



City Council  
"Citizen Complaint Process"  
January 7, 1998

**COMMITTEE/COMMISSION ACTION:**

There was none required for this report.

**BACKGROUND:**

The City Manager's Office has received a request from Mr. Robbin Ware, President of the NAACP, to establish an independent civilian review board to handle citizens' complaints of police misconduct. Mr. Ware based this request on complaints received by the NAACP. None of these complaints have been filed with the Police Department or the City. This report provides information on the City's current Citizen Complaint Process in response to that request for City Council consideration. This report also recommends adding to the process regular reports to the City Council on the status of complaints. These reports will be noticed as a regular agenda item and discussed in a public forum by the City Council in its capacity as the overall governing policy body for the City.

During the civil rights movements of the late 1950's and 1960's, complaints of brutality and discrimination against police departments rose dramatically. Citizens demanded a more effective way to monitor officers' conduct, create accountability and offer alternatives for filing complaints. One structure resulting from this was the creation of civilian review boards.

A civilian review is a procedure that allows citizen complaints against police officers to be reviewed at some point by persons who are not sworn officers. Civilian review procedures vary considerably with respect to their mission, structure, policies and the point at which non-sworn individuals participate. Nationwide, there are approximately ninety (90) review boards. In California, there are a total of 720 law enforcement agencies (city, county, campus, and state) and only sixteen (2%), have civilian review boards. With the number of other legal resources and remedies available (i.e., Sacramento City and County Human Rights and Fair Housing Commission, Grand Jury, etc.) to citizens for registering these types of complaints, review boards are an extra layer of bureaucracy. The addition to the current process of regularly scheduled public review by the City Council, allows citizens an opportunity to address the Council on these issues.

It is the Police Department's policy that every complaint merits attention and is treated with fairness and equity. The City Charter dictates the powers and duties of the Chief of Police to include the management and discipline of all members of the Police Department. Official oversight is provided by the City Council, City Manager and Director of Labor Relations. A summary of the Citizen Complaint Process is provided in Attachment A of this report. The Charter gives the Council authority to initiate investigations "into the affairs of the City government and the conduct of any department, office, agency, officer or employee thereof" per Charter Section 34.

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In 1996, the Police Department handled 368,942 calls for service. During this time, the Police Department received 471 inquiries of which 94 were formal complaints filed through the Citizen Complaint Process. As of December 31, 1997, 56 of the formal complaints (generated in 1996) were sustained, 6 were not sustained, 8 were exonerated, 9 were unfounded, 11 were reclassified, and 4 are still pending. The Police Department is committed to continuing an excellent relationship with the community and making additional efforts to reduce citizen complaints. To that end, the Police Department has established an Early Intervention Program which tracks all complaints per employee. An employee receiving several complaints of a similar nature that occur within a one year period, is identified for potential problems within this program. If a problem exists, action is taken to work with the employee to determine the causes and develop appropriate solutions.

In the debate over civilian review boards, most law enforcement agencies are generally opposed to the idea, while civil liberty organizations are generally in support. Arguments against the boards claim that they add unnecessary levels of bureaucracy, create a barrier to the Police Department in working directly with the community to resolve issues and often become political platforms. Arguments supporting civilian review boards state that they provide an independent review, help to increase public confidence in police departments and provide a safety valve for the community. Additionally, the size or budget of an agency should not be the determining factors to create a civilian review board. The NAACP has a list of the "Ten Principles for an Effective Civilian Review Board" which is included as Attachment B of this report. The Sacramento Police Department's current Citizen Complaint Process, with the addition of public reports to City Council, meets or exceeds these principles.

It is the position of the Police Department that the structure for filing, reviewing and dealing with citizens' complaints with oversight by the City Council works well. In its capacity as the policy oversight and elected body, the City Council has a level of accountability and responsibility to the Sacramento community that represents the best interests of its citizenry. The staff from the Police Department is prepared to continue to work with Mr. Ware and the NAACP to address and resolve their concerns, and identify any problems if they exist.

**FINANCIAL CONSIDERATIONS:**

The NAACP suggests that the Civilian Review Board have a budget at least equal to the budget of the existing Internal Affairs Section (IA). IA currently has an annual budget of \$550,000.

