

CITIZENS ADVISORY/REVIEW BOARD SPOKANE COUNTY SHERIFF'S OFFICE OVERSIGHT REVIEW

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OVERSIGHT REVIEW**

**By
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I. INTRODUCTION

The Citizens Advisory/Review Board (CAB) and the Spokane County Sheriff's Office (SCSO) sought a peer review to consider whether the CAB is meeting its mission: To create a forum of citizens and leaders from within Spokane County citizenry to collaboratively address the immediate and future needs of the Spokane County Sheriff by researching, planning, reviewing assigned cases and disciplinary actions, providing oversight on department policies, and recommending solutions that will integrate and prioritize the best case practices.¹ The CAB engaged Kathryn Olson, Change Integration Consulting, LLC (Olson), to interview stakeholders about concerns that oversight is intended to address, share information about the range and pros and cons of oversight structures, and outline oversight approaches and best practices to address stakeholder concerns.² This report summarizes themes from stakeholder meetings and Olson's observations about ways the CAB's structure, processes, and authority could be changed to enhance accountability and transparency.

In considering whether to adopt oversight or to modify an existing oversight approach, the interests of the community, elected officials, government administrators, and law enforcement commanders and officers must be considered. In taking the time and effort to thoroughly consider the CAB approach to oversight and alternatives, and engaging stakeholders in an exchange about the strengths and weaknesses of various oversight functions, the Spokane County Sheriff's Office and the CAB help ensure that oversight is realistic, has well-defined objectives, is appropriately resourced, and strikes a balance among the competing interests involved.³

¹ <http://www.spokanecounty.org/sheriff/cab/content.aspx?c=3213>

² The purpose of this review was not to assess any particular SCSO incident and the Consultant has not conducted an audit of SCSO policies and practices. The recommendations made below do not reflect an evaluation of the Sheriff's Office, specific incidents, or individual SCSO deputies.

³ Farrow, Joe and Trac Pham. *Citizen Oversight of Law Enforcement: Challenge and Opportunity*; The Police Chief, Vol 70, No.10 (October 2003).

II. BACKGROUND - CIVILIAN OVERSIGHT IN THE U.S.

Civilian oversight of law enforcement in the United States is an evolving governmental function designed to provide the community with a means to influence police practices and help ensure that law enforcement is conducted in a manner that is constitutional, effective, and responsive to the standards, values, and needs of those served. Oversight may be established in response to recurring law enforcement issues or developed proactively to enhance police-community relations.

Oversight has become an integral part of municipal administrations in most large cities in the U.S., with some smaller cities, counties, and states also developing mechanisms for community members to weigh in on police matters. The National Association for Civilian Oversight of Law Enforcement (NACOLE) lists and provides links to approximately 135 oversight agencies throughout the U.S., along with detailed profiles of a sample of those organizations on its resource page.⁴

Civilian oversight organizations in the U.S. include a variety of different structures or models, such as commissions, boards, inspector generals, auditors, monitors, and investigative agencies. Whether an oversight body is labeled a “commission,” “board,” “auditor,” or any other term, it could have authority to function in any or all of these different capacities:

- Accepting and referring police misconduct complaints
- Investigating police misconduct complaints
- Monitoring or auditing a police department’s internal investigations and findings
- Conducting reviews of patterns of misconduct
- Rolling out to critical incidents
- Conducting hearings and making decisions on police discipline matters
- Making recommendations for improving police policy, practices, and training
- Reporting on oversight and its impact on policing
- Fostering community education and engagement about policing and oversight
- Facilitating alternative dispute resolution or community reconciliation

Most oversight organizations are multifaceted and work to improve policing and police-community relations in a variety of different ways. As communities learn more about policing and oversight, and needs change, the authority of an agency may evolve,

⁴ See, <http://nacole.org/resources/police-oversight-jurisdiction-usa>. According to current NACOLE President Brian Buchner, the list is non-exhaustive and there are currently more than 200 oversight entities in the U.S. NACOLE is in the process of updating its directory of oversight agencies.

leading to the creation of new oversight powers to complement or replace the work of the existing organization.⁵

III. PROCESS USED FOR CAB REVIEW

Olson reviewed a number of documents as she began her review of CAB, including information available on the CAB's website such as its mission and purpose, by-laws, meeting agendas, and case review summaries. As the review progressed, she was provided other documents, including aggregate data on SCSO internal affairs complaint statistics, an historical summary of Spokane's criminal justice system created by Bob West and Smart Justice Spokane, a written summary of an oversight approach for the SCSO that includes an ombudsman and the CAB, documents related to the work of the Police Leadership Advisory Committee, various media articles and published opinion statements, and written feedback forms.

