



# Oversight Board: What is right for Hillsborough?

Presentation for May 2021 meeting of the Mayor's Task Force on Re-Imagining Public Safety



# What does Hillsborough need?

- Do we adopt an existing model?
- Do we create something specific and unique to our community and its needs?
- What can we learn from other communities?

WHAT IS THE PROBLEM WE ARE TRYING TO SOLVE?



# Traditional Police Oversight Board

<https://www.nacole.org/benefits> (Nat'l Association for Civilian Oversight of Law Enforcement)

“Police oversight can benefit not only the individual complainant, but also the larger community, police, and sheriff’s departments, and even elected or appointed officials. The actual benefits that occur depend on how well the involved groups work together and the type of model implemented.”

- Complainants are given a place to voice concerns outside of the law enforcement agency.
- Oversight can help hold the police or sheriff’s department accountable for officer’s actions.
- Oversight agencies can help improve the quality of the department’s internal investigations of alleged misconduct.
- The community at large can be reassured that discipline is being imposed when appropriate, while also increasing the transparency of the disciplinary process.
- When the oversight agency confirms a complainant’s allegation(s), complainants may feel validated.
- And similarly, when the oversight agency exonerates the officer, the officer may feel vindicated.
- Oversight agencies can help improve community relations by fostering communication between the community and police agency.
- Oversight agencies can help reduce public concern about high profile incidents.
- Oversight agencies can help increase the public’s understanding of law enforcement policies and procedures.

- Most communities now realize that oversight is not a one-size-fits-all proposition. Many oversight practitioners are finding that it is less useful to talk about models and more useful to talk about options of authority.
- The powers and authorities granted to an oversight agency can be combined in any manner that works best for each individual community. While a volunteer review board may not have the resources to ensure each complaint and investigation is handled in a manner that guarantees transparency and accountability, it does add an important layer of involvement, communication and trust building. Review of closed cases might be frustrating for some, while other communities may choose to commit resources that are adequate to ensure each review is thorough and the opportunity for feedback and change is genuine.



# Traditional models....

- Review and Appellate Models
- Investigative and Quality Assurance Models
- Evaluative and Performance-Based Models

<https://www.eugene-or.gov/DocumentCenter/View/3802/Review-of-National-Police-OversightModels#:~:text=Today%2C%20there%20are%20three%20main,three%20models%20in%20some%20detail.>

“The issue (civilian oversight) has gained new traction as part of the push to overhaul policing in the United States after the killings of Breonna Taylor and George Floyd, both unarmed and Black. Their deaths last year sparked massive demonstrations and reignited long-held skepticism about law enforcement’s treatment of Black people and its tolerance for misconduct. Those high-profile deaths, however, also reveal the limits of civilian oversight: In Louisville, the civilian board had no standing to investigate Taylor’s death. In Minneapolis, the current and former civilian oversight entities had fielded 12 complaints of alleged misconduct about former officer Derek Chauvin before he killed Floyd by pressing a knee into his neck. Last week, a jury found Chauvin guilty of murder and manslaughter in Floyd’s death” (Dungca and Abelson, 4/27/2021).

# What are our neighbors doing?

- <http://chapelhill.granicus.com/boards/w/4ec7f5c295f7af64/boards/5519>
- <https://durhamnc.gov/277/Civilian-Police-Review-Board>
- <https://abc11.com/deck-brown-raleigh-police-durham-department/10558131/>
- <https://durhamnc.gov/4448/Community-Safety-Wellness-Task-Force#:~:text=In%202021%2C%20the%20Durham%20Community,%2C%20intervention%2C%20and%20re%2Dentry>

# Restrictions Imposed by State on Local Govt

- Police oversight boards are prohibited from having subpoena power
- Police oversight boards are prohibited from having access to personnel files
- Limited investigative authority
- For an agency that has significant corruption, exhibits excessive violence on its citizens, or does not hold individual officers accountable – the oversight board does not have significant impact.

What is the problem

Hillsborough is trying to

solve?

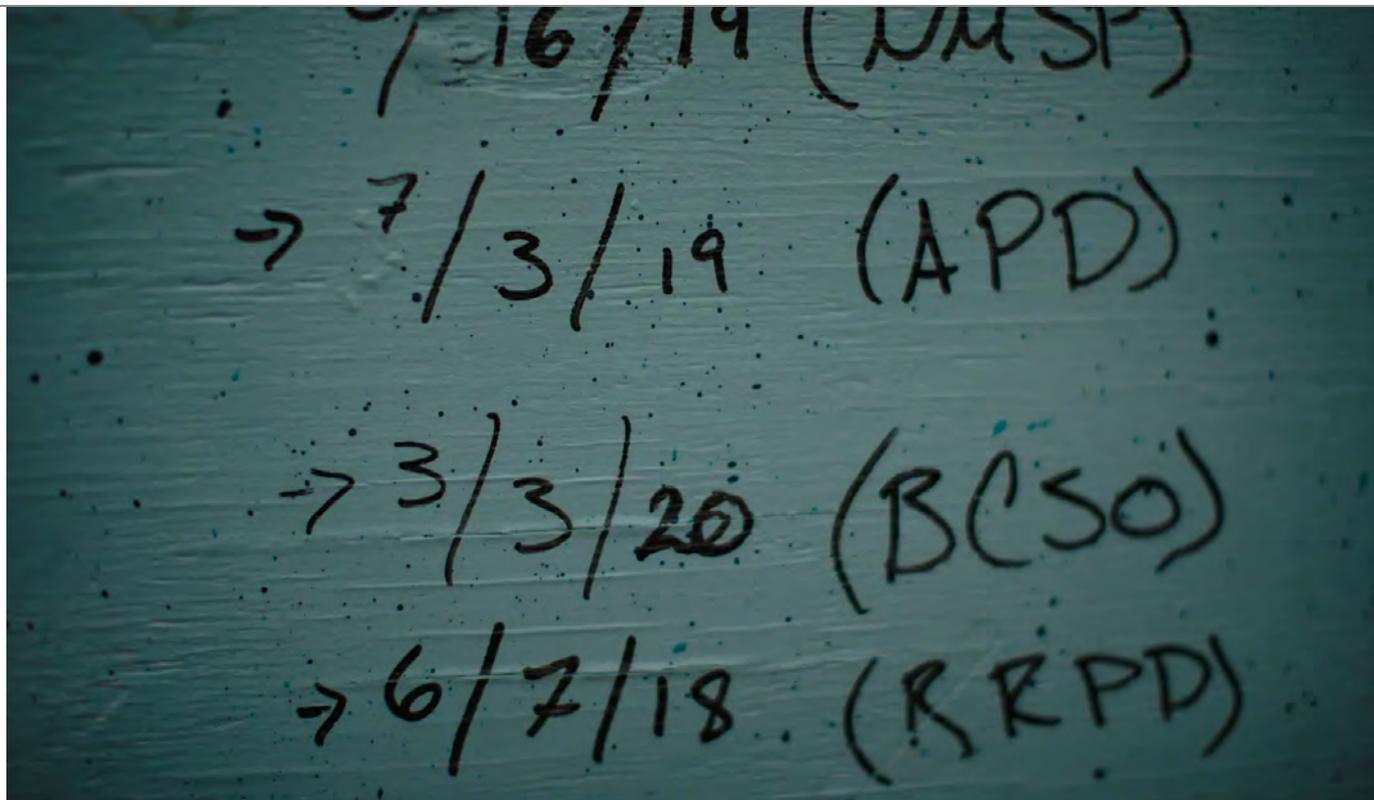
**UNACCOUNTABLE**

# When communities try to hold police accountable, law enforcement fights back

Civilian oversight is undermined by politicians and police, who contend citizens are ill-equipped to judge officers



A painting of Valente Acosta-Bustillos is flanked by names and portraits of others who were fatally shot by law enforcement officers in New Mexico. It's outside the Albuquerque offices of the Southwest Organizing Project. (Adria Malcolm for The Washington Post)



A wall outside the Southwest Organizing Project, which is dedicated to empowering low-income communities of color, displays the dates when unnamed people were killed by police. (Adria Malcolm for The Washington Post)

By [Nicole Dungca](#) and [Jenn Abelson](#)

April 27, 2021

When the Justice Department in 2012 began investigating Albuquerque police, it found a department unaccountable to the city it served.