**ENVIRONMENTAL CONSIDERATIONS:**

This activity does not constitute a "project" and is, therefore, exempt from the California Environmental Quality Act (CEQA) CEQA Guidelines Sections 15061 and 15378.

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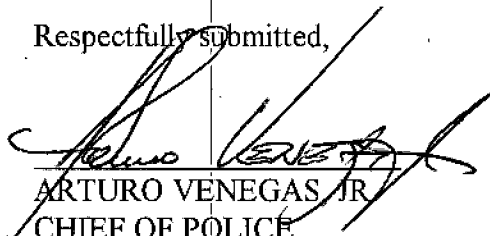
**POLICY CONSIDERATIONS:**

The Police Department's current structure and process in handling citizens' complaints and the proposed changes with oversight by the Council and City Manager is effective and consistent with past policy. It is the legal opinion of the City Attorney that a significant change in the current structure would change the powers and duties of the Chief of Police and require a City Charter Amendment (Attachment C).

**MBE/WBE EFFORTS:**

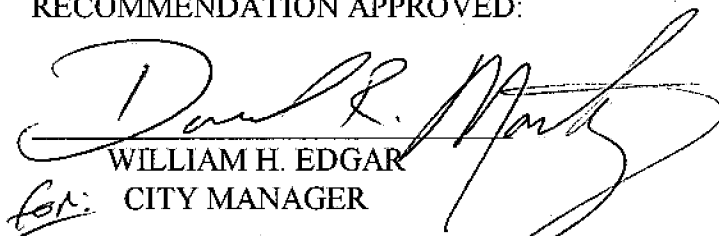
No goods or services are being purchased under this report.

Respectfully submitted,



ARTURO VENEGAS JR.  
CHIEF OF POLICE

**RECOMMENDATION APPROVED:**



WILLIAM H. EDGAR  
*for:* CITY MANAGER

AV:rmm  
REF: 1-4

Attachments: A - Sacramento Police Department's Citizen Complaint Process  
B - "The Ten Principles for an Effective Civilian Review Board" (NAACP)  
C - City Attorney Opinion

## **ATTACHMENT A - Sacramento Police Department's "Citizen Complaint Process"**

Below is a brief summary of the Police Department's "Citizen Complaint Manual". Copies of the "Citizen Complaint Manual" are available upon request.

Citizen complaints include, but are not limited to, allegations of:

- Excessive Force
- Discrimination
- False Arrest
- Improper Search and Seizure
- Improper Tactics
- Firearm Discharge
- Harassment
- Conduct Unbecoming an Employee
- Missing Property
- Discourtesy
- Insubordination
- Intoxication
- Neglect of Duty
- Dishonesty
- Traffic
- Wage Garnishment
- Service

All documented complaints pertaining to Police Department policies, procedures or alleged employee misconduct shall be investigated.

Complaints may be received at any time of the day and may originate from within or outside the Department. They may be received via person, mail, telephone, fax or e-mail (Internet or City's e-mail system).

Once the complaint is received, the process continues as follows:

1. A Citizen Complaint Form (included in the attached Citizen Complaint Manual) is generated by Internal Affairs (IA), the Watch Commander, or ranking supervisor at the Communications, Records, Kinney, Rooney, or main headquarters facilities.
2. IA's Lieutenant gathers and reviews all pertinent information.
3. A preliminary investigation is conducted by the involved employee's section. Interviews with the complainant and witnesses are conducted by the immediate supervisor. The employee is not aware of this preliminary investigation. A case summary is generated and submitted to IA for review.

