

# Law Enforcement Oversight Processes

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LEGISLATIVE ANALYST'S OFFICE

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Hon. Shirley N. Weber, Chair





## Overview of Law Enforcement Oversight Processes

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- Many local and state law enforcement agencies have a process in place to review and investigate allegations of misconduct. Some of these processes include:
  - State and local law enforcement internal investigations.
  - Local civilian review boards.
  - External auditors.
  - California Department of Justice (DOJ) reviews.
  
- In many cases, agencies will use multiple oversight processes.



## State and Local Law Enforcement Internal Investigations

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### Review and Investigation Process

- Many state and local law enforcement agencies use their own internal staff to investigate allegations of officer misconduct.
- For example, in use-of-force incidents, the officer involved could be reviewed by multiple levels of supervisors. If the investigation reveals that the use-of-force was unnecessary or excessive, then an internal affairs division could perform an investigation.
- These internal investigations generally involve interviews of the relevant parties, including witnesses.



### Disciplinary Process

- Depending on the law enforcement agency, the responsibility for disciplining an officer can rest with a single entity (such as with the agency itself or a city council) or be shared amongst multiple entities.
- If the officer is found to have violated agency policy, he or she can be disciplined, such as by being suspended and/or terminated.
- Officers could also be found to need additional training to prevent future incidents.

## Local Civilian Review Boards

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### Review and Investigation Process

- Some local governments use a group of civilians—typically appointed by city councils or county boards of supervisors—to review use-of-force incidents and other complaints.
- In some cases, these boards review a law enforcement agency's internal investigation to determine whether it was conducted appropriately or if further investigation is necessary. In other cases, these boards use professional investigators to conduct their own investigation.
- Some local civilian review boards do not review all use-of-force incidents or complaints, instead only reviewing those involving severe misconduct or discipline, highly complex cases, or those having substantial public interest.



### Disciplinary Process

- In cases where civilian review boards investigate specific incidents, these boards can hold officers accountable by administering or recommending specific disciplinary actions.
- In cases where civilian review boards do not investigate specific incidents, these boards can make recommendations for the agency to resolve problems identified by others.

## External Auditors

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### Review and Investigation Process

- Some law enforcement agencies use an external auditor or professional investigator as part of the agency's discipline process. Depending on the circumstances, this external auditor will either conduct an actual investigation or review an investigation already completed to identify any inconsistencies with agency policies.
- Some external auditors report the results of their investigations to additional entities, such the city council, county board of supervisors, or a civilian review board.



### Disciplinary Process

- External auditors who investigate individual cases can review incidents to determine whether the officer's actions followed agency policy and recommend whether disciplinary action is necessary.
- External auditors who review already completed internal investigations are used to confirm the results of the investigation.
- In either case, external auditors often make recommendations on whether changes to agency policy are necessary.

## California DOJ Reviews

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### Review and Investigation Process

- The California Attorney General has constitutional authority over all state and local law enforcement agencies. Accordingly, DOJ can decide to investigate a law enforcement agency regardless of that agency's internal oversight policies.
- More frequently, however, law enforcement agencies ask DOJ to perform an investigation on their behalf. For example, when a case involves multiple jurisdictions, DOJ can be used to provide the review.
- At any point, DOJ can launch an investigation into police misconduct or take over such an investigation from a law enforcement agency.



### Disciplinary Process

- To the extent DOJ finds evidence of criminal misconduct, the officers involved can face prosecution.