Over four years, police had fatally shot 20 people, including a mentally ill Hispanic man struck three times in the back outside his home. Justice officials discovered a pattern of unconstitutional and excessive use of force, and a civilian oversight office that had “simply been too forgiving of the department’s use of deadly force.”

Federal authorities demanded a wide range of reforms from the city — including a new civilian oversight agency with greater authority.



But many in Albuquerque fought change at every turn: The police union sued to block the new agency and later demanded the resignation of an agency board member who pushed to tighten the police department's use-of-force policy. The city council took four years to give the agency stronger subpoena power for its investigations. And veteran police officials pushed back against efforts to increase scrutiny of the department's use of force, creating a backlog of investigations that has prevented the agency and its board from completing their reviews of most fatal shootings.

“This was supposed to be the [board] that wasn't dysfunctional, and it ends up being just as dysfunctional, just as ineffective as the prior iteration,” said Chelsea Van Deventer, the board member who was targeted by the union.

[The struggle in New Mexico's largest city](#) illustrates the challenge of asking civilians to check police powers. Police nationwide have frequently defied efforts to impose civilian oversight and, in turn, undermined the ability of communities to hold law enforcement accountable, according to a Washington Post review of audits, misconduct complaints, emails, lawsuits and interviews with dozens of current and former officials.

More than 160 municipalities and counties have implemented some form of civilian oversight through review boards, inspectors general and independent monitors. Another 130 localities are trying to do so, according to officials from the [National Association for Civilian Oversight of Law Enforcement](#), or NACOLE, though this represents a fraction of roughly 18,000 law enforcement agencies nationwide.



Chelsea Van Deventer resigned from the board of Albuquerque's Civilian Police Oversight Agency in the fall of 2019. (Adria Malcolm for The Washington Post)

The issue has gained new traction as part of the push to overhaul policing in the United States after the killings of Breonna Taylor and George Floyd, both unarmed and Black. Their deaths last year sparked massive demonstrations and reignited long-held skepticism about law enforcement's treatment of Black people and its tolerance for misconduct.

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*[\[Fatal Force: Explore The Post's police shootings database\]](#)*

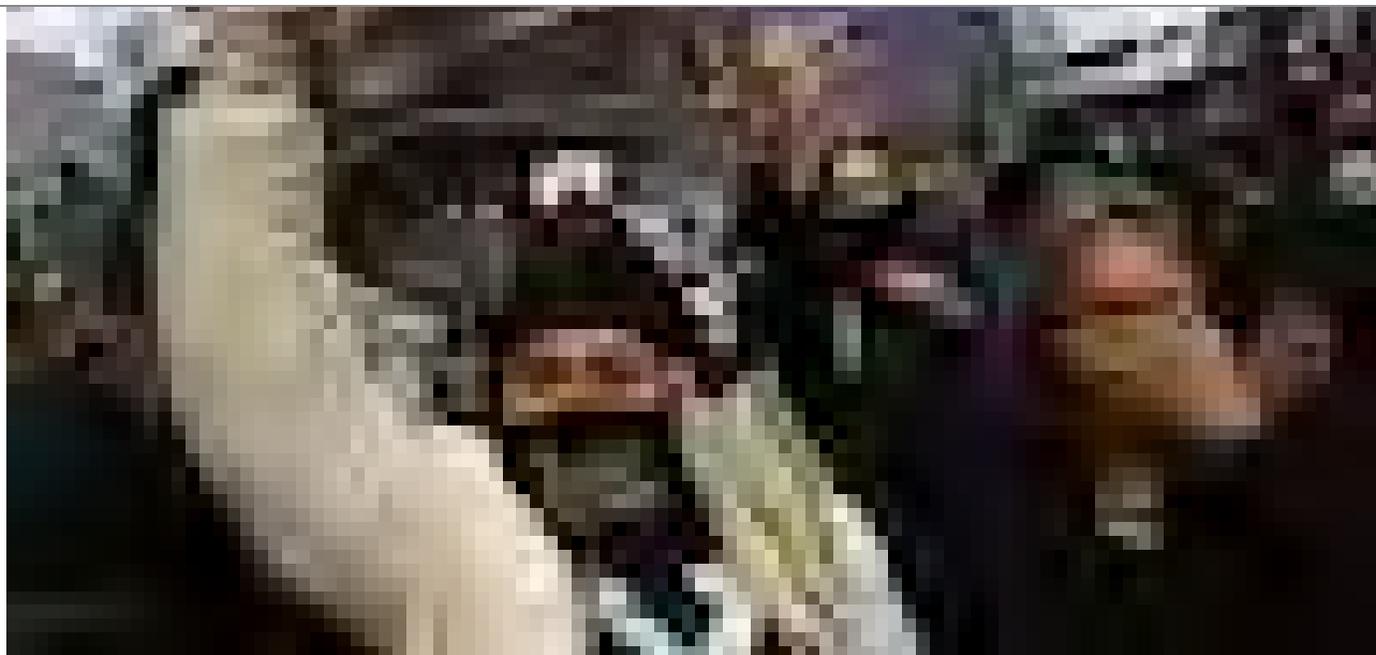
While many hailed the verdict as long-overdue justice, they also said much more needs to be done to address a systemic lack of accountability for police misconduct. An examination of civilian review boards shows that well-meaning reform attempts often end in failure and frustration.

The initial results of a survey by NACOLE found that 38 of the 64 oversight groups that responded have no independent investigative authority and are limited to doing audits or reviews to determine whether internal affairs investigators have been thorough or followed policies.

The survey, funded by the Justice Department, also found that 30 of the groups cannot issue subpoenas and that 23 have no access to open internal affairs files. Thirty-four have no authority even to recommend discipline. For those that can suggest disciplinary action, chiefs and arbitrators usually can reject their recommendations.

Sharon Fairley, who led one of Chicago's citizen oversight agencies from 2015 to 2017, said the groups can help build community trust with police but need power and resources to be effective.

"Civilian oversight is not a panacea for police misconduct," said Fairley, now a professor at the University of Chicago Law School who has studied such efforts nationwide. "Or else we wouldn't be seeing the problems that we're seeing."



People react in Minneapolis on April 20 after former police officer Derek Chauvin was convicted of murder and manslaughter in the death of George Floyd. (Joshua Lott/The Washington Post)

The modern push for civilian oversight began at the turn of the 20th century but came of age around the civil rights era, when communities, especially Black and Latino ones, successfully lobbied for civilian-run boards in cities such as New York and Washington. By the 2010s, the Justice Department regularly included civilian review entities as part of consent decrees or settlements with municipalities, including Albuquerque, where federal officials found patterns of excessive force or discriminatory policing. Congress has introduced “The George Floyd Justice in Policing Act,” which would enable the Justice Department to award grants to states to establish citizen oversight entities.

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— Jim Pasco, executive director of the national Fraternal Order of Police, on civilian oversight

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cities, such oversight efforts have been limited by strict collective bargaining agreements with police unions and, in 22 states, through laws known as officers' bills of rights, according to the National Conference of State Legislatures. Maryland, the first state to enact such legislation, recently approved repealing the law.

Jim Pasco, executive director of the national Fraternal Order of Police, described civilian monitors as well-meaning but ill-equipped to judge police officers. He said citizens lack the expertise and experience of trained law enforcement professionals.