4. IA determines if the preliminary investigation is thorough. The case file along with a verbal synopsis of the case is presented to the Chief of Police (COP).
5. The COP determines the category in which the case should be classified:
  - Category I: Such complaints are allegations of misconduct that if sustained, could result in disciplinary action ranging from written reprimand to termination, or criminal charges. IA investigates all Category I complaints.
  - Category II: Such complaints are allegations of misconduct that if sustained, could result in disciplinary action ranging from a documented counseling to termination. IA or the employee's division manager/sector captain or designee conducts the investigation.
  - Category III: Such complaints are allegations of minor misconduct that if sustained, could result in a documented counseling, or formal discipline, up to and including, suspension. These complaints may be investigated at the employee's division level and may be assigned to either a first or second line supervisor by the division manager/sector captain.
  - Category IV: Such inquiries are those that the citizen did not wish to pursue or would not cooperate with an internal investigation but the inquiry taker believes the event should be documented.
  - Category V: Such inquiries involve department approved policy and/or procedures. The citizen has been advised accordingly. No further investigation is necessary unless deemed otherwise.
6. If the COP classifies the case as a Category I, II, or III, the case file is returned to IA for a formal investigation.
7. The employee's supervisor writes an opinion and analysis of the case which recommends one of the following findings:
  - Sustained: The investigation disclosed enough evidence to clearly prove the allegation.
  - Not sustained: The investigation failed to reveal enough evidence to clearly prove or disprove the allegation.
  - Exonerated: The act which provided the basis for the complaint did occur; however, the investigation revealed the act was justified, lawful and proper.

- Unfounded: The investigation has produced sufficient evidence to prove that the act or acts alleged did not occur. This finding shall also apply when individual personnel named in the complaint were not involved in an act that did occur.

8. The package is then sent through the chain of command for recommendations.
9. The COP renders a finding based on all prior investigations and recommendations.
10. If sustained, the COP determines the severity of discipline to be administered, taking into account progressive discipline, if appropriate.
11. If sustained, the final letter of discipline is prepared by IA.
12. If the discipline equals a monetary loss in wages, a Letter of Intent is prepared by IA.
13. The employee is served with the Letter of Intent. The employee has a legal opportunity to file for a Skelly hearing to plead his/her case to the Division Manager or Office Chief.
14. The supervisor (Division Manager or Office Chief), after a Skelly hearing, makes a recommendation to the COP regarding the proposed discipline. The COP makes the final determination.
15. If the employee still considers the disciplinary action is unreasonable, he/she may appeal to the Civil Service Board and through the judicial system.
16. At the conclusion of the investigation, IA has thirty days to write a letter to the citizen who initiated the inquiry, to inform them of the finding of the investigation.
17. Progress reports, as a regular agenda item, are given to the City Council on the status of complaints.

The Charter gives the Council authority to initiate investigations "into the affairs of the City government and the conduct of any department, office, agency, officer or employee thereof" per Charter Section 34.

## ATTACHMENT B - "The Ten Principles for an Effective Civilian Review Board"

Below are "The Ten Principles for an Effective Civilian Review Board" as suggested by the National Association for the Advancement of Colored People (NAACP).

1. Independence: The power to conduct hearings, subpoena witnesses and report findings and recommendations to the public.
2. Investigatory Power: The authority to independently investigate incidents and issue findings on complaints.
3. Mandatory Police Cooperation: Complete access to police witnesses and documents through legal mandate or subpoena power.
4. Adequate Funding: Should not be a lower budget priority than police internal affairs systems.
5. Hearings: Essential for solving credibility questions and enhancing public confidence in process.
6. Reflect Community Diversity: Board and staff should be broadly representative of the community it serves.
7. Police Recommendations: Civilian oversight can spot problem policies and provide a forum for developing reforms.
8. Statistical Analysis: Public statistical reports can detail trends in allegations and early warning systems can identify officers who are subjects of unusually numerous complaints.
9. Separate Offices: Should be housed away from police headquarters to maintain independence and credibility with public.
10. Disciplinary Role: Board findings should be considered in determining appropriate disciplinary action.





**OFFICE OF THE  
CITY ATTORNEY**

SAMUEL L. JACKSON  
CITY ATTORNEY

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**CITY OF SACRAMENTO  
CALIFORNIA**

December 29, 1997

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**MEMORANDUM**

**TO:** Arturo Venegas, Chief of Police

**FROM:** Samuel L. Jackson, City Attorney  
William P. Carnazzo, Assistant City Attorney  
Richard E. Archibald, Deputy City Attorney

**RE:** Civilian Review Boards

**Issues Presented**

You have presented a series of questions to this office concerning the NAACP request to the Council to establish a civilian review board to oversee the City's Police Department. The specific questions include the following:

- 1) What subpoena powers and authority will the civilian review board "review board" or ("board") have?
- 2) Can the board force officers to testify or answer questions during an investigation?
- 3) Is a local ordinance or state legislation required to establish a review board?
- 4) What is the legal cost involved in establishing a review board?
- 5) Will the Police Department have a right to appeal a review board decision? If so, what is the process?

