A Comparison of the establishment of the organizational structure of a citizen review board at the Las Vegas Metropolitan Police Department and the city and county of Denver public safety review commission

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A COMPARISON OF THE ESTABLISHMENT OF THE ORGANIZATIONAL STRUCTURE OF A CITIZEN REVIEW BOARD AT THE LAS VEGAS METROPOLITAN POLICE DEPARTMENT AND THE CITY AND COUNTY OF DENVER PUBLIC SAFETY REVIEW COMMISSION

By
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ABSTRACT

A Comparison of The Establishment of the organizational structure a Citizen Review Board At The Las Vegas Metropolitan Police Department and the City and County of Denver Public Safety Review Commission

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The study focuses on the issue of establishing a citizen review board at the Las Vegas Metropolitan Police Department (LVMPD) for the purpose of reviewing allegations of misconduct. With the recent increase of police officer misconduct the LVMPD has come under a great deal of scrutiny by residents of the community. The credibility of the department has been jeopardized as a result of the current complaint investigations process which is conducted by the Internal Affairs Bureau. Community activist have demanded that a citizen review board be established to investigate complaints of police misconduct. The purpose of setting up a citizen review board is to allow for the use of an external independent form of oversight that is to be perceived by the public as an approach to restore credibility to the review process.

The method of this study includes reviewing the most current literature on the topic, and analyzing the data and facts that have been gathered on the establishment of Citizens’ Review Boards in other cities. The ordinance used to establish the City and County of Denver Public Safety Review Commission was reviewed as well as the ordinance used to establish the Las Vegas Metropolitan Police Department Citizen
Review Board in an effort to compare and formulate conclusions based on their organizational structure.
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CHAPTER 1

INTRODUCTION

Citizen oversight of police exists in most major metropolitan areas in the United States.

When dealing with the notion of police behavior, a question that arises is how can police be held accountable for their actions? The current system is perceived to be unjust and biased to the public. In the last 5 to 10 years Clark County residents have called for some form of external oversight of the police when dealing with allegations of misconduct. Currently, at the Las Vegas Metropolitan Police Department (LVMPD), complaint investigations are conducted by the Internal Affairs Bureau or by the area command supervisor of that particular office. However, members of the community are discontented with the past outcomes of the complaint investigation process, which in most instances clears the police of any wrongdoing. The complainants believe that their complaints are not investigated thoroughly because they are investigated by the police themselves. In an effort to curtail this belief and to keep positive relations between the police and the community in which it serves, community activists, local politicians and law enforcement officials have established a citizen review board ordinance through the enactment of Senate Bill No. 39, which was introduced in 1997 by senator Joe Neal and assemblyman Wendell P. Williams. The original draft was formed by a panel of community leaders. One of the most vocal advocates of citizen review has been Dr. James Tate, a trauma surgeon and executive director of the National Alliance Against Racism and Political Oppression. According to Tate, Las Vegas is becoming somewhat of a joke, when considering the nature of the police misconduct that has taken place in the last three years (Schoenmann, 1997, Oct 21).
These lawmakers are concerned with issues that have been raised regarding the treatment of minority groups by the Las Vegas Metropolitan Police Department. The impetus for citizen review began in 1990 after the widely publicized case of Charles Bush. Bush, a casino worker was strangled by Metro officers who entered his apartment without a search warrant. At the time of entry Mr. Bush was sleeping. When he woke up to find that someone had entered his home a scuffle ensued with police and he was placed in a chokehold. The case ended with a Metropolitan police officer being terminated and the family of Bush receiving $1.1 million dollars in a settlement (www.lasvegassun.com/sunbin/...es/text/1997/mar/06/505664126.html).

The push for citizen review has been driven by other cases of misconduct. The most notable being the Ron Mortensen and Christopher Brady case which occurred in 1996. These Metro officers were involved in the drive-by-shooting death of a Hispanic gang member. Mortensen was the alleged gunman that was accused of firing six shots from a pickup truck and killing Daniel Mendoza as he stood by with a group of people. Mortensen was convicted of murder in the case and sentenced to life in prison (www.lasvegassun.com/sunbin/...es/text/1997/mar/06/5056644126.html).

