

TO: Ann Arbor City Council and the Commission  
FROM: Chia Wen Cheng, Policy Expert in Police Oversight  
RE: Analyzing the Strengths and the Weaknesses of the Ann Arbor Independent Community  
Policy Oversight Commission  
DATE: December 8, 2023

### **Executive Summary**

Ann Arbor's pre-2019 police oversight struggled due to close ties with law enforcement, causing transparency and accountability issues. The Independent Community Police Oversight Commission (ICPOC) was established to address these gaps by operating independently, receiving civilian complaints, conducting impartial investigations, and making policy recommendations. However, challenges, such as committee members lacking police expertise, non-binding recommendations, and limited investigative tools, hinder its effectiveness. Long-term success requires strategic measures, including expert appointments and fostering cooperation to overcome potential resistance within the police department.

### **Preexisting Landscape of Police Oversight in Ann Arbor**

Before the inception of the ICPOC in Ann Arbor in 2019, existing oversight mechanisms grappled with escalating public demand for transparency and accountability. Ann Arbor's traditional police oversight mechanisms, predominantly situated within law enforcement agencies, displayed insufficient initiatives to bolster police accountability and transparency, fostering distrust between civilians and the police department.<sup>1</sup> The department, prioritizing its enforcement nature over service provision, limited civilian input significantly. As victims of undue force sought recourse from law enforcement for systemic changes, the close affiliation between oversight bodies and the police department they were intended to scrutinize raised concerns about potential conflicts of interest. Recognizing the inadequacy of these mechanisms

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<sup>1</sup> Cheh, M. M. (2006). Legislative Oversight of Police: Lessons Learned from an Investigation of Police Handling of Demonstrations in Washington, D. C. *Journal of Legislation*: 32(1), pp.1-21.  
<https://scholarship.law.nd.edu/jleg/vol32/iss1/1>.

in addressing critical aspects of policing, such as misconduct and use of force, there emerged a compelling need for a shift towards a more robust and community-oriented approach.

### **Contributions of the Independent Community Oversight Commission**

Given these flaws, the Independent Community Police Oversight Commission represents a significant departure from traditional oversight models and is expected to overcome historical challenges as outlined below.<sup>2</sup>

#### *1. Impartial Review and Investigation*

The Commission operates as an autonomous entity within the city framework, possessing the authority to conduct impartial reviews and investigations into police conduct. Its primary objective is to encourage individuals to file complaints against the police, forward them for internal review, and subsequently assess the outcomes of these investigations. To fulfill this mission, the Commission is empowered to initiate investigations either proactively or in response to filed complaints. This authority is fundamental to the Commission's effectiveness in providing oversight and is pivotal in the restoration of public trust.

#### *2. Community Engagement*

Central to the Commission's mandate is the formulation of policy recommendations, contributing insights to policing strategies, and fostering direct interaction with the community to address resident concerns. This initiative establishes diverse channels for citizens to convey their opinions, enabling a reciprocal exchange with relevant authorities. Through mandatory publications responding to public inputs, the process guarantees sustained community engagement. By serving as a platform for citizens to express their concerns and viewpoints, the Commission actively shapes the oversight process, ensuring it transcends unilateral law

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<sup>2</sup> Stanton, R. (2018, October 16). *Mayor Hopes Police Oversight Can Address Legacy of White Supremacy*. mlive. [https://www.mlive.com/news/ann-arbor/2018/10/mayor\\_hopes\\_police\\_oversight\\_c.html](https://www.mlive.com/news/ann-arbor/2018/10/mayor_hopes_police_oversight_c.html).

enforcement influence, becoming a collaborative endeavor that mirrors the community's values and expectations.

### *3. Communication Bridge*

The Commission holds the promise of bridging the longstanding communication divide between law enforcement and the community. Cultivating a collaborative and mutually beneficial approach to public safety is imperative for establishing trust and facilitating effective policing. Although lacking binding authority in its recommendations, the commission stands as a crucial instrument in nurturing transparency, encouraging community involvement, and upholding accountability within Ann Arbor's policing framework.

