

*City of Carlsbad:*

Consideration of More Formalized Community  
Engagement with  
Carlsbad Police Department

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# Introduction & Background

The summer of 2020 was extraordinary on a number of fronts, with the COVID-19 pandemic forcing radical changes to everyday life and a level of nationwide political polarization not seen in recent history. The murder of George Floyd in Minneapolis set off a wave of demonstrations across the country that focused an unprecedented level of attention on law enforcement and its fraught relationship with Black Americans and other communities of color. Conversations centered on a range of proposals – and demands – from greater regulation on the use of force by police officers and new approaches to accountability and oversight, to outright “defunding” the police (or otherwise reallocating public spending).

While the most sustained, intense, and sometimes violent protests were happening in large urban settings, smaller cities like Carlsbad also became the site of demonstrations calling for racial justice. For three days, protesters gathered and marched peacefully through Carlsbad. The Carlsbad Police Department (“CPD” or “Department”) avoided clashes with demonstrators, instead taking the position that its role should be to protect individuals’ rights to assemble and have their voices heard. The Department maintained a limited public profile (while keeping available resources on standby, ready to deploy if needed) and met with leaders of the protest movement ahead of time to facilitate peaceful demonstrations.

A video of CPD officers using force while taking a Black man into custody that surfaced and went viral prompted fears of violent protest, but Department leaders quickly addressed these concerns by meeting with protest organizers and transparently sharing additional video footage of the man’s arrest and dialoguing about all the surrounding circumstances. In the end, Carlsbad experienced neither the type of vandalism and looting, nor the unduly heavy-handed treatment of peaceful protesters seen in other cities during this period of unrest.

The demonstrations, though, sparked a dialogue among City leaders about police-community relations. These discussions led to calls for an increased understanding of police use of force and proposals for some form of more formal civilian engagement with the police. In August 2020, City Council received a presentation on police use of force and the various forms of commissions and committees that review police practices and procedures that exist in jurisdictions around the region.

In October 2020, the Council received a more detailed presentation on the various options for civilian review of the Police Department along with a number of examples of other local police review bodies. Staff also presented a plan to obtain the community’s input on its concerns about policing and its desire for some form of more formal review

or engagement. At that meeting, the Council directed staff to conduct four public meetings – one in each Council District – to gauge the public’s interest.

City staff engaged a facilitator to develop a process for and lead these community conversations. In January and February 2021, a total of 150 people attended at least one of the four public meetings held via Zoom (some individuals attended multiple meetings). In addition, the City conducted an online survey during this same period and received 512 responses.

In March 2021, City Council received reports from staff and the professional facilitator with outcomes and findings from these public engagement efforts. The report detailed a high level of trust in the CPD, and moderate level of interest in greater civilian involvement. At its March 23, 2021, meeting, the Council voted to engage a consultant to make an independent recommendation about the best way to address community interest in more formal engagement with its police. OIR Group<sup>1</sup> was selected in January 2022 to complete this work.

In March 2022, we met in Carlsbad with City Council Members, the Chief of Police, police association representatives, and other City leaders, supplemented the subsequent week by virtual meetings with those not able to meet on the day of our site visit. All of those we met were generous with their time, and we appreciate the candid input we received. This report reflects the views of these stakeholders, as well as our own experiences with police agencies, government leaders, community review boards, and other types of police engagement entities in numerous jurisdictions throughout California and the country.

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<sup>1</sup> OIR Group has been working in the field of independent oversight of law enforcement for two decades. It is led by Michael Gennaco, a former federal prosecutor and a nationally recognized leader in the oversight field. OIR Group has provided a range of auditing, monitoring, and investigative services for jurisdictions throughout California and in several other states. It specializes in evaluating and seeking to strengthen law enforcement policies, practices, and accountability measures. Its website is [www.oirgroup.com](http://www.oirgroup.com).

# Community Involvement in Policing Issues: Why it Matters

The potential for meaningful civilian involvement in police agencies is not only to increase public confidence through greater scrutiny, accountability, and transparency but also to enhance law enforcement effectiveness through greater understanding and responsiveness. The most effective approaches are not inherently the ones that clash with law enforcement, but instead stress collaboration and constructive communication as a way to penetrate law enforcement's inherent insularity, on the one hand, and to improve the public's awareness and insight into police practices, on the other.