Another incident involving Henry Rowe, a homeless man whom was shot to death and had his throat slit by Officer George Pease of the Metropolitan police department. A coroner's inquest later ruled that the homicide was justified. This was not the first incident of a homicide involving officer Pease which gave way to suspicion on the part of the public (www.lasvegassun.com/sunbin/...es/text/1997/mar/06/5056644126.html).

Citizen review is a very controversial issue. The debate is based on its effectiveness for holding police accountable for their actions. Citizen review policies require that policymakers
from various backgrounds are familiar with the policies and procedures that have been established at police departments across the country (Walker and Wright, 1995).

Traditionally, citizen complaints have been reviewed by police officers of the internal affairs department. Once the investigation has been completed a final recommendation is made and submitted to the chief executive law enforcement officer. But nationally, municipal law enforcement agencies sustain an average of only 10.1 percent of all citizen complaints reviewed internally (Pate and Fridell 1993: 113-120, as cited in Walker, 1995).

Community groups have long demanded that some form of external or citizen review be established because many citizens have been dissatisfied with the compliant review process. After years of controversy and conflict, external review has gained acceptance. In late 1994, there was an estimated 66 external complaint review bodies in the United States. This represents a 400 percent increase over the 13 that existed in 1980 (Walker and Wright, 1995). Today, there are an estimated 94 review bodies in the United States (www.pressdemo.com/polandpub).

**Purpose of the Study**

The purpose of this research is to focus on the composition of an external review board at the Las Vegas Metropolitan Police Department. This study will review the process that was taken to establish this board. As mentioned earlier, the result of numerous incidents of police misconduct and public dissatisfaction with the police internal complaint investigations process, members of the community are seeking some form of external review. Members of the community and law enforcement officials are challenged with the task of establishing a board that will attempt to bring credibility to and change the perceived effectiveness of the review process.
This study will also discuss the classification systems for citizen review which are categorized according to who (citizens, sworn police officers, auditors or appellate review) is conducting the investigation. This notion of who is conducted the investigation is deals with the issue of independence which will also be addressed in this study. It should be noted that not all forms of citizen review entail boards.

It is essential to understand that each community is unique as well as each police department. The uniqueness of the community usually dictates the need as well as the composition of such boards. In terms of police departments and review boards, the policies and procedures that are used to establish and govern these boards varies from department to department. Therefore, there is no standardized model for establishing a citizens review board.

**Scope and Limitations**

The scope of this study includes contrasting and comparing the establishment of a citizens review board at the Las Vegas Metropolitan Police Department to that of the Denver, Colorado Police Department. The external oversight system that the Denver Colorado police department uses is remotely similar to what the LVMPD will be using. The primary areas of examination will include the following: membership qualifications, sources of funding, authority or jurisdiction and training of non-police members. The issue of independence will also be discussed in this study.

The establishment of a board of this magnitude or type entails a great deal of planning and was subject to several changes prior to the final outcome.

Limitations of this study will include the amount of information that was available regarding review boards during the time this study was conducted. At this time the ordinance governing the review board is in its final stages of completion. However, it is still subject to
some minor administrative changes that may differ from the current ordinance that is being discussed in this study.

**Research Questions**

The questions that will attempt to be answered from this research are as follows: Why should a Citizens Review Board be established at the Las Vegas Metropolitan Police Department? How should a Citizen Review Board be established at the Las Vegas Metropolitan Police Department in an attempt to make it perceptually effective to the community and what are the major political issues that have to be addressed prior to the establishment of the citizens review board? Who should serve on a Citizen Review Board and what is the selection criteria?

**Significance of the Study**

This study is significant for several reasons. Recently, there have been several incidents of perceived misconduct involving officers of the Las Vegas Metropolitan Police Department. As a result of these incidents community activist have demanded that some form of external oversight be established.