“It would be akin to putting a plumber in charge of the investigation of airplane crashes,” he said. “It doesn't matter how good a plumber that he or she is. It gives no level of expertise in terms of evaluating the cause of a plane crash.”

But Susan Hutson, who is the independent police monitor in New Orleans and also president of NACOLE, said that having an outsider's perspective on policing can be crucial in identifying and stopping officer misconduct. Many civilian boards include lawyers, auditors and others with relevant expertise.

“It really allows for a voice for community members who want ... to see whether the police department is really doing what it's supposed to be doing,” she said. “Just having another set of eyes that is not part of the police department is value in itself.”

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## Built to fail



Demonstrators in Louisville on March 13 protest the police killing of Breonna Taylor. (Joshua Lott/The Washington Post)



Kentucky Gov. Andy Beshear (D) speaks with relatives of Breonna Taylor, including her mother, Tamika Palmer, center, after signing a partial ban on “no-knock” warrants on April 9. (Timothy D. Easley/AP)

Across the country, civilian oversight has often been limited by design or even banned.

In Urbana, Ill., the police union secured an agreement with the city in 2007 that prevents the Civilian Police Review Board from conducting “independent third party investigations of an officer’s conduct. ... Inquiries and concerns of the CPRB will be addressed by the Chief of Police or his designee.”

In New Bedford, Mass., the police union’s contract since the 1980s has included this clause: “There will be no Civilian Review Boards in the New Bedford Police Department.”

Bruce Rose, a former president of the New Bedford chapter of the NAACP, said the prohibition “represents a conscious collusion on the part of the police department



In Louisville, the [fatal shooting of Breonna Taylor](#) last year brought into stark relief the limits of the city's civilian review board.

Taylor, a 26-year-old emergency room technician, and her boyfriend had been asleep when shortly after midnight on March 13, 2020, multiple police officers broke into her home with a battering ram as part of a narcotics investigation of her ex-boyfriend. Her boyfriend at the time of the raid said he feared that the police bursting in were intruders and shot at them. Officers then fired more than 30 shots, striking Taylor six times and killing her, according to Kentucky's attorney general. The city agreed to [pay \\$12 million to settle a lawsuit](#) filed by Taylor's family.

Prosecutors charged one of the officers on the raid with wanton endangerment for shooting into a neighbor's home. But no officer was charged in Taylor's death. [Three officers involved with the raid](#) were terminated, though they have appealed their findings, according to Louisville police.

Louisville's Citizens Commission on Police Accountability could do nothing. As set up, it could initiate no investigations or take complaints from citizens. It could only examine closed internal affairs investigations of police shootings to determine if they were adequate and recommend changes in policy or training. It could not recommend discipline for officers.



Public anger over Taylor's death pressured the city to give the group more teeth. In December, the mayor signed an ordinance that would replace the commission with a new inspector general post and a civilian review board with more investigative authority and the power to recommend discipline.

In Minneapolis, two months after Taylor was killed, George Floyd, 46, died when Chauvin pinned him to the street with his knee for more than nine minutes.



Ricky L. Jones, a member of Louisville's Citizens Commission on Police Accountability at the time of Breonna Taylor's killing, said the board was powerless. (Jon Cherry/The Washington Post)

Leading up to that moment, Chauvin had been the subject of at least 22 complaints of alleged misconduct from 2003 to 2015, according to data obtained by a local activist group called [Communities United Against Police Brutality](#).

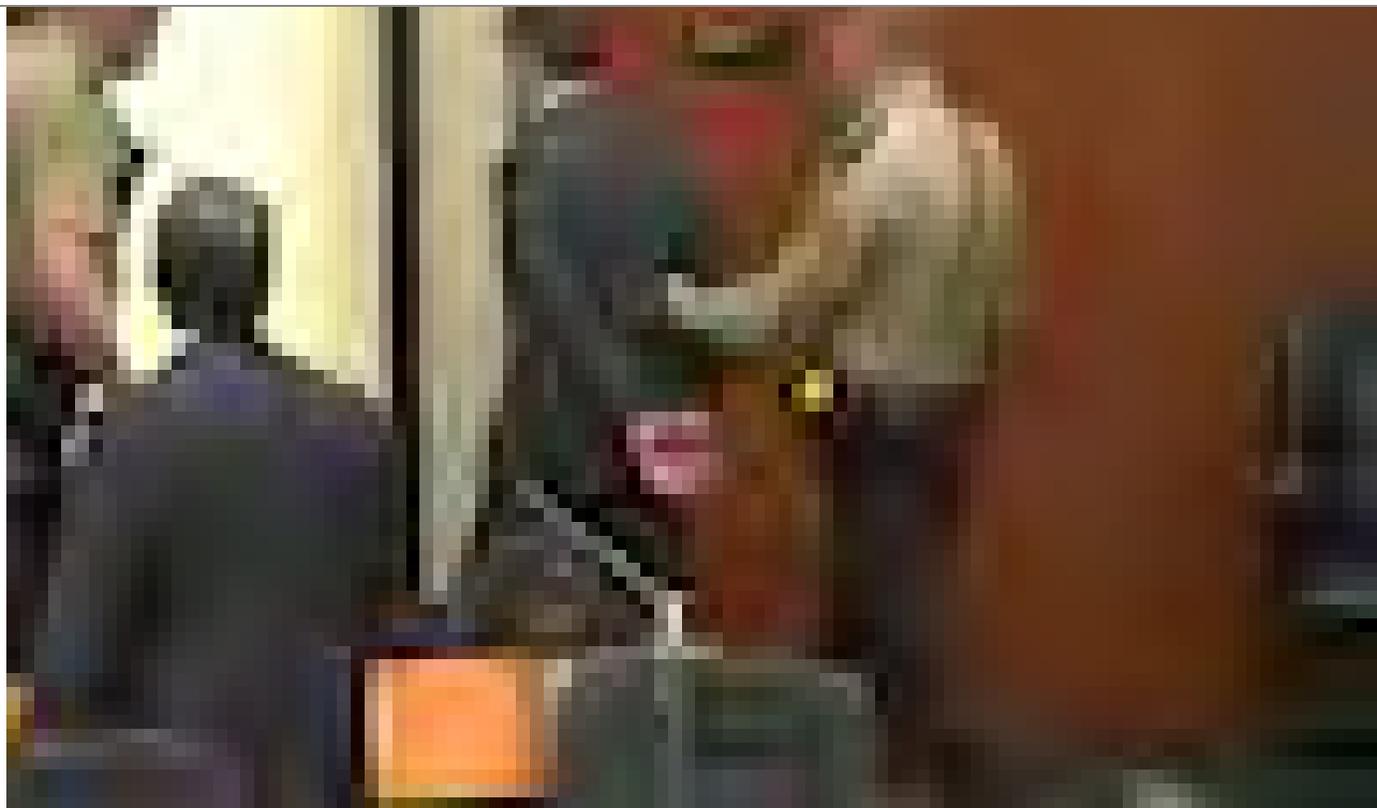


that were sustained by one of the panels. A 2003 finding that Chauvin used derogatory and demeaning language led to oral reprimands from the department, according to the documents from Communities United.

Casper Hill, a spokesman for the city of Minneapolis, declined to discuss the complaints against Chauvin. But he said the Office of Police Conduct Review generally closes cases if they are dismissed, are duplicates or are forwarded to other jurisdictions.

Dave Bicking, who served from 2008 to 2010 on the city's previous civilian review board, said there is a long pattern of oversight groups failing to crack down on police misconduct. Out of more than 3,100 complaints filed by the public with the current oversight office from October 2012 through June 2020, only 16 officers were disciplined, according to a data analysis by Communities United, which Bicking now helps to lead.