The outreach efforts to assess the community's interest in some type of formal community involvement in policing issues revealed a high level of trust in the CPD and some significant concerns about whether any form of "oversight" is necessary in Carlsbad. Those concerns centered on the possibility of civilians interfering in public safety issues in a way that could negatively impact police effectiveness, and the needless cost of funding any type of oversight effort.

At the same time, a significant minority of participants expressed their belief that some type of "civilian oversight" was both valuable and needed. And nearly ten percent indicated a low level of trust in their police. The values cited by those favoring some type of oversight included increased transparency and accountability that they believe will build greater trust and confidence in the police, particularly among communities of color. They sought a form of engagement that would provide meaningful opportunities for community members to work with the Department and guide efforts to improve services.

These values were also recognized by the police leaders with whom we met. While they expressed concern about any form of "oversight" that would result in civilians exercising control over operational issues or the disciplinary process, they acknowledged the importance of maintaining the community's trust and expressed an admirable degree of openness to working with community partners to establish some form of civilian-led entity to provide advice and input into policing issues in the City.

The call for formal "civilian oversight" in Carlsbad reflects a growing trend in the United States, where the outcomes of individual high-profile incidents in the past decade have heightened a sense of division between police and segments of the public. While this has been most true in larger cities where police are more likely to engage in deadly

force incidents and other types of controversial police encounters, even smaller cities like Carlsbad are facing demands for increased public involvement. The 2020 protests in Carlsbad following the murder of George Floyd provide an important backdrop for the discussion about the importance of bridging gaps of distrust, alienation, and misunderstanding.

The Department's willingness to engage with demonstrators to ensure their safety created a different protest environment than what we saw in other cities, where the police took a more confrontational approach, and the CPD deserves much credit for its role in a peaceful outcome. While some could see this as a sign that "everything is fine here" and no change is needed, a broader lesson learned has to do with the interest of some in the community for an outlet, and a mechanism for providing input. The summer and fall of 2020 brought increased attendance at board or commission meetings in those cities with some form of existing engagement or oversight entity. Indeed, in some places where a community review board meeting had been drawing only a handful of public attendees prior to June 2020, hundreds of people turned out (generally on Zoom or other virtual platforms, given COVID-related restrictions) in the months following. Those crowds were an opportunity for police leaders to connect and engage, to answer questions, announce initiatives, seek input, and quell concerns. Without an existing board or commission, the prospects for effectively facilitating these conversations were diminished.

Too often, an oversight, advisory, or review board is borne out of crisis or tragedy – a high profile officer-involved shooting or a protest response that turns violent – that creates a public demand for increased accountability. It is encouraging to see, in Carlsbad, a more proactive approach; a recognition that, though the 2020 protests ended peacefully, there is nonetheless additional room for the Police Department to educate and engage with its communities and to hear from representatives of any concerns or suggestions. The initiative to explore the possibility of increased community involvement in policing matters is an admirable product of that sentiment.

# Carlsbad Police and Community: Needs and Expectations

There are a growing number of community police engagement models throughout the country. They range in size, budget, scope of authority, and specific roles – variations that are appropriate to the highly distinctive circumstances among jurisdictions. The October 2020 Staff Report to City Council outlined three general options, along with the potential benefits and problems with each: an auditor/monitor with active engagement in an agency's personnel complaints and investigations; a review-focused model in which a board or commission may review completed investigations and/or provide recommendations on a wide range of police-related issues; and an investigations-focused model which conducts independent investigations into alleged misconduct.

Most entities end up being unique and responsive to the stated needs and concern of the community, pulling various elements from different models to best suit the particular needs of the jurisdiction. And all ideally work toward the same basic goals: building trust, increasing transparency, and providing community members with both a forum for grievances to be heard and an opportunity to provide input into solutions. Whatever the specific scope and responsibilities, they function most optimally in the context of an independent but collaborative relationship with the Department. Each has the potential to increase accountability and public confidence by serving as a body to facilitate conversations between police and community.

It is clear from our review of the materials and conversations with City and Department leaders that the idea of civilian engagement in Carlsbad should be focused in its scope compared to the types of auditors, inspectors, and commissions employed in many larger cities. Based on our outreach to City leadership, we identified two options for moving forward:

- 1) Do not form any particular form of board or commission, but instead instruct the Chief of Police to semi-annually or annually make presentations to City Council regarding the state of the Department, use of force data, notable events, and efforts at community engagement.
- 2) Create a civilian commission that would meet publicly on a regular basis, receive non-confidential reports from police leaders, hear public concerns, and offer advice and feedback to the Police Department.