Olson met with Spokane County stakeholders to share general information about police oversight functions, invited stakeholder input about experiences with the SCSO and the CAB, and discussed ways CAB's oversight functions could be enhanced to provide more accountability and transparency, of both the SCSO and the CAB. Stakeholder meetings were held in Spokane on April 11 and 12, 2016, with a goal to elicit input from a wide sample of perspectives.

Meetings were held with:

- CAB Board Members
- Sheriff Knezovich, members of the SCSO staff, and a union representative
- Spokane Interim Police Ombudsman and Ombudsman Commission representatives and staff
- City Council Member Breann Beggs
- Spokane Regional Criminal Justice Commission representatives
- Spokane Valley City Council representatives
- Organizational representatives including Center for Justice, WA Commission on African American Affairs, Peace and Justice Action League (PJAL), Smart Justice, NAACP, Police Leadership Advisory Council, and the Human Rights Commission
- Community representatives meeting at a forum moderated by Todd Eklof at the Unitarian Universalist Church of Spokane

Olson identified themes from this stakeholder input, which are discussed below.

⁵ Attard, Barbara and Kathryn Olson. *Overview of Civilian Oversight of Law Enforcement in the United States*; nacole.org/wp-content/uploads/Oversight-in-the-United-States-Attard-and-Olson-2013.pdf (2013).

IV. POSITIVE OVERSIGHT CONTRIBUTIONS BY THE CAB AND BEST PRACTICES

At the outset, it should be noted that the majority of stakeholders voiced support for Sheriff Knezovich and the work of SCSO deputies. Also, many people praised the Sheriff and the CAB for being proactive in initiating this review. The CAB is committed to identifying and following oversight best practices, with support from the Sheriff.

The CAB was established in 2000 by then Sheriff Mark Sterk, originally as a sounding board for changes in SCSO policy and procedures, new equipment training, and to provide feedback on cases of interest. After Sheriff Knezovich was first elected in 2006 and continuing forward, the CAB has evolved to fill a variety of functions. It has commented on important policies including those involving the use of the vascular neck restraint force technique and employee involved domestic violence. The CAB has reviewed a number of high profile cases and commented on the quality of the SCSO investigations involved. Sheriff Knezovich also has sought input from the CAB to determine if his discipline was in line with community expectations. All of these efforts by CAB's devoted volunteers, and the Sheriff's reliance on the CAB's input, contribute to accountability and transparency, furthering constructive oversight of the SCSO.

The CAB took an important step forward when it updated its Bylaws in 2015. Having clear protocols in place to guide the work of oversight is an important best practice to ensure all stakeholders understand the organization's structure, purpose, and means of operation.

Further, the CAB's commitment to continual improvement is evident in its decision to seek out this review. Sheriff Knezovich's support of the project is indicative of his appreciation about how oversight is integral to SCSO's relationship with the public. As Sheriff Knezovich commented at the community forum held on April 12, 2016, "I am accountable and invite feedback from the community."

Finally, the CAB is becoming much more involved with NACOLE. With support from the Sheriff, three members of the CAB will be attending the 2016 NACOLE annual conference. Also, the CAB expressed interest in hosting a NACOLE conference in Spokane and Olson provided information about the extensive effort that is required. The CAB's involvement with NACOLE and consideration of conference hosting responsibilities illustrates its desire to be a learning organization and to participate in the oversight practitioner arena on all levels possible.