“The tiny bit of discipline that comes from the Office of Police Conduct Review is not enough to change, to correct officers’ conduct or deter other officers,” he said. “It certainly didn’t correct the conduct of Derek Chauvin, and it didn’t make other officers feel like they had to do anything about it on the scene, either.”



Former police officer Derek Chauvin is taken away April 20 after being found guilty of murder and manslaughter in the death of George Floyd. (Pool/Reuters)

In Miami, about 1,400 of more than 2,300 allegations reviewed by the city's Civilian Investigative Panel from 2009 to 2020 were closed without any finding, according to data analyzed by The Post.

This outcome frequently happens because Miami police can take six to eight months to review a complaint before they send it to the panel, according to Cristina Beamud, executive director of the panel. By then, the complainants have often moved or changed telephone numbers. Others have lost motivation or feel discouraged by the initial findings of the police department, she said.

In the District of Columbia, the civilian oversight office is required by law to send some of the complaints it receives to police without investigation.

The D.C. Office of Police Complaints referred more than 1,100 misconduct allegations — or about 5 percent of the roughly 22,000 lodged between 2010 and



period is now 90 days). The agency also sent more than 2,000 misconduct allegations to police because it had no authority to investigate those cases, or the complaints were filed anonymously or were made by people other than the alleged victims or direct witnesses.

“There is a heightened need for independent investigations of all types of misconduct, not just what we are currently limited to under law,” said Michael Tobin, the D.C. agency’s executive director.

In Newark, Mayor Ras Baraka said the police union tried to block him [when he sought to make police reform](#) a cornerstone of his administration.

“The police departments have become political organizations,” Baraka said. “Because they’re a political organization, people tend to cater to them.”

In 2014, the year that Baraka was sworn in as mayor, the Justice Department concluded that Newark’s police department had a record of [excessive force and discriminatory policing](#), and called for federal intervention.



In Newark, Mayor Ras Baraka, second from left, marches to protest police brutality. (Michael Mancuso/NJ Advance Media/AP)

Baraka said that as a Black man growing up in Newark, he was handcuffed and assaulted by police when he and his mother went to the police station to check on his younger brother, who had been arrested for allegedly blocking the sidewalk and harassing pedestrians.

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— Ras Baraka, mayor of Newark

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accused of wrongdoing. The city council made the board permanent.

The Fraternal Order of Police sued the city, arguing that the board's powers violated state law and the union's contract. In 2020, the Supreme Court of New Jersey stripped the board of its subpoena power. The city filed an appeal in January to the U.S. Supreme Court. Baraka also is pushing for a state law to restore the board's powers.

The president of the Newark police union said he supports reform and transparency but called the mayor's efforts to change state laws "shocking."

"Hopefully, should such legislation be moved in Trenton, our elected politicians will do their due diligence and come up with a sound decision and not simply cave in to the anti-police piling on that is sweeping the country today," said James Stewart Jr., president of Newark's Fraternal Order of Police.

But Baraka said he isn't willing to compromise after seeing the shortcomings of civilian oversight in other municipalities.

"It's a waste of money and bureaucracy," he said. "There are boards all over the country, and police are still doing what they want to do without any redress."

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## Politics and pushback



A crowd in Petaluma, Calif., in October 2020 listens to information about a ballot measure to strengthen civilian oversight for the Sonoma County Sheriff's Office. (Talia Herman for The Washington Post)



People pray during an October 2020 rally in which Jerry Threet spoke about a proposed ballot measure that would give more power to the local oversight office. (Talia Herman for The Washington Post)

The pushback by police and a lack of political support for the civilian agencies has prompted many oversight officials to resign in frustration.

In Portland, Ore., Kristin Malone quickly learned the limitations of the city's Citizen Review Committee when she volunteered to serve on it in 2015: The committee couldn't conduct investigations and reviewed only appeals from those who were unhappy with the Portland Police Bureau's response to their complaints. The committee had no subpoena power and couldn't review cases involving police shootings and other in-custody deaths.

Malone, a lawyer, said she felt that the process gave "extreme deference" to police: The officer's supervisor would first rule on the merits of an officer's conduct, and the committee would then determine whether a "reasonable person" could reach the same conclusion.



showed the officer shocking the cyclist as he lay facedown on the pavement with three officers restraining him. After the department's internal affairs bureau determined that the officer had not violated policy, the cyclist appealed to the Citizen Review Committee, which found the opposite, according to Malone and public documents.

But the police chief at the time disagreed with the committee's decision, so the case, in a step rarely used, [went to the city council for a final decision](#). The council declined to exonerate the officer or discipline him. A Portland Police Bureau spokesman declined to comment.

Malone said the difference in how a civilian and police officer interpreted the "reasonable person" standard allowed the officer to go unpunished.

"Ultimately, it felt like death by a thousand cuts," said Malone, who resigned from the committee in January 2020.



Five other members have resigned since December 2019, with several publicly criticizing the lack of subpoena power and citing insufficient support from the mayor. In September, as [protests against police brutality roiled Portland](#), three volunteers resigned within days.

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— Kristin Malone, former Portland oversight committee member

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Asked about the resignations and committee members’ concerns, James Middaugh, a spokesman for the mayor’s office, said the city is “in the midst of significant public safety reform work.”

In November, voters approved a law that would replace Portland’s existing civilian oversight system with a community-led police oversight board that has the power to subpoena and impose officer discipline.

The police unions, however, have tried to stop the measure by filing unfair-labor-practice complaints and a grievance with the Portland Police Bureau.

Elsewhere, some oversight officials who were employed by municipalities said they faced threats, pressure and retaliation from law enforcement and politicians.



the sheriff's internal affairs investigators for their handling of misconduct investigations. He found that [they had failed to interview witnesses](#) and didn't consider the full list of complaints filed against officers.

Soon, the sheriff and local politicians pushed him not to release the findings, Threet said.

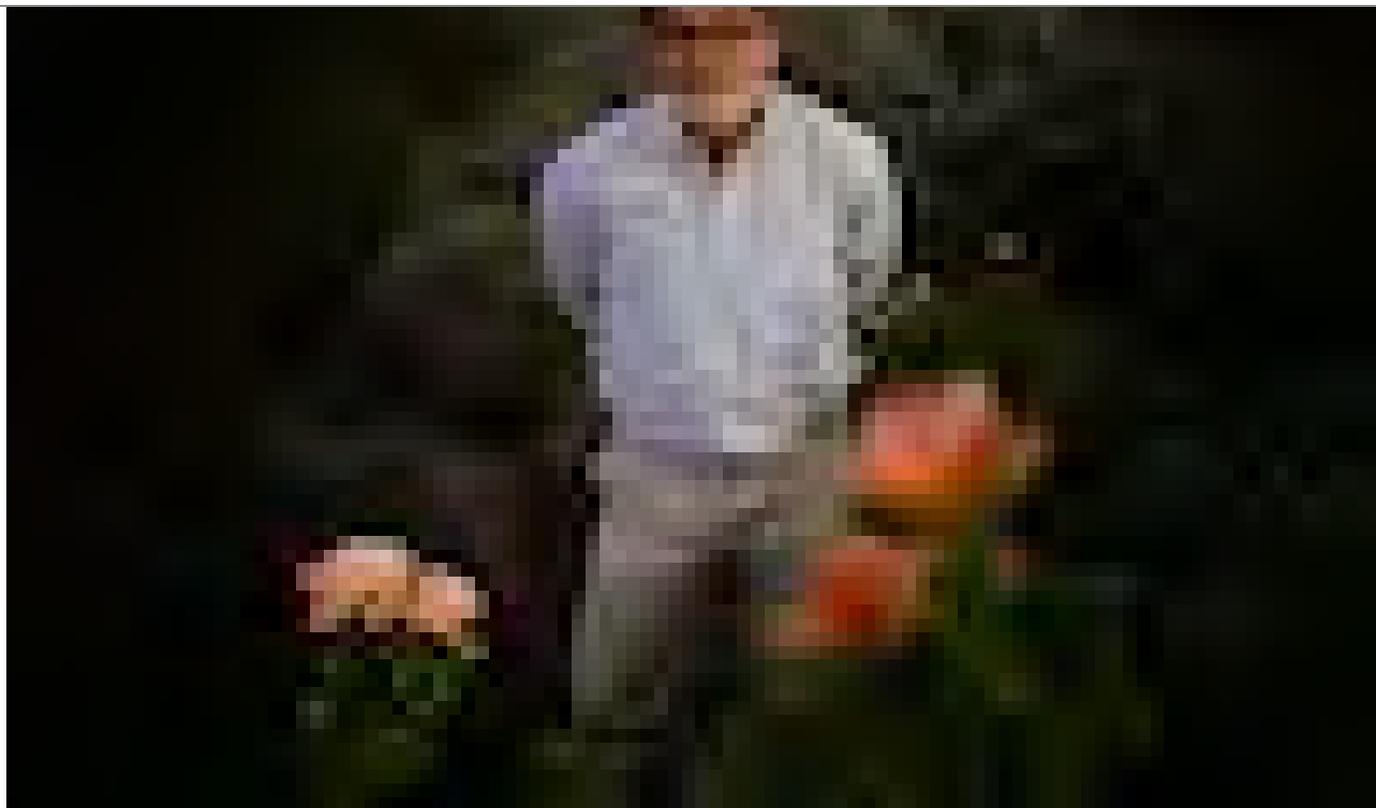
“Elected officials were contacting me behind the scenes, trying to get me to back off conflict with the sheriff and accommodate the sheriff,” he said.

