



# Improving Police Oversight in San Jose

Presentation by Aaron B. Zisser, former San Jose Independent Police Auditor (2017-2018), to the Charter Review Commission, August 23, 2021



## Introduction / bio

Currently Chief of  
Staff to Oakland  
police oversight  
agency (2021)

San Francisco  
District Attorney's  
Office, Independent  
Investigations  
Bureau (2018-2021)

San Jose IPA  
(2017-2018)

Consultant on  
establishing and  
improving oversight  
(2015-2017)

U.S. Department of  
Justice, Civil Rights  
Division – pattern or  
practice cases  
(2009-2015)

## Overview

---

Process toward reform

Goals of oversight

Oversight models

Principles of oversight



## Process toward reform

Just as oversight **should center the community**, so should reform of oversight. This Commission should host a broad range of community leaders

**The Reimagining Public Safety Community Advisory Committee** took a strong stand to ensure community-led reform. Their recommendations should be central.

**That committee includes diverse representation** across racial/ethnic groups; the disability, unhoused, and LGBTQ+ communities; directly impacted families, etc.

My recommendations reflect what I have heard from community members, but **are by no means a substitution** for hearing directly from impacted communities.

# Goals of oversight

---

01


Goal: Officer  
accountability /  
deter the worst  
abuses

02

Goal: Systemic  
reform / culture  
change

03

Goal:  
Procedural  
justice /  
credibility with  
community



# Oversight models

## INVESTIGATIVE

- Independent investigations of complaints (parallel to or instead of Internal Affairs investigation)
- Makes own findings and recommends discipline


## AUDITOR / REVIEW

- Reviews Internal Affairs investigations
- Reviews findings / discipline
- Can be contemporaneous

## INSPECTOR GENERAL / MONITOR

- Reviews systems, patterns, practices, policies, trainings
- Access to all records
- Reviews records unrelated (and related) to complaints





# Oversight models

## INVESTIGATIVE

- Oakland
- San Francisco
- BART
- Berkeley

## AUDITOR / REVIEW

- **San Jose**
- BART
- Los Angeles

## INSPECTOR GENERAL / MONITOR

- Los Angeles
- Various counties
- Oakland (soon)
- San Francisco

# NACOLE REPORT: Thirteen principles for effective civilian oversight of law enforcement (2021)

1. Independence
2. Clearly defined and adequate jurisdiction and authority
3. Unfettered access to records and facilities
4. Access to law enforcement executives and internal affairs staff
5. Full cooperation
6. Sustained stakeholder support
7. Adequate funding and operational resources
8. Public reporting and transparency
9. Policy patterns in practice analysis
10. Community outreach
11. Community involvement
12. Confidentiality, anonymity, and protection from retaliation
13. Procedural justice and legitimacy



# NACOLE REPORT: Thirteen principles for effective civilian oversight of law enforcement (2021)

1. **Independence**
2. **Clearly defined and adequate jurisdiction and authority**
3. **Unfettered access to records and facilities**
4. **Access to law enforcement executives and internal affairs staff**
5. Full cooperation
6. Sustained stakeholder support
7. **Adequate funding and operational resources**
8. Public reporting and transparency
9. **Policy patterns in practice analysis**
10. Community outreach
11. **Community involvement**
12. Confidentiality, anonymity, and protection from retaliation
13. Procedural justice and legitimacy

# Key principles

---

Public  
engagement  
(Commission)

Access  
(IG model)

Authority  
(vs. advisory)

