

3/16/22 Minutes

Ad Hoc Committee re: Accountability

1. Call to Order- Zoom meeting was called to order by Chairman Will Kelly shortly at 12:06 p.m.
2. Roll Call- Forward Together Committee Members present included:

Will Kelly, Chair
Solange Goncalves Altman, Vice-Chair
Jonathan Grammatico
Brad Hawn
Tom Helme
Marian Martino
Matthew Mason
Dan Starr, MPD, MPOA
Ivan Valencia, MPD
Chris Adams, MPD
Rick Armendariz, Chief Anaheim Police Dept.
Steve Connolly, OIR Group
AJ?

Staff/facilitator present included: Caluha Barnes and Edgar Garcia, Modesto City Manager's office and Michael Baldwin, Facilitator, who was present to observe.

3. Continuing Business

Will introduced Steve _____, an attorney with OIR group, and Chief Rick Armendariz who would be addressing the ad hoc. Tom was asked to facilitate the meeting.

Steve _____ then did a presentation regarding the different oversight models used by cities. He works with attorney Mike Gennaco.

Steve explained that the various Civilian Oversight Approaches were on their company website. Civilian oversight was recommended by President Obama's Dept. of Justice in response to the deaths of Michael Brown in Ferguson, Missouri and Eric Garner in New York.

Why is oversight needed? For transparency. To improve community relations. The increase public support of the police. To improve the complaint process.

There are various oversight models. One size does not fit all. Models vary depending on size and demographics of a community, police incident history, legal parameters set by local charters and other rules/laws. The constraints on the models are set by what the community wants/what is allowed.

Basic Categories of Oversight:

- 1) Review model
- 2) Investigative model
- 3) Monitoring focused
- 4) Hybrid Model – Anaheim uses a hybrid model as does Davis.

Steve then reviewed the models in more detail with a powerpoint.

1) Review Model

Has a volunteer board.

Does not review complaints.

Makes recommendations to the Police Dept.

Plays no substantive role in investigations or in setting policies and procedures.

Positives

Helps provide community input

Cost effective since uses volunteers.

Negatives

Has limited authority

Volunteers are not experts

Where used: Albany, Indianapolis, Urbana, St. Petersburg, San Diego

2) Investigative Model

Most aggressive model. This model replaces a Police Dept's Internal Affairs Division.

Positives

Reduces the perception of bias

Investigators have specialized training

Increases community trust

Negatives

Expensive/complex

Police resistance

May require a City Charter amendment

Creates an adversarial dynamic

Where used? San Francisco, Washington D.C. New York City, Oakland

3) Monitoring/Auditing Model

Examines incident patterns

Actively participates in an Internal Affairs investigation

Has access to department records

Performs systematic review of police practices and training.

Positives

Provides robust public reporting
Capable of completing long term systemic change
Less expensive than the investigative model

Negatives

Disconnected from grassroots groups/community
Has limited authority. Can't compel the outcome.
Significant experience is required
More expensive than review model.

4) Hybrid Model

Anaheim uses a hybrid model. Picks and chooses characteristics.

Where used? Davis

Anaheim- Independent Auditor reviews all critical incidents, police misconduct and use of force incidents. Auditor works with Police Review Board. Police Review Board reviews critical incidents.

Positives

Requires professional knowledge
Police Review Board contributes in multiple ways: hiring process, complaint process, Training, education

Negatives

May not meet public expectations.
If volunteer participation is sporadic group may lack unity, momentum and influence.
May be frustrated if want to contribute more than advisory role allows.

5) Best Approach – San Leandro. Has not a good job matching model to the needs of the Community. Uses independent experts

Keys to Successful Oversight Model

Get input from City Council.

After doing so staff evaluates feedback and develops a proposed new model. In San Leandro an ordinance was drafted. Ordinance isn't always needed. It depends on what model is used, and if the model is consistent with the City's charter.

End of Presentation

Chief Armendariz then made few comments.

He recognized Modesto as a special place having been a part of the Modesto P.D. for more than two decades.

OIR are outside experts. QRP? Provides civilian oversight. He supports a hybrid model. Military has civilian oversight. Boils down to what community wants. If there is true/ complete distrust, oversight helps make system improvements

He likes the Hybrid model because it is the most flexible model. In the model that is used in Anaheim there is input from the civilian oversight group on hiring, promotion and training of

Officers.

Critics often state that the goal should be constitutional policing, but what does that really mean? Chief A believes that there are three components to constitutional policing: constitution, community and police. There are three purposes for a Police Dept: to reduce crime, maintain security and pursue justice. In achieving these goals need to consider constitution, community and police.

Questions:

Solange:

With respect to the Monitoring/Auditing model is real time input provided? Is input incident triggered? What is the scope of the cases reviewed? Are findings of the Auditors made public?

