmembers-kalb-and-gallo) money on negative campaign mail in an effort to unseat two city councilmen who cosponsored the oversight ballot measure. (Both won re-election.)

In its present form, civilian oversight usually doesn't guarantee a meaningful check on police. Some places only have a passive agency that receives and reviews citizen complaints but has little independence or authority over the police department. Others have an auditor that can proactively investigate and make public recommendations about systemic issues. But regardless of their structure, most commissions can't force the department to adopt their advice.

The coming changes in Honolulu and Oakland, however, represent a new wave of civilian oversight. Both civilian commissions will be able to fire the police chief, and in Oakland's case, also to discipline officers.

"The [new] commission will not recommend. It will impose," says Grinage, in reference to Oakland.

Not all proponents of strong civilian oversight, however, think civilians should have the right to discipline

law enforcement. Walker, the author, says it could backfire. "We want to heighten the accountability of the chief. We want to turn the spotlight on the chief and say,  'You are the head of this agency and it’s your responsibility to fix these problems. The last thing we want to do," he says, "is create a situation where the chief can say, 'Hey, it’s not my problem. You took that power away from me.'"

Walker argues that civilian oversight can have a greater impact if it focuses less on punishing individual officers and more on fixing systemic problems. “To really improve policing, it requires organizational reform, as opposed to investigating individual citizen complaints,” he says. “Let’s assume the agency succeeds in disciplining an officer. That doesn’t change the organization. Even if it results in the officer being fired or quitting, that officer will be replaced by another officer subject to the same culture, the same inadequate policies, inadequate training [and] poor supervision that the previous officer was.”

Despite the fact that civilian oversight has existed in some form since the early 20th century, it's still not clear that it's effective. Academics have not yet studied the impacts of different civilian oversight models.

But clarity may be on its way.

In the past two years, the National Association for Civilian Oversight of Law Enforcement [published](http://www.nacole.org/reports_publications) reports that shed light on the relative strengths and weaknesses of various approaches to civilian oversight. For example, complaint-and-review-based models tend to be less expensive because they rely on citizen volunteers, but they also may lack resources, expertise and independence. Agencies that conduct audits, however, can affect long-term, systemic change, but they may not address specific, high-profile incidents of concern to local civil rights activists. To expand upon those recent reports, the Obama administration in its last year awardedthe group with a grant to study nine oversight agencies and develop best practices.

Even places known nationally for forward-thinking approaches to civilian oversight have some of the same problems plaguing police departments around the country.

Take Seattle: In the 1990s, it was one of the first places to have a civilian-led unit focused on investigating complaints and making recommendations. Decades later, it ended up under federal oversight after the U.S. Department of Justice found "a pattern or practice of excessive force that violates the U.S. Constitution and federal law."

The city has since identified issues with its civilian oversight and is working to improve them. One such problem is that the office lacked credibility both inside and outside the police department. "In some parts of the community, the Office of Professional Accountability (OPA) was viewed with hostility and seen as nothing more than a rubber stamp used by the police to justify misconduct under the guise of independent investigations," OPA Director Pierce Murphy [wrote](https://www.seattle.gov/Documents/Departments/OPA/annualreports/OPA_Retrospective_Report_2013-2016.pdf) in a retrospective report last year.

The problems with OPA are illustrative of how the operational details of citizen oversight matter. In many ways, the office appeared to be part of the police department, not an autonomous unit. The director's office was located inside the Seattle Police Department headquarters. Its media relations, community outreach and public website were coordinated by the police department's public affairs office. Letters from the office were printed on police department letterhead.

OPA also used to share its recommendations with the police department before publishing a public report. If the police chief chose not to adopt some of them, he or she didn't have to explain why.

Under Murphy, OPA has moved into its own office building and gotten its own website. His team now publishes investigative findings without waiting for a response from the police chief, and the chief has to respond in writing when she disagrees with a recommendation. In a move that would satisfy Walker, the group also now issues "management action recommendations" that try to examine and improve systemic issues.

Even with all the recent tweaks under Murphy, civilian oversight in Seattle is likely about to undergo further change. After months of negotiation with a federal monitor, Seattle Mayor Ed Murray sent legislation to the city council in early February that would create an independent civilian inspector general.