That summer, then-Sheriff Rob Giordano told the county board of supervisors that he objected to the report and was frustrated that Threet, a government employee, had not completed overdue audits. A few months later, Giordano recommended that Threet's office be disbanded and that future auditors be retained for only limited periods.

“If there is no expectation of employment beyond a specific period of time, there is no pressure or inherent need to justify [the office],” Giordano wrote in a response to Threet's annual report.

The Sonoma County Sheriff's Office declined to comment.

Threet said the stress was taking its toll. His doctor bluntly advised, “If I didn't quit this job, I was going to end up dead,” he said. He eventually left in 2019.



Jerry Threet said the stress from overseeing the Sonoma County Sheriff's Office as the director of the county's oversight office took a toll on his health. (Talia Herman for The Washington Post)

The next year, he helped pass an ordinance to give the oversight office more access to personnel records and body-camera footage from the sheriff's office. The Sonoma County Deputy Sheriff's Association, however, has filed a complaint with the state's Public Employment Relations Board to challenge the ordinance.

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**“If I didn’t quit this job, I was going to end up dead.”**

– Jerry Threet, former Sonoma County oversight official

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There, she said that a conflict of interest with city officials threatened the integrity of the board.

In September 2009, as part of a police investigation into allegations of public sex and drug sales, about two dozen police officers raided an Atlanta gay bar, using anti-gay slurs and forcing everyone to lie on the floor, according to an independent report later commissioned by the city. Employees were arrested on permit violations, but most of the cases fell apart.

Beamud's office sustained nearly all of the citizen complaints filed against officers that night, recommending discipline for every officer involved. But the police chief at the time rejected the recommendations as internal affairs continued its investigation.

When a group of bar patrons and employees sued the city and police chief alleging excessive force and other illegal conduct, the city's attorney argued that the raid was constitutional and defended the officers' actions.

"The law department took the position that I was wrong, which undermined my ability to be critical," Beamud said. "They eventually settled the case with a great deal of embarrassment to the city."



department completed its internal investigation. Four were disciplined and remain active with the department, according to a police spokesman.

Strong support by politicians and government leaders is what allowed an oversight office in Denver to flourish, despite objections from police.

In 2004, city officials eliminated an existing civilian commission that had been criticized as ineffective, replacing it with an independent monitor who works with a citizen board. Crucially, experts said the city gave the new office political and financial support.

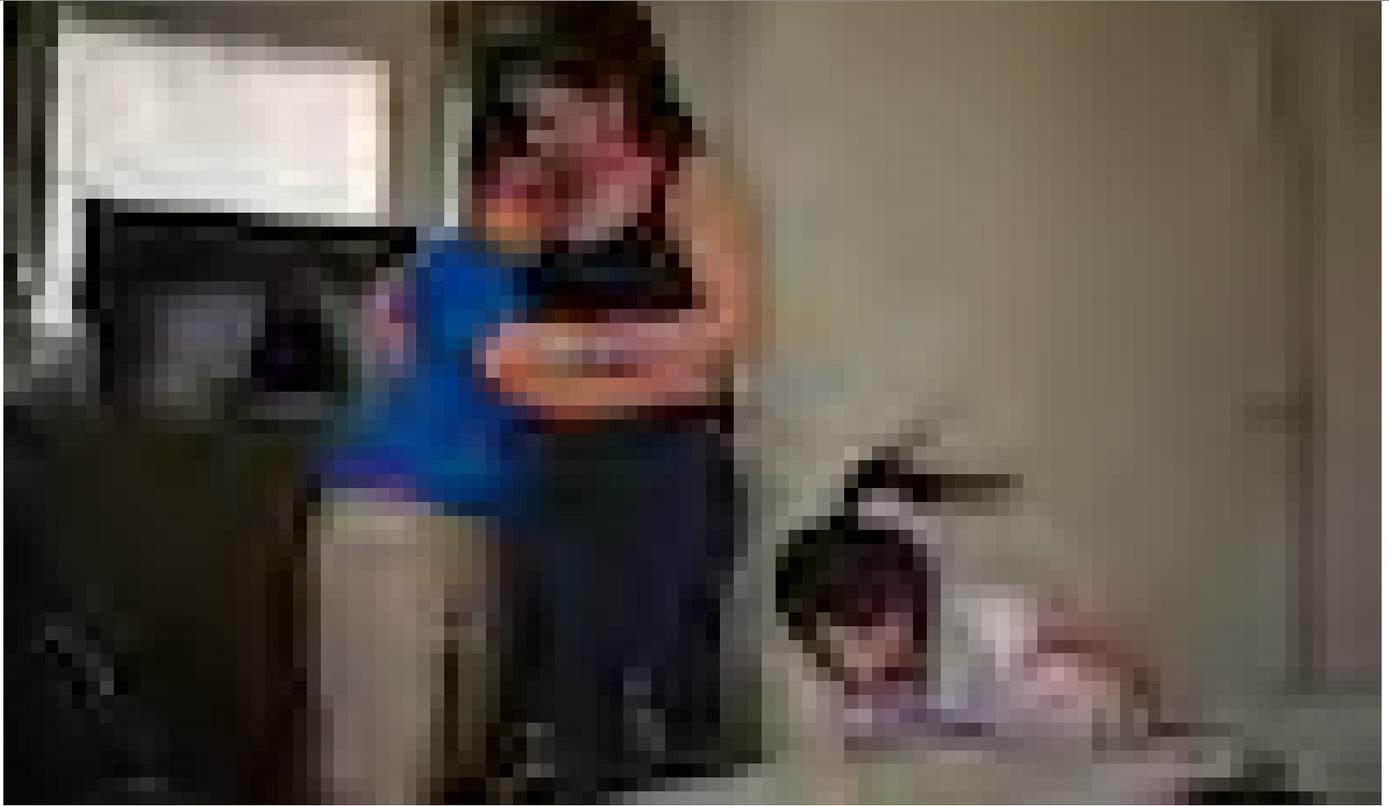
The monitor, Richard Rosenthal, a former deputy district attorney from Los Angeles, [issued blunt reports that faulted the police](#) for inadequately disciplining officers and failing to quickly hand over records to his office. He helped the city's public safety manager implement a new disciplinary system and made recommendations to weed out officers accused of misconduct.