V. STAKEHOLDER THEMES ABOUT WAYS TO IMPROVE CAB OVERSIGHT

While the CAB has strived over the years to make positive contributions to oversight of the SCSO, there are always ways to improve. In soliciting feedback from stakeholders about changes that could enhance the CAB's role, a number of themes emerged:

- Independence and Authority

A number of stakeholders emphasized the need for the CAB to be independent and questioned whether its review of misconduct complaint investigations is handled in an impartial and arms-length manner from the SCSO. Others expressed the opinion that oversight of the SCSO could only happen through a structure that was completely outside of SCSO, and by conducting separate complaint investigations rather than reviewing the work of SCSO internal affairs. However, it is the understanding of many that because the Sheriff is an elected position, he answers only to the citizens and could not be beholden to a complaint investigation system completely outside SCSO.

- Transparency

There is a fair amount of confusion in the community about the role of the CAB. While the CAB provides information about its structure, authority and activities on its website, many community members were unaware of its existence or unclear about the scope of the CAB's work. As one stakeholder put it, "The CAB needs to advertise what it does!"

- Community Representation

The CAB Bylaws provide that members can be recommended by the Sheriff or apply directly to the Board, and that members are appointed by a majority vote of the CAB. CAB Bylaws Article VI.D.⁶ However, there is a perception held by some stakeholders that members of the CAB are appointed by the Sheriff. Furthermore, while the Bylaws provide that membership "shall be diverse and broad-based representation of the community-at-large," some stakeholders believe that more effort should be made by the CAB to diversify its membership. Setting term limits for CAB members also was suggested. Finally, while prospective members are required to undergo a criminal background check, there was a suggestion about the benefits of allowing someone with a criminal background who can demonstrate he/she has been rehabilitated to participate on the CAB.

⁶ For the full CAB Bylaws, see, <http://www.spokanecounty.org/sheriff/cab/content.aspx?c=3220>

- Review Policies and Practices of SCSO

A number of stakeholders pointed out that the CAB could have more influence by providing input on SCSO policies and practices. While it is important to have individual misconduct investigations reviewed by the CAB, particularly when a case involves a high-profile incident, review and feedback on policies and practices allows for a broader scope of oversight influence and impact. The CAB Bylaws provide authority for review of policies and procedures. CAB Bylaws Article V.D.

- Access to SCSO Information

Many expressed confusion about the types of SCSO information the CAB can access when it does its reviews of complaint investigations and otherwise. The confusion is partly due to the cursory summaries of cases posted by the CAB on its website and appears related to the CAB being in a more receptive mode to matters referred to it by the Sheriff, as opposed to taking initiative on its own to review incidents.

- Community Engagement

While the CAB has a website that provides a great deal of information and does some outreach, there is a lack of understanding by many stakeholders about its oversight role. This probably is partly due to the fact that the Spokane Police Department Office of Police Ombudsman has received a great deal of media attention, while there has been less focus on the CAB. The fact the CAB does not have paid staff to conduct more community engagement likely also is a factor.

- Adequate Funding

Because the CAB is comprised of unpaid volunteers, it is limited in its ability to perform certain oversight functions or to fully engage with stakeholders (both public and at the SCSO) to increase its legitimacy with all concerned. A number of comments heard from the stakeholders about the CAB tied into the CAB's lack of resources to meet community expectations.

VI. WAYS TO ENHANCE ACCOUNTABILITY AND TRANSPARENCY OF SCSO THROUGH CAB'S OVERSIGHT

There are a variety of ways that the CAB's structure, processes, and authority could be enhanced to provide greater accountability and transparency of both the SCSO and the work of the CAB. Also, as discussed below, as the CAB takes on additional responsibilities, it is necessary to consider adding a paid staff person to support the CAB's efforts and act as a liaison with SCSO and the community.

A. CAB Structure

- Membership Recruitment and Selection

The CAB Bylaws provide that members of the CAB can be recommended by the Sheriff or directly apply to the Board, and that members are appointed by a majority vote of the CAB. CAB Bylaws Article VI.D. Nonetheless, there is a perception by some that the Sheriff selects CAB members. This view might be supported by the Bylaws provision that notes the Sheriff can make recommendations to remove CAB members. CAB Bylaws Article VI.E.

Thus, it is important that the CAB create mechanisms for its own recruitment of members. For example, it might actively solicit applicants from the various organizations represented in meetings held with Olson during this review process. Adoption of other recommendations below might also foster more confidence by the community that the CAB is not the Sheriff's hand picked oversight body.