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6) There are various types of civilian review boards. What form of review would be compatible with the City of Sacramento?

7) What conflicts would arise between a civilian review board and the provisions of the Charter giving the Chief of Police authority over Police Department operations? Would a change in the charter be required, and what is the process for a charter amendment?

### Brief Answers

You have asked a series of questions concerning the establishment of a civilian review board for the Police Department. Generally, the issues you have presented are ones of policy, rather than of a legal nature. Civilian boards may be established by local ordinance (or charter), and may be delegated such powers as the legislative body deems appropriate, provided such powers do not conflict with the statutory, charter or ordinance authority of other boards and bodies; and provided further, that the authority conferred upon a civilian review board or body do not and may not contravene certain constitutional and statutory protections afforded police officers. In the case of the City of Sacramento, the Charter confers primary responsibility for discipline of police officers upon the City Manager, the Chief of Police and the Civil Service Board. Absent an amendment to the Charter (which requires a majority vote of the voters at an election) to provide for a civilian review board and to replace the Civil Service Board as the commission primarily responsible for discipline, a civilian review board would have limited, if any, authority over disciplinary matters.

Following are brief responses to your specific inquiries:

1) A civilian review board may be given subpoena authority.

2) Subject to certain restrictions that may exist as a matter of state or constitutional law, a civilian review board may be given such subpoena authority as the legislative body (i.e., the City Council or the citizens) determine to be appropriate. If authorized by the legislative body, a civilian review board may be authorized to compel the attendance and the testimony by officers and employees, subject to appropriate constitutional and statutory limitations and protections, including but not limited to the Fifth Amendment, the Police Officer Bill of Rights, and Lybarger warnings.

3) The Charter authorizes the City Council to establish boards and commissions by ordinance. City Charter Section 230. The powers and authorities given to a board established by ordinance pursuant to Section 230 would need to be consistent with the provisions of the Charter, including those conferring disciplinary authority and responsibilities relating to police

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officers upon the Chief of Police, the City Manager and the Civil Service Board, and overall management of the Police Department upon the Chief of Police.

As an alternative to establishing a board or commission by ordinance, the charter could be amended to specifically provide for a civilian review board and to spell out its powers and responsibilities. A charter amendment may be initiated by the Council or by a petition of the voters, and requires approval by the voters at a public election.

4) The cost of a review board is dependent upon the nature and complexity of the board and the authority it exercises. Depending upon the authority and responsibilities of the board, and the potential conflicts of interest that may arise, there may be a need for independent legal counsel to advise the board. At this point in time, no monetary figure can be given.

5) There are a variety of options available, in terms of the authority and responsibilities given to a civilian review board. Some have the authority to handle disciplinary matters, while others serve merely as a body that reviews and makes recommendations on specified matters. Whether there is any need for the Police Department to have "appeal" rights is necessarily dependent upon the type of civilian review board established, and the authority and responsibilities conferred upon it. Most boards appear to have investigative, review and reporting or recommendation authority, rather than decision-making authority. To the extent that a board has authority over disciplinary matters, the disciplined officer certainly would have appeal rights.

6) This is basically a policy, rather than legal, question. Any civilian review board established by the City would have to be consistent with the provisions of the Charter conferring executive authority upon the City Manager, disciplinary authority and responsibilities relating to police officers upon the Chief of Police, the City Manager and the Civil Service Board, and overall management of the Police Department upon the Police Chief. Absent an amendment to the Charter, the Council may not confer authority and responsibilities upon a civilian review board which would conflict with the provisions of the Charter.

7) See response to # 6 above. A charter amendment may be initiated by the City Council or by a petition of the voters, and requires approval by the voters at a public election.

### Discussion

In response to a request by the NAACP for the establishment of a civilian review board for the Police Department, and in anticipation of addressing this request before the City Council, you have submitted to this office a series of questions related to the establishment, procedures,

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authorities and responsibilities of such boards. This memorandum is an attempt to respond to these inquiries.