### **Challenges to Address for Success**

While the Independent Community Police Oversight Commission holds considerable promise, addressing challenges systematically is imperative for its enduring success. Recent discussions have underscored various hurdles in police oversight, notably the need for expertise in force work and mechanisms for resolving disagreement.<sup>3</sup>

#### *1. Insufficient Expertise in Force Work*

Appointments to the Commission, approved by the City Council, currently lack essential expertise in force work, a critical perspective from the police department. This gap renders the Commission vulnerable to strategic refusals of policy recommendations or changes by the department, potentially rendering both the Commission and the community functionless.

#### *2. Unequal Voices and Disagreements*

Because police departments operate simultaneously as a force and a service agency, civilians are at an inherent disadvantage in power dynamics. Even with the intervention of the Commission,

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<sup>3</sup> Ofer, U. (2016). Getting It Right: Building Effective Civilian Review Boards to Oversee Police. *Seton Hall Law Review*: 46(4), pp.1033-1062. <https://scholarship.shu.edu/shlr/vol46/iss4/2>.

legal departments remain the sole entities authorized by law to make decisions on disagreements. This power disparity perpetuates a loop reinforcing the close relationship between legal authorities and the police department, hindering effective reform.

### 3. *Blurred Legal Language and Resistance from Within the Police Department*

Drawing insights from analogous bodies in other cities, such as San Francisco, Ann Arbor must anticipate potential resistance from within the police department.<sup>4</sup> Resistance may be backed up with vague legal language, which is seen as flexibility in enforcement implementations.

Establishing a cooperative relationship through ongoing dialogue, training, and mutual understanding will be pivotal in overcoming institutional resistance and fostering reform in the police department. Washington, D.C., for instance, has proven this continuous collaboration to be effective in building community trust.

### **Limits of the Commission's Role and Supplemental Oversight**

In addition to the challenges identified, moving forward, the Commission is also limited in the following ways.

#### 1. *Limited Tools and Access to Cases for Investigations*

Members of the Ann Arbor Independent Police Oversight Commission expressed dissatisfaction, citing limited information provided by the police department during case reviews. Notably, the omission of the names of responsible police officers hindered their ability to thoroughly analyze individual or systemic issues, impeding the formulation of relevant reform recommendations.<sup>5</sup>

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<sup>4</sup> Boghani, P. (2016, July 13). *Is Civilian Oversight the Answer to Distrust of Police?* Public Broadcasting Service. <https://www.pbs.org/wgbh/frontline/article/is-civilian-oversight-the-answer-to-distrust-of-police/>.

<sup>5</sup> Dodge, S. (2020, June 17). *Ann Arbor Mayor Criticized by Police Oversight Commission for Not Understanding Its Role*. mlive. <https://www.mlive.com/news/ann-arbor/2020/06/ann-arbor-mayor-criticized-by-police-oversight-commission-for-not-understanding-its-role.html>.

This restricted access to investigated cases further curtailed their overall effectiveness in fulfilling their oversight responsibilities.

## *2. Misunderstandings of Its Duties*

A year into the operation of the Ann Arbor Independent Community Policy Oversight Commission, there were widespread instances of people lacking a clear understanding of its responsibilities in overseeing the police. Criticism extended to the Mayor for releasing a resolution that largely duplicated the Commission's existing duties. Residents hesitated to frequently seek assistance from the Commission, leading to heightened distrust and misunderstandings that diminished the anticipated impact of the Commission.<sup>6</sup>

These limits are real and show there is no perfect solution. However, improvements to the Ann Arbor Commission will, as seen in Washington, D.C., make a difference in improving police accountability and fostering greater public trust.

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<sup>6</sup> Dodge, S. (2020, June 17). *Ann Arbor Mayor Criticized by Police Oversight Commission for Not Understanding Its Role*. mlive. <https://www.mlive.com/news/ann-arbor/2020/06/ann-arbor-mayor-criticized-by-police-oversight-commission-for-not-understanding-its-role.html>.