The first option is straightforward. We lay out a vision for implementing the second option below:

## Who, What & When: Working through the Details

If City Council opts to create a civilian board or commission to work with the Police Department to build greater community trust and confidence in the police through increased transparency and public involvement, there are a number of important details to consider at the outset. We offer the following suggestions based on our discussions with City leaders and our experience with other jurisdictions.

### Names Matter

Establishing a name for any new entity is an important first step, setting the tone and establishing some initial expectations for the entity's roles and responsibilities. We heard a range of opinions on this subject: From how the word "oversight" would suggest the entity has authority over CPD, to how the word "advisory" would signal to the community that the entity is merely symbolic. Council may wish to consider titling the entity the Carlsbad Community-Police Engagement Commission, which based on all we talked to would be seen as the most critical function of the body.

### Mission, Scope, and Access

The overall mission of the new, Commission should be to provide a forum for the community and police leadership to learn and discuss the challenges of modern day policing and provide a community perspective about public safety challenges. The Commission should also be encouraged to provide advice, support, and recommendations to the City Manager and Chief of Police relating to current or newly considered policies and programs with an overarching goal of building trust and fostering strong police-community relations. Its objectives should include:

- Promoting productive communication and interaction between the police and community
- Providing a forum for police leadership to inform the group (and the public) of police initiatives, challenges, and data relating to police activity
- Educating and receiving feedback from the community in the creation of policing standards and expectations



- Creating additional community access to public safety information
- Recommending changes or improvements to CPD policy, procedures, or training
- Reviewing new or proposed CPD programs to evaluate how those programs might impact disenfranchised and marginalized communities
- Providing a forum for presentations by police leadership on matters that receive high media interest or come to the attention of the Commission

We recommend that the creation of a Commission be accomplished by Ordinance so that the duties, mission, and expectations of the body are clearly identified. Based on the feedback we received from City leadership, the Ordinance should clearly indicate that the entity is based on engagement and focused on programmatic aspects of policing while avoiding any inference that it is intended to formally “oversee” or dictate police decision-making relating to accountability or discipline. A clear list of duties is critical so that applicants and the community clearly understand the reach and responsibilities of the Commission.

The most effective forms of community involvement in policing emphasize cooperation and collaboration. While law enforcement agencies historically have an instinctive desire to protect information from public disclosure, those that manage to overcome that defensive response are the ones most capable of adapting to current demands for transparency and increased community engagement. But collaboration is a two-way street, and the Commission, too, must begin its work with a fair-minded approach, and a desire to understand law enforcement practices and the challenges inherent in police work.

## Qualifications and Disqualifiers

The success of the Commission depends in large part on the people chosen as members. Based on input received from our interviews with City leadership, the City may choose for this new entity to follow the process already in place for other Commissions regarding minimal qualification requirements:

1. Resident of the City of Carlsbad and a registered voter.
2. Not currently an officer of or employed by the City of Carlsbad or under contract with the City of Carlsbad.
3. Appointment would not violate any term limits applicable to the position sought.

With particular regard to this Commission, the following characteristics should be considered when determining who is qualified to serve:

- A demonstrated ability to be open minded, impartial, objective, and unbiased
- An absence of any real or perceived bias, prejudice, or conflict of interest
- A record of community involvement
- An ability to build constructive working relationships and communicate effectively with diverse groups
- A demonstrated commitment to the purpose of the Commission with an eye toward fostering positive police-community relationships<sup>2</sup>

Regarding disqualifiers unique to the responsibilities of this Commission, the City might want to determine that anyone with ongoing litigation against the City involving police matters should not be eligible to serve. And while retired CPD officers might be potentially eligible, current CPD members (or close family members) might be considered ineligible.

## Selecting Members

We further recommend an application and vetting process be required before an applicant be considered for nomination and appointment as is the case for current commission applicants for other City appointments. Council may determine that the

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<sup>2</sup> These qualities are similar to current discretionary criteria that the Carlsbad Municipal Code advises can be considered in selecting Commission members:

1. Prior participation in the Citizen's Academy.
2. Recent experience and/or understanding of municipal government.
3. Knowledge of subject matter governed by the board or *commission*.
4. Ability to fairly and impartially represent community interests.
5. Experience on other boards, *commissions* or committees.
6. Geographical diversity of the membership of the board or *commission*

vetting and appointment process follow the process used for appointment of other City Commissions.