- Term Limits

The CAB Bylaws do not provide for term limits for membership on the CAB. It is generally considered a best practice to have term limits, however, because the turnover that comes with term limits helps ensure new energy and ideas, new members bring new community connections and viewpoints, prospective members may be more interested in serving if it is for a defined period of time, and a CAB member who was not performing up to expectations will not serve indefinitely while the matter is otherwise addressed.

- Member Diversity

While the CAB's Bylaws provide that members should represent the diverse interests of the community, it would be useful for the CAB to be more specific about the diverse demographics it strives to have represented on the Board. For example, it is common for an oversight board or commission to seek membership that is diverse in terms of income, race, ethnicity, age, gender, sexual orientation, and experience. Other boards or commissions seek members representing specific neighborhoods or areas within a law enforcement agency's jurisdiction. Another approach might be to recruit members who represent social, economic and political interests reflecting the diverse community involved.

- Consistency in CAB Name

Some stakeholders who question the CAB's authority to do truly independent reviews may be confused because it sometimes refers to itself as the "Citizens Advisory Board"

and, at other times, uses the name “Citizens Advisory/Review Board.” As the CAB strives to conduct independent reviews, yet also fills an advisory function for the Sheriff, perhaps it should be called the “Citizens Advisory and Review Board.” In any case, consistency is paramount.

- Code of Ethics

The CAB Bylaws cover the handling of conflicts of interest involving members. CAB Bylaws Article XV. First, because the Bylaws focus on “actual” conflicts, it would be useful for the CAB to consider the impact of “perceived” conflicts and whether both actual and perceived conflicts should be addressed.

Second, the CAB should consider whether to adopt the NACOLE Code of Ethics, in whole or in part.⁷ As noted in the Preamble to the Code of Ethics, the spirit of the standards provided is to promote public trust, integrity, and transparency. Whether the CAB adopts a Code of Ethics or not, it might find it helpful to refer to the standards outlined by NACOLE to help guide the organization as it considers other recommendations made to enhance CAB’s role in promoting accountability and transparency.

B. CAB Processes

While some stakeholders define “independent” oversight to mean misconduct investigations conducted by the CAB outside of the SCSO, the NACOLE Code of Ethics takes a different approach. It defines “Independent and Thorough Oversight” to mean: “Conduct investigations, audits, evaluations and reviews with diligence, an open and questioning mind, integrity, objectivity and fairness, in a timely manner. Rigorously test the accuracy and reliability of information from all sources. Present the facts and findings without regard to personal beliefs or concern for personal, professional or political consequences.”⁸

Using NACOLE’s approach to assessing independence, the CAB’s work in reviewing complaint investigations handled by SCSO internal affairs is considered to be independent if the reviews are diligent, timely, and approached from a position of openness, integrity, objectivity, and fairness. While an evaluation of the CAB’s processes with individual case reviews was outside the scope of this project, it is worth noting that Olson attended a CAB meeting where a complaint investigation was reviewed; she found the CAB discussion to be robust, with many questions raised, respectful disagreement voiced in some instances, and a sense of open-mindedness about the complex issues at hand.

⁷ See NACOLE Code of Ethics, http://www.nacole.org/nacole_code_of_ethics

⁸ Ibid.

Nonetheless, there are procedural changes that the CAB might consider to enhance public perception about its independence:

- Better Description of the CAB Review Process

While the CAB posts on its website a summary of its case review, in the form of a letter, it has acknowledged that this does not accurately reflect the depth and scope of the evaluation it has conducted. Beginning with the current case under review, the CAB intends to provide the public with more detail about its review process. This will serve to enhance accountability and transparency for both the CAB and the SCSO.

- Clarify How Cases are Selected for Review

Some people are confused as to how cases are selected for the CAB's review. The Bylaws provide that the Sheriff or his designee can request that the CAB review "specific assigned cases, use of force inquiries, appropriate citizen complaints, disciplinary actions, and provide feedback as to outcomes and findings." CAB Bylaws Article V.C. To enhance accountability of the SCSO, it would be ideal if the CAB had authority itself to request a review of a case, use of force inquiry, citizen complaint, etc. Given the CAB's limited time and resources, it also needs the authority to prioritize which incidents it reviews, whether at the Sheriff's request or on its own initiative.