Denver eventually made the agency part of its city and county charter, empowering it to monitor the police chief, the sheriff and their officers and deputies.

Rosenthal, who left in 2012 to head up a civilian oversight agency in British Columbia, said that broad-based support in Denver was critical. "A lot of it has to do with just the strength of the community, and the political will within the community," he said.

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## 'They should have lost their jobs'



In Albuquerque, Veronica Ajanel and her son, Jose Acosta, 9, comfort each other after looking at personal items of Ajanel's father, Valente Acosta-Bustillos. (Adria Malcolm for The Washington Post)



Veronica Ajanel displays an image of her father in a poster demanding accountability. (Adria Malcolm for The Washington Post)

In Albuquerque, the city's attempt to establish successful citizen oversight is its third in 30 years. An oversight board from the 1980s was dismantled in 1999 after another string of fatal shootings by police and replaced with a new oversight office that was supposed to be more effective.

“It was thought of as a joke,” Mike Gomez, whose unarmed son Alan was shot and killed in 2011 by police, said of that era's civilian oversight. He said the group never issued a report related to his son's killing, and the city later [settled the family's lawsuit](#) for \$900,000.

Under the 2014 federal settlement, Albuquerque officials agreed to remake the civilian group into the Civilian Police Oversight Agency to help rein in the troubled department.



required to review all shootings and serious use-of-force cases after police officials have investigated them. The agency can also recommend punishment, but the police chief has the final say.

Trouble for the new agency started as soon as it was established.

The Albuquerque Police Officers' Association sued the city, asking the courts to invalidate parts of the ordinance that created the agency, saying it would violate the union's contract. The union dropped the suit after city councilors amended the ordinance to assure officers that the oversight board would keep certain internal police files secret.

In 2019, the union sent a letter to the president of the agency's board demanding that another member, Chelsea Van Deventer, resign. They [accused her of anti-police bias](#) based on her Twitter account. In one post, she used foul language in response to a bill that would have made assaulting police officers a hate crime. At the time, the local chapter of the American Civil Liberties Union said the union's demand "smacks of an attempt to dismantle systems of police oversight in Albuquerque."

Van Deventer resigned months later, she said, because she took a job as a prosecutor, which may have prohibited her from serving on the board.



union's 2015 lawsuit because some of the oversight agency's proposed powers "would have violated officers' rights." The union, he said, is opposed to allowing civilian boards to discipline or fire officers.

"We welcome civilian oversight and input and believe that discipline should remain with the chain of command within a police department," Willoughby said.

James Ginger, a court-appointed monitor who reviews the police department's progress under the federal agreement, has credited the independent agency and its board for providing oversight. But [in his latest report](#), in November, he said it was at a "straining point," likely needed more staffing and had produced several deficient investigations of civilian complaints.

Of the 27 fatal shootings by police since 2015, the civilian oversight agency and its board have completed reviews and issued findings for five cases, according to public documents. In all five, the board voted to exonerate the officers of violations related to using their weapons.

The oversight agency's failure to review use-of-force cases and inadequate investigations are two of the reasons Valerie St. John, a private investigator, [said she resigned](#) from the governing board in December 2019.

"I reached a point where I wasn't being effective, and you ask yourself, 'Why are you here?'" said St. John, who spent 2½ years serving on the old and new civilian oversight boards.

Veronica Ajanel said she is still waiting for the board to review the [March 30, 2020, killing of her father, Valente Acosta-Bustillos](#). The family had asked police to check on Acosta-Bustillos, whom officers knew from his previous episodes of mental illness. Officers followed him into his home to arrest him after they discovered he had an outstanding warrant. When an officer tried to use his Taser, Acosta-Bustillos swung a shovel at them and one of the officers shot the 52-year-old man, according to video from a body-worn camera.



Albuquerque police spokesman Gilbert Gallegos said that a criminal investigation ruled the shooting justified and that Acosta-Bustillos had “clearly lunged” at officers. The family has [filed a wrongful-death lawsuit](#) against the department.

“It’s like taking somebody’s life away, somebody’s parents, somebody’s kids,” said Ajanel. “There should be more consequences.”



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— Veronica Ajanel, daughter of a man killed by Albuquerque police

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It took three years for the oversight agency and board to review a 2015 shooting by police that left Rodrigo Garcia, a suspected car thief, severely disabled with a brain injury. In 2018, the board voted to recommend exonerating the 10 officers involved. The next year, the city agreed to pay Garcia and his family \$3.75 million to settle a lawsuit.

“They shouldn’t have been exonerated,” Loretta Garcia, his mother, said. “They should have lost their jobs for doing that.”

Ginger, in his reports, at times has faulted the police department for shoddy and delayed use-of-force investigations. Ginger declined to comment.

Edward Harness, the executive director of the oversight agency, blamed his agency’s delays on a police Force Review Board that was created to examine all serious use-of-force cases. That board, which didn’t meet for two years while it was being overhauled, must review the cases before the oversight agency can.

In a letter last November to the federal judge overseeing the Justice Department agreement, Harness said that the Force Review Board frequently failed to hand over documents on shootings and other serious incidents within the required 15 days. Cases are held up, he said in an interview, because police need time to redact videos and documents to conceal officers’ identities from the board.

The delays are “a concern, and it’s still an ongoing process to make sure that the system functions the way it should,” he said.



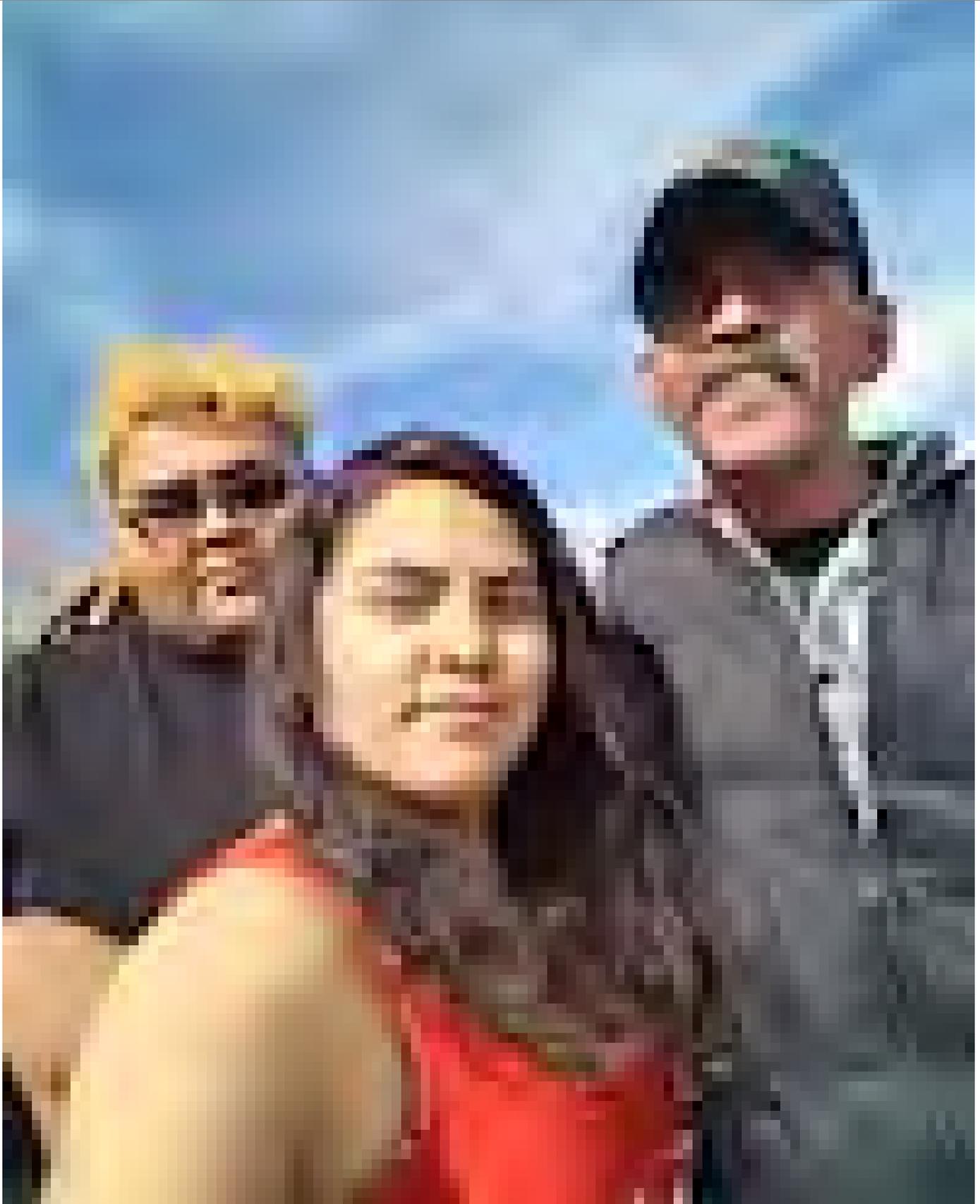
cases at a quicker pace. Over the past six years, the board has issued findings on at least nine nonfatal shootings and at least five fatal shootings by police that occurred before 2015, public records show.