Based on input received from our meetings with City stakeholders and the current City Ordinance that allows for appointment by Council Members and ratification by the entire Council for a number of current commissions, the Ordinance may provide that each Council Member and Mayor select a qualified member for consideration. We suggest that as set out in the Municipal Code for other Commissions, Council Members may but are not required to choose a member who lives in their district.<sup>3</sup> We recommend that members should serve a set term of two years that follow the terms of the appointing elected official so that the terms are staggered to ensure continuity and avoid 100% turnover. Commission members should elect a chairperson and vice-chairperson to one-year terms, to lead agenda setting and preside over meetings.<sup>4</sup>

## Training for Members

The Commission will benefit from members' diverse backgrounds and individual experiences, but there is some core knowledge needed to do the work most effectively and efficiently. Following appointment, Commission members should receive training on the following:

- The authority and responsibilities associated with their role as a Commission member
- City policies and legal requirements governing public and private meetings
- CPD policies, procedures, and practices

In addition, we recommend that Commission members, within the first six months of their appointment, be required to attend or observe some of the training that CPD officers attend, including:

- Use of force training, particularly defensive tactics and scenario-based training

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<sup>3</sup> The City may also wish to consider whether individuals who work but do not live in the City or have a business in the City may be considered eligible to serve.

<sup>4</sup> In our experience, most such Commissions are selected by elected representatives. However, one Board was created by having residents apply by District and having the selection process undertaken by lottery for qualified applicants.

- Implicit bias training
- Training related to officers' interaction with people in mental health crisis

Finally, we think it is important to the Commission's credibility – with both CPD and the public – that members make an effort to learn more about law enforcement challenges in Carlsbad. To that end, we recommend that members be required to, during their first six months on the Commission:

- Participate in at least two ride-alongs with a CPD officer (one of which should be with a member of the Homeless Outreach Team)
- Meet with or receive a presentation from the City's coordinator for homeless services

## Staff Support, Meetings, and Agenda Items

The Commission will need the assistance of City staff for a number of administrative and other support functions – coordinating meetings, publishing agendas, and maintaining a website, among others.

Meetings of the Commission should be scheduled and held on a regular basis – at least quarterly, with a provision allowing for the chairperson or other members to call for a special meeting to address matters of interest.<sup>5</sup> Meetings should be public, with an opportunity for community members to address the Commission and present questions and concerns.

We recommend that Commission agendas follow a standard format, with certain “standing items” covered at each meeting. The Chief of Police (or his designee) should present a report each meeting, covering any notable events that have occurred or that the Department is planning for; presenting relevant data that the Commission requests (arrest numbers or use of force statistics, for example); and responding to any questions from Commission members. The Commission should also use each meeting to identify and discuss a specific topic chosen based on current events involving public safety or on questions or concerns it hears from the public. For example, the Commission might ask one month for a presentation from the Department's Homeless Outreach Team, and at another might request a representative from the County's Behavioral Health Services

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<sup>5</sup> Other commissions and boards meet monthly or every other month, but regardless of the frequency, they should be regularly scheduled meetings.

Department to provide information on how its Mobile Crisis Response Teams interact with law enforcement in Carlsbad. The Commission might choose to form its own workgroups that would research particular issues of interest and present findings and recommendations to the full Commission.

## Presentation to Council

We recommend that annually the Commission be provided an opportunity to present to Council on its activities. Such a presentation will demonstrate the importance of the Commission as instrumental in providing another vehicle for effective community/police engagement.

## Regular Reconsideration of Duties of Commission

Our experience has been that as new commissions are formed to serve the particular interests of the community, that it is advisable to revisit the work and experience of the commission at regular intervals. We recommend that the Ordinance have a provision calling for revisiting the Commission's duties and responsibilities, obtaining feedback from current Commissioners, City leadership, and the public on suggestions to improve the Commission and its responsibilities. An automatic review of the Commission after two years would ensure that it would be an organic body that had the ability to adapt and respond not only to today's but to tomorrow's public safety challenges.