Selection /  
Qualifications

Staffing /  
Resources

Independence

# Public Engagement: Establishing a Commission

---



Access

Authority

Appointment  
/  
Qualifications

Staffing

# Public Engagement: Establishing a Commission

---



San  
Francisco

Oakland

BART

Los Angeles

# Access: Shift to IG Model vs. Auditor Model

---



ALL RECORDS



UNREDACTED  
RECORDS



PERSONNEL



ENABLES PATTERN  
OR PRACTICE /  
SYSTEMIC REVIEW

# Access: Shift to IG Model vs. Auditor Model

---

The IG model is growing, including in the Bay Area

- SF recently added “audit” authority
- Oakland – new OIG, currently hiring

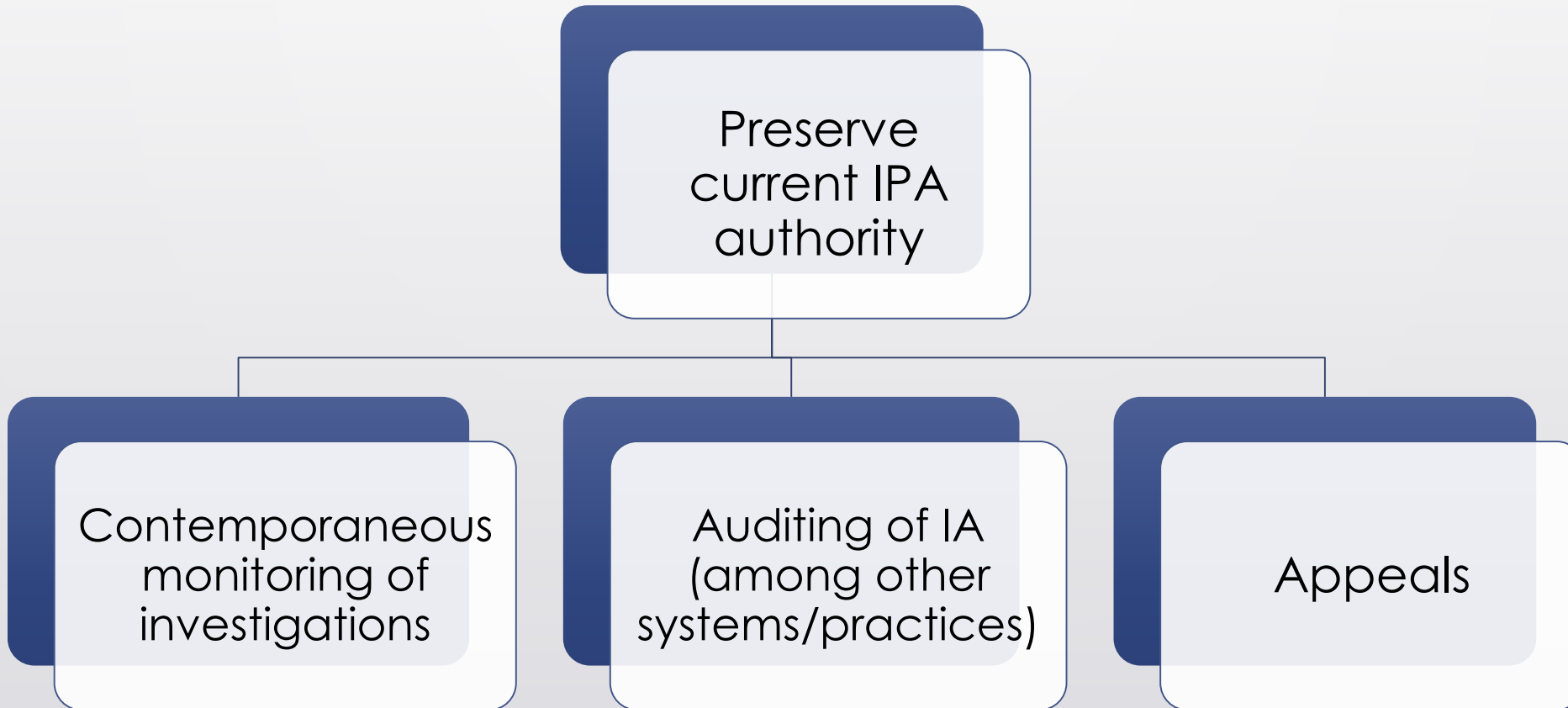
Need not be a “troubled” agency or under consent decree to justify this model

- The current moment implicates all large departments
- IG is *the* model for preventing systemic problems

SJPD does have history that justifies robust oversight / reform

- Federal trial *proved* an unjustified OIS in 2016
- Documented patterns of disparities
- Massive issues re George Floyd protests

# Access: Shift to IG Model vs. Auditor Model





# Authority

---



APPEAL TO  
COMMISSION



POLICY  
RECOMMENDATIONS

# Selection / Qualifications

---

Law enforcement?

Civil rights or oversight

Public process

# Staffing and resources

---



INTAKE



INVESTIGATIONS



AUDITS



ANALYSIS



PUBLIC  
OUTREACH

# Independence

---



SELECTION /  
APPOINTMENT PROCESS



REPORT TO COMMISSION,  
VS. COUNCIL

# Independence

---

## Other ingredients for independence:

- Access
- Authority
- Staffing / resources
- Selection / representation

# Conclusion: Goals of oversight

---

01

Goal: Officer  
accountability /  
deter the worst  
abuses

02

Goal: Systemic  
reform / culture  
change

03

Goal:  
Procedural  
justice /  
credibility with  
community

# Conclusion: Goals of oversight and corresponding models

---

01

Goal: Officer accountability / deter worst abuses

**Model:**  
**Investigative (or auditor) + Commission**

02

Goal: Systemic reform / culture change

**Model:**  
**Inspector General + Commission**

03

Goal: Procedural justice / credibility with community

**Model:**  
**Commission**