- Review of SCSO Policies and Practices

The CAB has the authority to review SCSO policies and procedures and its community-based philosophy of operation. CAB Bylaws Article V.D. However, it appears that any assessment of SCSO policies taking place is primarily in the context of reviewing specific misconduct complaint investigations. While relevant policies and procedures may require revision separate from whether an individual deputy is engaged in misconduct, it is also very useful to periodically target specific policies or practices for an in-depth assessment outside of the complaint system.

Also, while the Bylaws provide that the CAB can respond to the Sheriff's request to have the Board review a policy, it would be useful for the CAB to take the initiative to identify policies to evaluate that are of concern to the community. However, as with expanding how it reviews individual cases, doing a more expansive assessment of SCSO policies might tax the CAB's limited time and resources.

- Clarify that CAB Can Accept Complaints

The CAB's Bylaws do not address the issue of its initial acceptance or referral of complaints, or the standards it uses in reviewing cases. However, the CAB website home page provides a link to a letter to citizens providing information about citizen complaint

procedures.⁹ The letter provides a great deal of information, with the result that basic complaint filing directions may be confusing for some. Also, though the letter refers to the CAB conducting an “appellate review,” the CAB does not have authority to actually reverse a finding made by SCSO, which is implied with “appellate review.” It is advised that the CAB clarify on its website and through other communications that it has authority to review complaint investigations and findings and can concur or make recommendations to the SCSO where it disagrees with outcomes.

Also, it is implied that if a citizen submits a CAB Appellate/Review Form (which is underlined in the letter but not hyperlinked to the form), the CAB will review the case, though under the Bylaws, it appears the CAB review only occurs if the Sheriff refers the matter to the CAB. Clarification on this point is recommended.

It would be helpful to set up an easy to follow FAQs approach that simply and clearly covers basic information such as: (1) the CAB accepts citizen complaints, but will refer them to the SCSO for initial handling; (2) how citizens can file complaints, with the CAB or SCSO; (3) the CAB can review investigations handled by SCSO and either concur with findings and discipline or make recommendations where it disagrees with outcomes; and, (4) the circumstances under which a citizen can request that the CAB review the SCSO complaint investigation process. The FAQs link on the website for the Spokane Police Department (SPD) Office of Police Ombudsman (OPO) provides a useful guide to the types of information to include.¹⁰

- Sharing Resources with Spokane Police Department Ombudsman Office

Given the CAB’s limited resources, it is recommended that it explore joint training opportunities with the SPD OPO. This might involve offering spots in the SPD and SCSO Citizen Academies to members of each other’s staff, Police Ombudsman Commission members, and members of the CAB. The OPO and the CAB could brainstorm a list of topics and invite local experts to brown-bag lunches to provide on-going training to the two oversight structures. If representatives of the OPO or the CAB attend outside training, such as through NACOLE, they could bring back information to share jointly with the two groups.

- CAB Involvement in Citizens Academy

A CAB representative should be included in community training provided by the SCSO, such as through the Citizens Academy. Providing time and a forum for the CAB to meet community members and explain its role gives the CAB a way to advertise its oversight

⁹ See, <http://www.spokanecounty.org/data/countysheriff/cab/CAB%20Complaint%20FillForm.pdf>

¹⁰ See, <https://my.spokanecity.org/opo/faqs/>

contributions and helps increase its legitimacy with stakeholders. Given confusion among some about law enforcement jurisdiction of SPD versus SCSO, and the different oversight functions of the OPO versus the CAB, it would be helpful to set up more joint outreach involving all entities to help the community understand the varying authority involved. This could happen through Citizen Academies or otherwise.

- Clarify Protocols with Officer-Involved Shootings where the Spokane Police Department and Spokane County Sheriff's Office Investigates Each Other's Incidents

The SPD and SCSO have an arrangement whereby the agencies investigate each other's officer-involved shootings. This sort of arrangement often is made to avoid conflict of interests that can arise if an agency criminally investigates its own officer-involved shootings and provides more accountability overall for an incident that can result in tragic outcomes. However, there seems to be confusion among some stakeholders as to which agency should handle misconduct complaints that arise from such incidents. It would be helpful for the SPD OPO and the CAB to clarify expectations with their respective agencies and then jointly issue information for the public as to protocols involved with complaints related to officer-involved shootings.