This study will attempt to explain the process as well as address the issues involved in establishing a citizens review board.

**Organization of the Study**

Chapter 1 of this study introduces the purpose of this study and addresses the questions of why a citizen review board is needed and how a citizen review board is established.

Related literature on the subject of citizen review boards will be explored in Chapter 2. This chapter will also establish the framework of the study.

Chapter 3 will discuss the methodology used to collect the data for this study. This section will discuss the steps taken to conduct this research. An extensive research effort on this
topic was conducted on this topic that included obtaining various documentation, publications, journals, periodicals, Internet databases, and world wide web search engines. Additionally, interviews were conducted.

A brief history and information on the current characteristics of the Las Vegas Metropolitan Police Department will be discussed in Chapter 4.

The findings on the Denver, Colorado police department citizen review board and its effectiveness will be discussed in Chapter 5. Also the steps that were taken to establish a citizen review board at the Las Vegas Metropolitan Police Department will be summarized. A summary of the ordinances governing citizen review boards for both the Denver, Colorado Police Department and the Las Vegas Metropolitan Police Department will be compared and discussed in this section.

The summary and conclusions of this study will be discussed in Chapter 6. This section will take a look at future efforts of the police and the community in relation to citizen review boards.

**Defining Citizens Review**

It should be noted that there is not a universal term for external review. When referring to external review, citizen review, civilian review and civilian oversight are used interchangeably. The term citizen is used as opposed to civilian review for the simple fact that the latter suggest that there is a civilian-military dichotomy. When discussing American policing, it is inappropriate to substitute one term for the other (Walker and Wright, 1995).

The term citizens review can be defined as a procedure for handling citizen complaints regarding police officer misconduct. These complaints are usually investigated by citizens of the community who are not sworn police officers (Walker and Wright, 1995).
It is the involvement of people who are not sworn officers that is most essential to this complaint process. The reason for this is that the perception of the process as being external or citizen in character is what aids in the credibility of the complaint investigation process. Secondly, there are many different ways in which people who are not sworn can participate in the review process (Walker and Wright, 1995).

**Description of the Las Vegas Metropolitan Police Department**

The Las Vegas Metropolitan Police Department was formed in July of 1973. A Nevada legislative action merged the Las Vegas Police and the Clark County Sheriff’s Departments. The LVMPD is a separate political entity administered by a elected sheriff. This agency currently serves the residents of the City of Las Vegas and unincorporated areas of Clark County plus an annual influx of visitors.

This jurisdiction includes 7,554 square miles bordered by Nevada’s Nye and Lincoln Counties and the neighboring states of Arizona and California.

The Department operates under the Civil Service system with more than 97 percent of all positions falling within the system. The organization is currently divided into six divisions. The sheriff is the department head; there is one Undersheriff and six Deputy Chiefs. In addition the department has the ranks of police captain, police lieutenant, police sergeant, police officer, and numerous civilian support positions.
The department employs approximately 3,000 people in at least 100 different job categories, making it one of the top 20 in the nation in terms of size. There are currently 1,800 commissioned personnel (including police and corrections) with the remainder being civilian personnel (The Las Vegas Metropolitan Police Department Police Recruit Informational Brochure, 1998).
CHAPTER 2

REVIEW OF RELATED LITERATURE

This chapter will discuss the current literature regarding the establishment of citizens review boards. The first section of this chapter will provide a brief history on citizen review. The next section will then provide the reader with information regarding the various classifications of external oversight systems that have been used in jurisdictions of comparable size. Finally, the related literature will address issues such as membership qualifications, funding, authority, training and timing.