“Any of the board members that were frustrated, I would have encouraged them to stay on the board and help us work through the problems as opposed to, you know, leaving and chirping from the sidelines,” Harness said.

Gallegos, the police spokesman, said the backlog was partly due to “the amount of time it took to revamp the use-of-force policy and get approval.”

Despite the delays, he said, “that doesn’t mean there is a lack of public scrutiny,” given the Justice Department settlement and Ginger’s reviews.

Overall, Gallegos said the police department’s rate of fatal shootings is “sometimes lower or sometimes higher” than the average of similar-size cities, according to his analysis of [The Post’s fatal force database](#). He said that many of the fatal shooting victims had a weapon or tool at their disposal, or methamphetamine in their system.



Valente Acosta-Bustillos with son Valente Acosta-Bustillos Jr. and daughter Veronica Ajanel. (Courtesy of Veronica)



officers have been disciplined for reasons other than the shootings, such as violating policies related to body cameras and traffic stops.

Although Ginger's reviews over the past six years have both criticized and praised the police department on its progress, his stinging November report warned of "serious, meaningful, and near-terminal problems with departmental command and leadership at the highest levels."

When Michael Geier, the chief since 2017, retired last fall, the [mayor announced new leadership](#) would need to combat high crime rates and "challenges that continue to hamper the department." In March, the city named a longtime Albuquerque police officer, Harold Medina, as the new chief. Willoughby, the union president, said officers are hopeful Medina can lead the department through the reform efforts, though he "faces an almost impossible task." Last month, dozens of people took to the streets to protest Medina's appointment because while he was a patrol officer in 2002, he shot and killed a 14-year-old who was holding a BB gun.

Medina's use of force was found to be justified, according to Gallegos, the police spokesman. Medina said that he believed he was going to die during the incident but also that he had learned from the experience and that it has made him a better chief.

"The next chief at APD needs to step up, speak out, set and meet reform goals, and ensure that the management team supporting him, or her, are pulling together to ensure reform," Ginger wrote in November.

"Until that happens, change will be difficult to make. Reform will be difficult to implement. Effective, constitutional policing will remain elusive."

*Andrew Ba Tran, John Sullivan, Matthew Kiefer, Alice Crites, Emma Brown, Beth Reinhard, Steven Rich, Nate Jones, Aaron Schaffer, Anna Brugmann, Tobi Raji, Keith Newell and Maya Smith contributed to this report.*

#### About this story



requested police misconduct complaint data from roughly a dozen oversight agencies and analyzed the outcomes of thousands of cases. Reporters also examined studies on civilian oversight, including the initial results of a National Association for Civilian Oversight of Law Enforcement survey that provides details on the specific powers of agencies and boards nationwide.

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## Derek Chauvin guilty of murder and manslaughter in the death of George Floyd

By [Holly Bailey](#)

April 20, 2021 at 11:45 p.m. EDT



MINNEAPOLIS — A jury on Tuesday convicted former police officer Derek Chauvin of murder and manslaughter in the death of George Floyd, nearly a year after a viral video of the Black man gasping for breath pinned beneath the White officer’s knee sent millions into the streets demanding justice and forcing a national reckoning on race and policing.

Jurors found the former Minneapolis police officer guilty of second-degree unintentional murder, third-degree murder and second-degree manslaughter, sending a powerful message about police violence.

[Chauvin’s conviction](#), in a rare case without modern precedent, was called historic by Floyd’s family and legal team, who said it symbolized that justice is attainable for all Americans.

“Let’s pause for a moment to proclaim this historical moment, not just for the legacy of George Floyd, but for the legacy of America, the legacy of trying to make America for all Americans so that George Floyd’s victory and America’s quest for equal justice under the law will be intertwined,” civil rights attorney Ben Crump, who represents the Floyd family, said at a news conference after the verdict was announced. “This is a victory for those who champion humanity over inhumanity, those who champion justice over injustice, those who champion morals over immorality.”

President Biden said in remarks from the White House that the verdict could mark a “moment of significant change.” He added, “We have a chance to change the trajectory in this country.”

Minnesota Attorney General Keith Ellison, whose office oversaw Chauvin’s prosecution, praised the “bouquet of humanity” that tried to intervene at the scene on May 25 and recorded Floyd’s final moments, providing much of the evidence for the state’s case.

“They didn’t know George Floyd. They didn’t know he had a beautiful family. They didn’t know that he was a proud father or had people in his life who loved him,” Ellison said after hearing the verdict. “They stopped and they raised their voices because they knew what they were seeing was wrong. They didn’t need to be medical or use-of-force experts. They knew it was wrong, and they were right,” Ellison said.

“He changed my world. He changed our world. He changed the world,” said Floyd’s girlfriend Courteney Ross, whose heart-wrenching testimony about the couple’s struggle with opioid addiction moved some jurors to tears.

After the verdict was read, Chauvin, who had been free on bail, was immediately handcuffed and taken into custody. He faces up to 40 years in prison when he is sentenced in about eight weeks.

The jury of 12 people — six White, four Black and two multiracial — agreed with prosecutors who argued that Chauvin betrayed the badge and his training when he pressed a knee into Floyd’s neck and back for nine minutes and 29 seconds during an arrest in Minneapolis on May 25.

Much of downtown Minneapolis came to a standstill ahead of the reading of the verdict, as hundreds of office workers left the area and were replaced by throngs of people who gathered outside the Hennepin County Government Center, where the trial was held.

Inside the courtroom, Chauvin, dressed in a gray suit, wearing a blue surgical mask, sat stoically as he had for weeks — showing no visible reaction as Hennepin County District Judge Peter A. Cahill announced each verdict of guilt and then polled the jurors one by one to affirm their individual decisions.

before he was taken away, Chauvin briefly glanced back at Floyd's younger brother, Philonise, who had held his hands clasped above his head in prayer as the verdicts were announced and began weeping as the man who was convicted of murder in his brother's death was led away.

"I was just praying they would find him guilty," Philonise Floyd said afterward. "As an African American, we usually never get justice."