C. CAB Authority

- Expand to Non-Sworn

While the focus on the CAB's oversight role has been on reviewing misconduct complaints involving SCSO deputies, the Bylaws do not limit it to considering matters only with sworn employees. The public comes into contact with non-sworn employees of the SCSO, too, and it could be useful to expand the CAB's authority to include complaints made against civilian employees. Similarly, the Sheriff and CAB could consider whether there are other matters involving non-sworn employees, such as policies and procedures, where the CAB's input could be useful.

- CAB Access to SCSO Complaint and Use of Force Tracking Systems

As noted above, the CAB's role in enhancing accountability and transparency of the SCSO will be enhanced if it can initiate review of cases and use of force incidents. However, this requires that the CAB know what matters are under review by the SCSO. It is recommended that the CAB be provided (read only) access to IAPro, the electronic system used by SCSO for tracking investigations and use of force. This would allow the CAB to better understand and confirm aggregate complaint and use of force data and flag any particular incident of interest to explore for further review.

- CAB Presence in IA interviews

While some stakeholders would like to see the CAB or some other oversight entity have the authority to conduct complaint investigations separately from the SCSO internal affairs process, there was concern expressed by others that the fact the Sheriff holds an elected office presents legal complications for this approach and, in any case, likely would require collective bargaining with the Spokane County Deputy Sheriff's Association. Whether or not Spokane County ultimately decides to expand oversight to allow for complaint investigations outside of SCSO, the CAB can provide more accountability and transparency of SCSO investigations if it is permitted to attend witness interviews.

This approach is used in other jurisdictions that have independent auditors or monitors, and is followed by the SPD OPO. Usually, the oversight representative can attend interviews of both sworn officers and civilian witnesses. In many jurisdictions, the oversight representative can ask follow-up questions, but at the least, oversight's presence during interviews and evaluation of the process provides the public with some assurance that internal affairs investigations are thorough and respectful.

D. Paid Staff Position

Many of the recommendations made here, based on stakeholder feedback, require that the CAB take on extra duties. This extra work might involve short-term projects, such as updating the Bylaws or website, or entail regular and on-going demands, such as conducting more outreach or attending interviews arranged by internal affairs. If SCSO and the CAB decide to expand the CAB's oversight responsibilities, however, it is recommended that serious consideration be given to funding a full or part-time staff person to work with the CAB.

A CAB staffer could act as a liaison between SCSO and the CAB and between the community and the CAB. The staffer could be tasked by the CAB to gather information relevant to the CAB's review of cases or policies, relay questions from the CAB to SCSO resources, participate in interviews, step up the CAB's outreach role, meet with community members to accept complaints, and take on other responsibilities to help increase the effectiveness of CAB's oversight efforts. While it is understood that creating a CAB staffer position will require a commitment of resources that are already scarce, the CAB's role in Spokane County has evolved to the point that paid personnel is essential if the CAB is expected to evolve to meet community expectations about oversight.

VII. CONCLUSION

The CAB is comprised of members who appear genuinely interested in having a positive impact on the SCSO and relations between the SCSO and the public. Some stakeholders do not understand or appreciate the commitment made by CAB members and the role they play in enhancing oversight of the SCSO. Also, there are ways that the CAB's structure, processes, and authority can be enhanced to maximize accountability and transparency, both for the SCSO and for the CAB itself. Many stakeholders have a desire to see the CAB expand, even in limited ways, to provide more assurance that oversight of SCSO is robust and reliable.

The CAB and Sheriff Knezovich should be commended for taking the proactive step of evaluating the CAB's role in providing oversight for the Spokane County Sheriff's Office. As the recommendations made in this report are considered, it will be important to continue to elicit stakeholder input about contemplated changes and provide feedback on the deliberation process. This is all towards helping the CAB meet its stated purpose of "enhancing police/community relations, communications, transparency, and community confidence."