At the outset, it should be noted that the issues of whether there should be a civilian review board, and the nature and extent of the authority and responsibilities to be conferred on such a board, are primarily matters of policy.<sup>1</sup> It should also be noted that, in responding to your questions in the short period of time given, there has been no opportunity for this office to review in depth or at any length the practices of civilian review boards in other jurisdictions. This memorandum should therefore be considered a preliminary response to your inquiries.

#### Procedure(s) for Establishing a Civilian Review Board

As you are aware, a number of jurisdictions have civilian review boards, with a wide range of authority and responsibilities. It is our understanding that some of them are established by charter, while others are established by ordinance. As a matter of law, there is no need for statutory authority to create a civilian review board, and such boards may be established by charter or ordinance. To the extent civilian review boards are established by ordinance, there is the potential for conflict with provisions of a charter. As discussed below, there are provisions of the Charter of the City of Sacramento that are relevant to any discussion of the establishment of a civilian review board in Sacramento.

#### Charter Provisions

The powers of the City of Sacramento are vested in the City Council except as otherwise provided in the City Charter (City Charter Section 20). The City Charter expressly provides that the City Manager is the chief executive officer of the City with the responsibility for the administration of City government and control over City employees under his responsibility (City Charter Section 61). The City Manager is given full authority to impose discipline and discharge City employees under his responsibility, subject to the right of a civil service employee to appeal the Manager's decision to the Civil Service Board (City Charter Sections 91 and 92). Section 61 of the Sacramento City Charter provides in relevant part as follows:

The city manager shall be the chief executive officer of the city and shall be responsible for the effective administration of the city government. The city manager shall have the power and it shall be

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<sup>1</sup> If a civilian review board is established by ordinance, rather than by charter amendment, the authority and responsibilities conferred upon the board may not conflict with the provisions of the Charter.

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the city manager's duty:

(b) To administer and exercise supervision and control over all offices, departments and services of the city government under the jurisdiction and control of the city manager;

(d) Except as otherwise provided in this Charter, to appoint all heads or directors of departments of the city and all subordinate officers and employees with power to discipline and remove any officer or employee so appointed, subject to the civil service provisions of this Charter; provided, further, that all officers and employees of the city appointed by the city manager who are exempt from the rules and regulations of the civil service board pursuant to Charter section 83 may be suspended or removed at the pleasure of the city manager.

Section 91 relates to the disciplinary authority of the City Manager and reads as follows:

The City manager or other official or board in whom is vested disciplinary or removal power shall be allowed full freedom in his or its action on such matters, it being the intent and spirit of this article to provide a fair and honest approach to municipal employment for every inhabitant of the city, but in no sense to handicap or curtail the responsible administrative officer in securing efficient service.

The City Council is prohibited from interfering with the City Manager in matters relating to the appointment or removal of those City officers or employees who are under the jurisdiction of the Manager. Section 62 of the City Charter provides in pertinent part as follows:

No member of the city council shall directly or indirectly coerce or attempt to coerce the city manager relative to the appointment or removal of any city officer or employee which is made by the city manager, but prior to the making of any appointment or removal of any head or director of any department or division of the city, the city

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manager shall endeavor to advise the city council of his intention to do so.

The City Charter provides for a Civil Service Board, which is generally responsible for handling a broad range of duties and responsibilities for non-management City employees, including police officers. See generally, Charter, Article VII, Section 80 et seq. A key responsibility imposed by the Charter on the Civil Service Board is the handling of disciplinary matters. Charter Section 92. Section 92 provides that the Board is to hear appeals upon written request "from any employee in any city department in the classified service who may be suspended without pay, demoted, dismissed or otherwise disciplined by the appointing authority." The Board has adopted a broad set of rules and regulations governing disciplinary proceedings, and it is pursuant to these rules and regulations that disciplinary proceedings against police officers (as well as other civil service employees) are processed. There are, of course, a broad range of statutory (e.g., Police Officers' Bill of Rights) and constitutional (e.g. Lybarger warnings) protections and procedures applicable in disciplining proceedings involving police officers.

Also relevant to our discussion are Sections 99 and 100 of the Charter. Section 99 provides that the Police Department shall consist of a chief of police and such other personnel as the Council may prescribe. Section 100 provides that the "chief of police shall have control, management and direction of all members of the police department"; and that the chief shall recommend to the city manager members of the force for demotion or dismissal and can suspend and prefer charges against any officer or member.