A Brief History of Citizen Review

Citizen review is not a new concept. It is both a national and international phenomenon. As stated in the beginning of this study, most major cities in the United States have adopted this concept, and medium size and small cities are rapidly adhering to this pattern as well (Walker and Wright, 1995). The city of Las Vegas is currently dealing with this concept of citizen review. In an attempt to establish a citizen review board ordinance that will be effective in the community, researchers have found that when looking at other cities and police departments of comparable size, there is no one standard model that best fits the city (Walker and Wright, 1995). A hybrid will be used to establish a review board that will serve the citizens of the Las Vegas community and the Las Vegas Metropolitan Police department. However, according to Undersheriff Richard Winget, of the Las Vegas Metropolitan Police Department, Denver is the city that most closely resembles the form of citizens review that is being established in Las Vegas (Richard Winget, personal communication, July 14, 1999).
Background

The concept of citizen review was initially proposed in 1935, however it was not implemented until the 1940s and 1950s in cities such as New York and Philadelphia. It was during this time that citizen involvement with the police began to rise. The United States Supreme Court also began to take a closer look at the cases that were brought before them regarding police misconduct, and as a result became critical of police behavior of this type (Peak, 1997).

The 1960s, along with the riots and protest of this time, brought even more concern for citizens review. However, it is important to note that this concept of citizen review boards received a strong opposition from the police, politicians and some citizens (Roberg and Kuykendall, 1993).

During the 1970s there was more public concern and support for citizen review boards and the notion of reform was surfacing. Finally, during the 1980s and 1990s, police scandals began to rise in cities across the United States. Many of these incidents of misconduct were now more convincing to the public than those that had occurred in the past because some of them had been videotaped or witnessed by citizens themselves. For example, the Rodney King incident, which occurred in Los Angeles in 1991 and is the most notable incident of the decade. The Los Angeles police were videotaped by a citizen, beating king excessively after he was stopped for being in violation of several traffic laws such as speeding and driving while under the influence of drugs and/or alcohol. The acquittal of the officers involved in the king beating resulted in three days of civil unrest that left fifty-three people dead and caused one billion dollars in damage (Goldsmith, 1996). In the past police had been more discrete with their incidents of
misconduct. The media gained access to these tapes and as a result the interest in the complaint review process began to spread according to Roberg and Kuykendall.

Today this concept of external review of the police has gained a respectable following throughout many cities in the United States (Terrill, 1990). In 1980 there were approximately 13 police oversight agencies or procedures in place. As of 1996 there were more than 80 (Walker and Wright, 1994). Today there are 94 police review procedures in the United States (www.president.com/polandpub). One predominant factor contributing to this growth in external review has been the increase in African-American political activity, which has increased the number of mayors and city council members who hold these offices. The African American community has been the leading advocate of citizen review primarily because incidents of police misconduct have involved African Americans in many instances. As a result external citizen review is often found in cities with large minority communities and effective local civil rights organizations. It should also be noted that cities with small minority populations have also begun to establish various forms of external review (Walker and Wright, 1995). Citizen review was proposed as an attempt to reduce conflict between police and minority communities in the United States (www.nyclu.org/fiveyears.html). The concept of citizen review will remain a critical issue in the future of policing in the United States (Terrill, 1990). Chief law enforcement executives are now able to recognize this fact, as can be seen by the decline in opposition from the initial mention of citizen review. The effectiveness of responding to the concerns of citizens complaints of the community depends on the support that it receives from police officials (Walker, 1995).

Citizens review is most commonly found in municipal police departments although county sheriff's departments have been known to have them in place (Walker and Wright, 1995).
Citizen Review Board Membership and Qualifications

The members of a citizen review board should be a microcosm of the community, which reflects the diversity of its residents. Diversity of these boards is essential to enhancing the credibility of the review process as well as adding strength to the review board according to Tyre and Braunstein. All members of a citizen review board are required to be citizens of the community. Other qualifications include but are not limited to the following: Imposing age and residency requirements, disqualification of convicted criminals, police officers, family members, elected officials, members of the governmental empowering board, and/or plaintiffs in the legal actions against the governmental entity (Tyre and Braunstein, 1994).

Research also indicates that the size of these boards can range from a low of three members to a high of 24 members. Eighty-three percent of the citizen review bodies in the United States entail multi-member boards. It should also be noted that there does not appear to be a nexus between the size of boards and the jurisdiction they represent and this is substantiated by the fact that large and small boards are found in cities of all sizes (Walker and Wright, 1995).