Brad: It's all about trust and relationships. He didn't support creating an Independent Auditor. Question to Chief A? Is your oversight board satisfied?

Chief A: When members first start on the board there perceptions change when they see the amount of work they do.

Steve: Board is satisfied. The more they learn the more they approve of the Police Dept. But satisfaction depends of the work the board does- the scope of responsibility. It is important to interest young people. Currently they have a board member with an incarcerated family member. She pushes the conversation in a new direction. He thinks the board is satisfied. But there are a cadre of police critics who want more- the ability to fire and confront officers.

Brad: The assumption is that the Chief disciplines police officers? Is this correct?

Chief A- SB 2 and SB 16 will change discipline significantly. Those laws create a Police Officers Accountability Division. The legislature has essentially created a Police Oversight Board for All of California. Under these laws the Accountability Division will have the ability to Investigate serious citizen complaints, and the division will have the ability to override a Chief's Decisions. Chief A wants Community Advisory Boards on the front end playing a role in hiring and training as check and balance on what they are doing. They have had OIR in place for 10 years. 90% of the suggestions made have been accepted and resulted in system improvements Because of their Police Review Board and OIR.

Tom: Would Modesto need a charter amendment?

Caluha: Certain models would not require a charter amendment.

Chief A: The Anaheim Charter allows the hybrid model that they are using. They didn't do a charter amendment. He cautioned against doing such an amendment because it could restrict the department. Their model allows flexibility, so when they have an officer involved shooting they have a community event. The timing is essential. The event is held immediately in the neighborhood where the shooting occurred. They try to do the event the next day. They provide chaplains, and have elected officials.

Tom: He has specific charter questions. And questions regarding the city/county relationship in Sonoma County and their ability to work together.

Caluha : It has been four years since she worked there. She recalls that the county used to work with the City. Santa Rosa had a Review Board.

Steve: Sonoma County has a Review Board and Santa Rosa has a separate review entity.

Tom: The big issue is subpoena power. Any independent auditor should have the same powers as the District Attorney.

Steve: Subpoena power is the hot button on oversight. He has been working with Anaheim since 2001. The Independent Auditor doesn't have subpoena power in Anaheim and it hasn't been a big issue. He has never had an access issue. It depends on the city dynamic. In Sonoma County it was necessary for the review board/auditor? To go to the Board of Supervisors to get Subpoena power because the County Sheriff didn't cooperate.

Tom: Doesn't want there to be tension. Moment community finds out it didn't get documents, trust might be lost. Can turn to Officer Bill of Rights.

Steve: Have to navigate the Bill of Rights. Attorney/client privilege give them as Independent Auditors access to privileged documents. They are equally constrained by attorney/client privilege. They can't disclose officer identities. The Anaheim model isn't an investigative model- they are not conducting a separate investigation- they are working with the Police Dept.

Chief A: They try to bring in Office of Independent Auditor and the Police Review Board early on in the process.

Steve: Police review Board process has developed since 2008.

Brad : Sonoma county model hasn't worked.

Steve: Independent Auditor has attorney/client privilege. Police Review Board in the Enforcement arm of OIR.

Solange: Did bias complaints increase after Police Review Board put in place?

Steve: Initially, yes, but hasn't driven up. The Police Review Board dos get into personnel issues. Only the review models avoid personnel issues.

Will: This ad hoc will be presenting to the full work group on 3/23. Last time the report of this ad hoc was short. "Working on it."

Tom: Doing a presentation in March. On a trajectory with ? He has more questions, but he is narrowing in. He's like to see a hybrid. He likes a board made up of community members. If an officer didn't follow procedures- this needs to be out in the open. He wants to convince the most skeptical folks about the best model. He has two main goals for the review process that 1)there be a community face and 2) true independent investigator/auditors. That's exactly what a hybrid is.

Brad: He agrees 100 %

Solange: Commented on subpoena power, Independent Auditor, Review Board, taking a look At hybrid and scope of work.

Will: Presentation will be made at full work group.

Matthew: On board with conversation. Impressed with Anaheim. Major incident review Team. If major incident- no major focus –whose on that?

Marian: In favor of hybrid model. Likes community volunteers and focusing on front end, hiring, training. Becoming increasingly comfortable.

Dan: Definitely more support of hybrid model if Ad Hoc is going to make a recommendation. Subpoena power – needed inn Sonoma for Sheriff. Modesto Chief serves under the direction of the City Manager, isn't elected.

Johnny: Agrees

Will: Almost 1:30. Tom will work on presentation. Solange will help. Will be all together on 3/23rd. At previous meeting wanted us to have draft recommendations by April meeting. Month of April will review next ad hoc meeting scheduling changes. Meeting of 3/20 is off. 3/23 will presentation on status. Send out drafts of proposed policy changes. Areas of agreement.

Michael: Great Job

End of meeting: 1:30 p.m.