Pursuant to Section 34 of the Charter, the Council has certain investigative authority:

The City Council or any duly appointed committee of the members of the council may make investigations into the affairs of the city government and the conduct of any department, office, agency, officer or employee thereof, and for this purpose may subpoena witnesses, administer oaths, take testimony, and require the production of evidence. Any person who fails to obey a lawful order issued in the exercise of these powers by the city council or a committee of the council shall be guilty of a misdemeanor and punishable by fine or imprisonment, or both, in such amount and for such time as prescribed by state law for misdemeanors.

Section 34 must be read in conjunction with the other provisions of the Charter cited above so that they may be harmonized. REA Enterprises v. California Coastal Zone

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Commission (1975) 52 Cal. App. 3rd 596, 610. The sections are not in conflict but authorize the Council to conduct an investigation and inquiry into the official acts and conduct of City employees while retaining authority in the City Manager and, as to police officers, the Chief of Police, to appoint and discipline employees.

Any investigation undertaken by the Council (or committee of Councilmembers) pursuant to Section 34 must comply with the requirements of the Brown Act. Pursuant to Section 54957 of the Government Code, an investigation involving complaints or charges against a particular employee may require that notice be given to the employee, and upon the employee's request, that the matter be heard in open session. In an appropriate situation (e.g., threatened or pending litigation) authorized by the Brown Act, an investigation or inquiry by the Council pursuant to Section 34 may be held in closed session.

Section 230 of the Charter authorizes the City Council to provide by ordinance for boards or commissions "as may be required by law or deemed desirable." The authority and responsibilities conferred upon any board or commission by ordinance pursuant to Section 230 must be consistent with the other provisions of the Charter, and the Council may not confer authority and responsibilities upon a board or commission which the Charter prohibits the Council from exercising itself. Thus, to the extent the Charter prohibits the Council from interfering with the authority and responsibilities of the Chief of Police, the City Manager, and the Civil Service Board as to appointment and disciplinary matters involving police officers or the overall management of the Police Department, the Council may not do so indirectly through a board or commission established by ordinance.

As discussed above, this office has not had an opportunity to review in any depth or detail the civilian review boards established in other jurisdictions. It is our understanding that many of them are charged with "oversight responsibilities," including the receipt of complaints against police officers (for harassment, excessive force, abusive treatment, etc.), recommendations on policy matters to the legislative body, and investigation of citizen complaints. Several jurisdictions (Los Angeles, San Francisco) appear to have separate investigative offices which have been expressly given disciplinary authority or oversight, and which prosecute disciplinary actions before a police commission or other similar body. It is our understanding that these commissions and separate investigative offices are established by the charters in these jurisdictions.

Given the provisions of the charter concerning the roles and responsibilities of the Chief of Police, the City Manager, and the Civil Service Board, it would appear that any civilian review board established in Sacramento would have a limited role and similarly limited set of responsibilities in disciplinary matters, unless the board were established by charter amendment.

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Again, to the extent of any conflict between the charter and an ordinance, the provisions of the charter will prevail.

### Subpoena Power

As a general rule, an administrative board or body such as a civilian review board may be given subpoena power. See e.g., Dibb v. Citizens Law Enforcement Review Board, (1993) 29 Cal. App. 4th 159; Brown v. City of Berkeley (1976) 57 Cal. App. 3d 223.<sup>2</sup> As you may be aware, the City/County Human Rights and Fair Housing Commission has been given limited subpoena powers for certain matters within its jurisdiction.

With regard to the possible subpoena powers and authority of a civilian review board, this is essentially a matter of policy to be addressed in the any charter amendment or ordinance, or implementing ordinance, which provides for a civilian review board and spells out its powers and responsibilities. It is our understanding that some civilian review boards have broad subpoena authority, while others have none.

### Compelling Testimony

A corollary to the question of whether a civilian review board can issue subpoenas is the question of whether it can compel testimony. Again, this would appear to present primarily a policy, rather than a legal, question. It is our understanding that a few jurisdictions do have provisions allowing for the issuance of subpoenas as well as the compulsion of testimony of witnesses. Further examination of the practices of other jurisdictions may be warranted.