Once the membership profile has been established the next area that should be addressed is that of training.

Training

A properly trained citizen review board will serve the community more effectively than one that has not received training. The credibility of the review boards will be enhanced as a result of a thorough training program. Training such as this can be seen as beneficial to both residents of the community and the police.
Literature on training for review boards suggest that programs by design, provide board members with the same training and street experiences of police officers. It should also familiarize board members with departmental policies as well (Tyre and Braustine, 1994).

Along with classroom instruction, citizen review board members should receive hands-on training. This type of training is important in the areas such as high-speed chases, and searches and seizures which is where the officers risk injury and the potential lawsuits. Research indicates that hands-on training is important because it allows board members to see events from the officer’s perspective. This training also provides board members with a realistic view of police work (Tyre and Braustine, 1994).

The call for citizen review is usually a result of a high profile incident involving police misconduct. This in turn may give the public the perception that administrators are reactionary and therefore merely yielding to pressure. When the notion of citizen review boards becomes concerned with rapid implementation instead of careful selection of members, they have proven to be very ineffective in the community. The issue of timing will be addressed in the next section.

Timing

In most instances citizen review boards have been created after a highly publicized incident involving police brutality or the use of excessive force. Research suggest that the perception of the public is that these boards are reactive in nature and only formed under pressure to appease members of the community who are calling for some form of external police accountability. However, reactive review boards are shortsighted and as a result find themselves fading from existence at a rather rapid pace (Davis, 1997).
Other findings reveal that citizen review boards that have been formed as a result of a proactive approach by police officials and community advocates are better prepared to handle these incidents and are perceived by the public to be more credible when investigating complaints of police officer misconduct. Furthermore, proactive citizen review boards have far more control over the review process and are more in touch with the community as a whole than reactive boards (Tyre and Braustine, 1994.)

The survival of citizen review boards is dependent upon the financial support received from the local government entities. Past citizen review boards have failed as a result of insufficient funding.

**Adequate Funding**

The funding for citizen advisory or review boards is crucial to its existence and should be according to research, a shared effort by both the city and the local community on a matching-funds basis. Boards funded solely from the city treasury can become dependent upon city hall’s goals and deviate from the goals or intentions of the goals of the community. The matching funds concept acts as a form of checks and balances by eliminating the chance for the goals of the city to overshadow the goals of the community. Therefore, research suggest that revenue for these board should come in part from the communities that they represent in order to generate their support (Berg, 1995).
Establishing Board Authority

There are currently six ways to establish a citizen review board. They are as follows: municipal ordinance (LVMPD), state statute, voter referendum, mayoral executive order, police chief administrative order, and memorandum of understanding (Walker and Wright, 1995).

These various sources of legal authority are exemplified in municipalities throughout the United States with the majority being established by ordinances. For example, Iowa created a state statute to establish what is known as the Citizen's Aide/Ombudsman office to handle complaints of misconduct by police. The various sources of legal authority tend to reflect that there are obscure differences in the nature of support for citizen advisory boards. The enactment of an ordinance to create a review board usually indicates that the majority of the elected officials in that particular jurisdiction are supporter of such a phenomenon. When looking at the initial establishments of review boards, it is important to note that the “pioneers” of citizens review (New York and Philadelphia) were created by mayoral executive orders in spite of opposition from the cities’ respective city councils. Without the political support council members these boards became prime targets of attack and were subject to heavy scrutiny. Research also suggest that the creation of citizens review boards and their procedures through the use of ordinances indicates that there is a growing public support for citizens review (Walker and Wright, 1995). The citizens review board at the Las Vegas Metropolitan Police Department has been established by an ordinance, which was enacted by Senate Bill No. 39, which was introduced by Senator Joe Neal.

The goals, powers and procedures are the key to establishing an effective review board. Recent literature suggest that it is the goals of the review board that determine its powers and this
in turn dictates what procedures will be followed. These factors should be considered separately and in direct correlation to one another (Tyre and Braunstein, 1994).