For many, the trial was about more than Chauvin's guilt or innocence. It was a barometer of the racial change in a country where Floyd's death sparked what many have described as a new civil rights movement. Some viewed the Chauvin trial, the highest-profile police brutality case since the 1991 beating of Rodney King in Los Angeles, as a referendum on what justice means in a country where so many police officers have been acquitted or have gone uncharged in the deaths of countless Black Americans and other people of color.

"Painfully earned justice has arrived for George Floyd's family and the community here in Minneapolis, but today's verdict goes far beyond this city and has significant implications for the country and even the world," Crump said in a statement. "Justice for Black America is justice for all of America."

The jury deliberated for about 10 hours after a three-week trial in which graphic video of Floyd's death, captured on the cellphones of numerous bystanders and police body cameras, was played again and again. Floyd's final moments, punctuated by his cries for breath and appeals to his dead mother, echoed throughout a socially distanced courtroom largely empty of spectators but beamed through television cameras to viewers around the world.

Nearly all the jurors said during jury selection that they had seen the still image or a video clip of Chauvin kneeling on Floyd, hands at his waist and sunglasses sitting undisturbed atop his head. But several said they had not watched the viral Facebook video in its entirety or any of the other footage. All appeared stunned and shocked at the video when it was played open court. And prosecutors used it repeatedly throughout their case, showing Floyd's final moments from various angles as they argued that Chauvin could have lifted his knee or rendered aid to the 46-year-old man but did

“Believe your eyes,” prosecutor Jerry Blackwell repeatedly told the jury of the video, from the beginning of the state’s case until the end. “It’s murder.”

Although video was the central evidence in the case against Chauvin, prosecutors called more than three dozen people to testify, including numerous eyewitnesses who delivered searing and anguished accounts of coming across the scene of Floyd being held to the ground by Chauvin and two other officers and how they tried — without success — to intervene.

Several spoke about living with trauma and guilt because they had not been able to save Floyd. Among them was Darnella Frazier, who was 17 when she pulled out her phone and began recording the now-famous video that not only challenged the initial police account of Floyd’s death but also sparked the largest sustained protests in American history.

With tears streaming down her face throughout her testimony, Frazier told the jury of the intense guilt she feels looking at her father, her brother, her cousins, and knowing “it could have been one of them” that day. “It’s been nights I stayed up apologizing and apologizing to George for not doing more and not physically interacting and not saving his life,” Frazier said, as jurors looked on with sympathetic expressions.

Frazier said she sobbed Tuesday after jurors convicted Chauvin.

“I just cried so hard,” Frazier wrote on Facebook. “This last hour my heart was beating so fast, I was so anxious ... But to know GUILTY ON ALL 3 CHARGES !!! THANK YOU GOD THANK YOU THANK YOU THANK YOU THANK YOU.”

“George Floyd we did it!!” she wrote, ending her post with: “justice has been served.”

Ellison alluded to Frazier and the other bystanders-turned-documentarians, thanking “brave young women, teenagers, who pressed record on their cellphones.”

“They performed simple yet profound acts of courage,” Ellison said.

“Darnella Frazier demonstrated courage and perseverance in filming what she knew was wrong,” tweeted Pete Souza, who served as White House photographer during the Obama administration. “This verdict does not happen without her. Thank you Darnella; you have changed our country forever.”

The jurors saw Charles McMillian, a 61-year-old Black man who observed the entire encounter between Floyd and the police and tried to intervene, break down in sobs on the witness stand as he relived that day. It was through his testimony that jurors and the world at large heard Chauvin’s first and only explanation of what he was thinking when he knelt on Floyd’s neck until Floyd went limp — an exchange captured on Chauvin’s body camera as McMillian confronted him after Floyd’s lifeless body had been taken away by ambulance.

“We’ve got to control this guy because he’s a sizable guy,” Chauvin told McMillian, in the longest sentence that jurors would ultimately hear from the officer, who declined to testify in his own defense. “It looks like he’s probably on something.”

Echoing months of legal strategy in the run-up to the trial, Chauvin’s defense tried to raise doubts about whether the officer’s actions had played a role in Floyd’s death. Defense attorney Eric Nelson pressed jurors to consider the “totality

Nelson argued that Chauvin, 45, was following department policy and his training and had acted as any “reasonable officer” would by keeping Floyd on the ground after the man had resisted being placed in a squad car.

“Derek Chauvin did exactly what he had been trained to do over his 19-year career,” Nelson told the jury. “The use of force is not attractive, but it is a necessary component of policing.”

Nelson suggested that his client was distracted and endangered by a “hostile crowd” at the scene and sought to shift blame to the mishandling of the scene by rookie officers, a delay in responding medical workers and onto Floyd himself, suggesting that his drug use and struggle with officers had caused a fatal surge of adrenaline into his already-compromised heart.

“It’s tragic,” Nelson said during closing arguments Monday.

But anticipating the defense case, prosecutors called several Minneapolis police officers to the stand, including Police Chief Medaria Arradondo, who one by one impeached Chauvin’s behavior. In a shift from other police trials, where officers have been reluctant to testify against one of their own, veteran officers, including Chauvin’s former supervisor, testified that Chauvin broke department policies on use of force, used a restraint that was unsanctioned and against training, and had violated his sworn duty as a police officer to serve and protect.

David Pleoger, a retired sergeant who was Chauvin’s supervisor the night of Floyd’s death, testified that Chauvin was not initially forthcoming about the force that had been used on Floyd, waiting until the men were standing in the emergency room where doctors were desperately trying to revive Floyd to disclose that he’d knelt on the man’s neck.

Pleoger, Arradondo and other officers testified that the use of force against Floyd, who has handcuffed and held facedown on a South Minneapolis street, should have stopped the moment he was on the ground and no longer resisting.

“Clearly, when Mr. Floyd was no longer responsive — and even motionless — to continue to apply that level of force to a person prone out, handcuffed behind their back,” Arradondo said, “that in no way, shape or form is anything that is set by policy, is not part of our training, and is certainly not part of our ethics or values.”

Jody Stiger, a longtime Los Angeles police sergeant and use-of-force expert, testified that Chauvin was “squeezing” Floyd’s fingers and pulling his wrist into his handcuffs to inflict pain on the man, a technique usually deployed by officers to gain control of suspects. But because Floyd was no longer resisting, “it was just pain,” Stiger said.

Both Stiger and Martin Tobin, a Chicago-area pulmonologist, testified that Chauvin appeared to be using most of his body weight to restrain Floyd’s neck and back and never let up — a pressure so intense that Tobin said Floyd’s left lung was rendered useless, as if it had been removed surgically.

Tobin, who at one point urged jurors to touch their own necks and throats to understand how breathing works, said the pressure of Chauvin “jamming” his knees into Floyd’s body cut off oxygen and led to brain damage within minutes, sparking an arrhythmia that caused his heart to stop — a restraint that he said would have killed any healthy person.

In a moment widely viewed as one of the most damaging to Chauvin’s defense, Tobin pointed to several seconds of

moment the life goes out of his body.”

While Chauvin could face up to 40 years in prison, state sentencing guidelines on each murder charge suggest roughly 11 to 12 years in prison for someone with no criminal history. The manslaughter charge carries a presumptive sentence of roughly four years in prison. But prosecutors have asked for what is known as an “upward sentencing departure” or tougher sentence, citing several factors including the fact that Floyd was killed in front of children.

Chauvin’s conviction sets the stage for a trial for the other three officers charged in Floyd’s death — J. Alexander Kueng, Thomas K. Lane and Tou Thao -- who are charged with aiding and abetting murder. Prosecutors are likely to push to reinstate a third-degree murder charge against the men, which Cahill rejected in February before it was added back to Chauvin’s case. That trial is scheduled to begin Aug. 23.

*Hannah Knowles contributed to this report.*

Updated April 29, 2021

## The Derek Chauvin trial: What you need to know

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