Any attempt to compel testimony of witnesses would necessarily have to recognize significant constitutional and statutory protections afforded witnesses, both police and non-police. These would include rights against self-incrimination, and as appropriate, Lybarger warnings and other similar protections.

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<sup>2</sup> Dibb involved a challenge to a county charter provision which established a citizen's review panel and charged it with reviewing citizen complaints about the county sheriff's and probation departments, and which granted the panel the power to subpoena witnesses and evidence. Similarly, Brown involved a challenge to the creation by charter amendment of a police review commission with subpoena power. The court of appeals in both cases rejected the challenge, and upheld the subpoena authority of the citizen's review panel and police commission. While the subpoena authority in Dibb and Brown, was conferred by charter, charter cities such as the City of Sacramento which have reserved for themselves broad authority to regulate "municipal affairs" should be considered to have the authority to create civilian review boards with subpoena authority by charter or ordinance, provided that ordinance provisions need to be consistent with charter provisions.



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### Cost of a Civilian Review Board

The cost of a civilian review board will necessarily depend upon the size and nature of the board, and the authority and responsibilities conferred upon it. The NAACP request for a civilian review board includes a request that the board be funded at least in the same amount spent by the Police Department on its internal affairs process. The 1990-91 report from the Sacramento County Grand Jury indicates that the Internal Investigations Section of the Police Department had a 1990-91 budget of \$243,790.

Because the cost of a civilian review board is necessarily dependent upon the nature of the board and the extent of its authority and responsibilities, it is not possible to project a monetary figure associated with the establishment and operation of such a board. It should be noted that, depending on the nature of the board and the responsibilities assigned to it, there may be a need for additional legal staff (as well as other staff) to advise a civilian review board. Whether this office could serve in this capacity is an issue not addressed in this memorandum.

### Options and Alternative Types of Civilian Review Boards

There are a wide variety of civilian review boards, with differing levels of authority and responsibilities. As noted in the Bee article included in the materials presented by the NAACP, some cities have adopted civilian review boards with very limited authority and responsibilities, while others have established separate investigative offices and police commissions or review boards which enjoy a broad range of authority, including authority over disciplinary matters. As a general rule, it appears that those cities which have conferred broad authority upon civilian review boards have done so by including provisions within their charters. Whether this was done to eliminate potential conflicts with charter provisions, or to ensure that the civilian review board was not subject to being eliminated or weakened by means of a simple ordinance amendment at any given time, or both, is not clear.

As indicated above, this office has not had an opportunity to review at any length or in any detail the provisions of other jurisdictions which establish civilian review boards, police commissions or other similar bodies to oversee local law enforcement agencies. If there is an interest on the part of the Council in proceeding further with the concept of a civilian review board, it may be appropriate and necessary to examine the practices of other jurisdictions.

You have inquired as to potential appeal rights of the City for decisions of a civilian review board. As a general rule, it appears that most civilian review boards have investigative, oversight review and recommendation authority, but not necessarily decision-making authority. With regard to those boards or commissions that have authority over disciplinary matters, the

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disciplined officers certainly would enjoy appeal rights to challenge the nature and extent of discipline imposed. The nature and extent of appellate rights necessarily depends upon the provisions of the legislation establishing a review board and conferring decision-making authority upon it.

NAACP Proposal

It is not clear what type of civilian review board the NAACP proposes for the City of Sacramento. The August 4, 1997, letter from the NAACP requesting time on the agenda to discuss an "independent Civilian Law Enforcement Review Commission" indicates that the function of the commission would be "to receive, record, investigate and conduct public hearings, when necessary, into citizen complaints of police misconduct." No proposed legislation was submitted for consideration by the Council, although a draft ordinance was prepared for the County and presented for consideration by the Board of Supervisors in September, 1996. Should a similar proposal be made to the City, a brief review shows potential conflicts with some of the charter provisions cited above, particularly in the area of discipline. If the Council is interested in considering this proposal, or any other form of legislation establishing a civilian review board, further consideration to the charter conflict issue will be required.

Should you have any questions about the foregoing, do not hesitate to contact this office.

REA/sf

cc: William H. Edgar, City Manager  
Samuel L. Jackson, City Attorney  
William P. Carnazzo, Assistant City Attorney