The goals of a citizens review board should be clearly defined so that board members know exactly what they are. However, goals cannot be effective unless they are attainable according to Tyre and Braunstein.

Past research indicates that boards that have been formed in response to protest have lacked the power to accomplish its goals (Tyre and Braunstein, 1994). The levels power or authority of the citizens review board can vary from examining decisions of the police of department to the power or authority to force the police department to take action on an issue (Davis, 1997).

The notion of citizens review continues to be a debatable issue. According to research on this issue, it has been argued by police that without an internal review board to conduct the investigations, departmental morale would decrease significantly. The police also view this as an opportunity for the public to bring false accusations against them for simply carrying out their duties (Terrill, 1985) (Royberg and Kuykendall, 1993). Finally, police argue that review boards interfere with the authority of the chief administrator. In an attempt to adhere to management theory and apply the concepts of public administration, the view of the police is supported by the notion that the chief administrative officer is responsible for the conduct of his or her agency and therefore should have equal authority. Any attempt to divide this formal authority will create difficulty in the leadership of the agency and make it virtually impossible for the individual in charge to control disciplinary actions of the department (Terrill, 1985).
The Organizational Structure of Citizens Review Boards

Citizens review boards and their composition as presented today can vary in organizational form. Contrary to popular belief many systems of review do not entail a multimember board. As of 1995, 82 percent of the 66 review bodies in existence at were multimember boards, while the other 17 percent were agencies with a single director (Walker and Wright, 1995).

Currently, there is no obvious explanation for why various forms of citizen review exist in cities across the United States. However, what is known about the various forms of review is that some have been modeled after other cities with a few minor deviations, as is the case with the LVMPD citizens review board, while others have been uniquely molded and formed. As mentioned earlier in this study, there is no one standard model for citizens review and without any detailed comparative evaluations, it is virtually impossible to say that one particular approach towards citizen review is better suited for certain kinds of jurisdictions (Walker and Wright, 1995). The primary differences in external review boards according to research can be found in their structure/organization, authority and process. Research also indicates that there is a common misconception in relation to review boards. The misconception is that those who are advocates of citizens review boards desire to have procedures whereby an independent board of citizens would have the power to terminate or administer discipline to police. Although there are a few exceptions, this approach is not common in the United States (Dario Herrera, personal communication, February 11, 1999). Examples of these exceptions can be found in cities such as Detroit, Milwaukee, and San Francisco, to name a few. In these cases the city charter or state law allows for the police departments to be governed by a police commission consisting of
appointed officials. These commissions are granted general authority over police departments and are not confined to the handling of complaints (Walker and Wright, 1995).

When attempting to establish an external review board, the issue of independence is significant to the members of the community since that it is what they perceive as enhancing the credibility or legitimizing the complaint process. For this reason the issue of independence is complex and controversial and according to current literature on this subject can be an extremely subjective matter (Dario Herrara, personal communication, February 11, 1999).

For purposes of discussion, there are five models or categories of citizen oversight. These categories are labeled as IA, IB, II, III, and IV (Walker and Wright, 1994).

- The first category is where complaints are investigated by citizens and encompasses two of the five models. They are labeled as IA and IB. Individual citizen complaints are received and investigated by persons who are not sworn police officers. These investigators are generally full-time paid professional employees of the city or county government. This is the reason they are considered to be the most independent form of citizen oversight. The initial fact finding is conducted by persons who are not sworn police officers (citizens) (Walker and Wright, 1994).

- In class IA the procedures require that the investigative reports are reviewed by a board, which then will vote on the merits of the case and sends a report and recommendation to the chief law enforcement executive. An example of this type of board can be found in the San Francisco Office of Citizen Complaints (OCC).

- In category IB the procedures require that a separate municipal agency with an executive director review the investigative reports and upon completion forward a recommendation to the chief law enforcement executive. An example of this type of
board can be found in the Cincinnati Office of Citizen Complaints (Walker and Wright, 1994). The investigative findings are then released to the citizen oversight board for review whereby a determination is made regarding the merits of the complaint. Once this part of the process is completed a final recommendation is sent to the chief law enforcement official (Walker and Wright, 1994).

In some cases of review for category II boards as well as a single executive can be involved in the review process. An example of this type of review can be found in the Kansas City office of Citizens Complaints (Walker and Wright, 1994).

- The fourth category is known as category III, which is the appellate review of complaints. Individual complaints are received, investigated and disposed of by the police department. If the complainant is not satisfied with the final decision of the chief law enforcement executive he or she may appeal the decision to the citizen review board. The citizen review board in Omaha is an example of this type of board (Walker and Wright, 1994).

- The fifth and final category IV of the complaint investigation process is known as the Auditor systems approach. Individual complaints are received, investigated and disposed of by the police department. Upon completion, the auditor is then required to conduct regular audits of the internal investigations of the police department’s complaint process (Internal Affairs Unit) and identifies those investigations that were not thorough. The Albuquerque Independent counsel is an example of a category IV review system (Walker and Wright, 1994).

Although there are several classifications of citizen oversight procedures currently being used in cities throughout the United States, research suggest that it is not uncommon for
jurisdictions to incorporate elements of different models to create a hybrid of citizen review oversight systems. A common feature to all types of citizen oversight procedures is that of multi-member boards. These boards are designed to be investigative or review in nature. In 1997 it was estimated that 85 percent of all citizen review boards were multi-member boards (personal communication, Dario Herrera, February 11, 1999).

For purposes of this study, category I will be examined closely since this is the model in which the Las Vegas Metropolitan Police Department citizen review board will be primarily based on. Under Category I complaints are investigated by citizens. In examining jurisdictions that fall under this category it was found that investigative authority can take on various forms:

- a. Independent investigative staff to conduct independent investigations of the police department; and/or,
- b. Authority to issue subpoenas; and/or,
- c. Authority to conduct evidentiary hearings.

The ordinance used to establish the investigative authority of citizens’ review at the LVMPD takes on form (a) listed above.

As of 1997, approximately 34 percent of all citizen oversight procedures have the authority to conduct their own independent investigations of complaints. However there is a considerable variation regarding the nature and scope of these investigations. Approximately 38% of citizen review have subpoena power. Subpoena power is important in this case because it gives the board more authority to conduct significantly thorough investigations (Walker and Kreisel, 1996).

Advantages and Disadvantages of Category IA and Category IB Procedures

As stated above, category IA and category IB oversight procedures conduct their own independent review of complaints by non-sworn officers. The advantage of this approach is that it is independent of the police department, which restores public confidence in the complaint
review process. The fact that the investigation will be thorough and objective enhances the public’s confidence in the complaint investigation process (New York Civil Liberties Union, 1996).

The other advantage to this approach is that it takes on the form of a multi-member board. This approach can ensure the broad representation of the diverse elements of the local community and act as a channel for voicing community concerns to the police department (New York Civil Liberties Union, 1996).

The disadvantages of the category IA and IB oversight procedures are that independent review of complaints are resented by police officers and may cause morale problems in the department. A problem that arises as a direct result of independent review of complaints is that of the quality of staff and the amount of resources available to conduct it. In regards to the selection, training and supervision of investigative staff, high standards should be in place to ensure the maximum effectiveness of the board. Those procedures that are deemed by the public as having insufficient power to conduct thorough investigations also lack credibility and therefore are less likely to be effective (New York Civil Liberties Union, 1996).

Public Perceptions of the Internal Complaint Investigation Process

According to an article written by Richard J. Terrill, the greatest concern of the citizen regarding the complaint process is that the police investigate the police as stated early on this study. Most of this concern has been voiced by groups such as the American Civil Liberties Union, the National Association for the Advancement of Colored People, or by those who have had a great deal of involvement with the criminal justice system (Terrill, 1985).

Another article authored by Andrew J. Goldsmith goes on to say the problem with the police internal investigations is that the public perceives them as lacking empathy, being too
legalistic in their approaches and unresponsive to the complainants concerns, and favoring the police (Goldsmith, 1996).

According to Richard Terrill, research indicates that it is the investigative stage of any complaint procedure that is the key to reducing the criticisms of the review process from the public because it affects the integrity of the steps that come in the initial stages of review and the latter stages.

Perceptions of the police complaint procedures vary depending upon whom you talk to and their experiences with the complaint investigation process. The implication of cultural differences should be addressed due to the belief that there is a connection between the levels of dissatisfaction of certain of citizens of certain areas of the community and the review process. This dissatisfaction is found to be in areas of the community that are heavily policed. The minority population tends to make up the majority of citizens residing in these areas (Goldsmith, 1996).

Gary Peck, who is the director of the Nevada American Civil Liberties Union, and other supporters of a citizens review board, believes that an external review board is capable of breaking down class and race stereotypes and attacking double standards of the police department (Smith, April 1, 1998).

As indicated earlier by the research on citizens review boards, citizens have desired to involve themselves in the complaint investigation process for over three decades. It has only been in the last 20 to 30 years that an increased effort to develop boards of this type has been put into effect. As more incidents of police misconduct occur, external oversight becomes more and more of a critical issue for both the police and citizens alike, there will be a continual drive to achieve some form of external review.
According to Richard Terrill, citizens argue that having internal investigations of complaints are pointless since the outcomes of these investigations tend to rule in favor of the police. It is primarily for this reason that the public believes those internal investigations cannot be trusted (Terrill, 1990).

Citizens argue that establishing an external review board would not only give credibility to the review board but also improve relations between the community and the police (Henry, 1997).

The approach taken by most investigators when dealing with the complaint process is what Goldsmith labels as *forensic realism*. Forensic realism refers to formalist and legalistic method of investigating complaints. The problem with this approach is that it does not address the differences of perception, belief, value, and understanding among different areas of the community (Goldsmith, 1996).
CHAPTER 3

METHODOLOGY

This study examines the establishment of a citizen review board at the Las Vegas Metropolitan Police Department. This is a new concept to the community and city alike. The LVMPD will be the first law enforcement agency in Southern Nevada to establish a board of this type. With all of the controversy and the political issues that needed to be addressed prior to the establishment of a police citizen review board the creation of an ordinance was more than two years in the making. This chapter will address the methodology used in the study to obtain all of the pertinent information regarding the creation of external citizen oversight of police. The methodology used to conduct this research was a descriptive comparative analysis. This method entails reviewing models of review boards that have been successful in other cities as well as describing the necessary tools for the implementation of effective review boards. This method of analysis was chosen because according to police and government officials this was the city that most closely resembled the type citizen review board intended for the residents of Clark County.

The approaches to gathering this data entailed analyzing current literature on this topic and relating it to the ordinance used to establish citizen review at the Las Vegas Metropolitan police department. In addition to this I interviewed several individuals who had some involvement in the process, LVMPD Undersheriff Richard Winget, Clark County Commissioner Dario Herrera, LVMPD Lieutenant Stan Olson in the intergovernmental affairs section, Clark County Assistant Manager of Administrative Services Don Burnette and Nevada State Assemblymen Wendell P. Williams.

I obtained copy of the Senate Bill No. 39 which was authored by Senator Joe Neal in the 1997 legislative session, and analyzed it while conducting this study. I also obtained a copy of
Title 2 of the Clark County ordinance 2.62 that allowed for the establishment of such a citizen review board and the city and county of Denver ordinance 585 in an attempt to contrast and compare the sections of the ordinances relative to this study.

I also reviewed a videotape on the subject matter in order to gain perspective knowledge on the criteria for the success of a citizen review board. The videotape was obtained from the internal affairs bureau of the LVMPD.

I also contacted the Denver Colorado Police Department via telephone and spoke to a representative in the research and development department, who was able to send me information pertaining to the department and a copy of the 1993 annual report taken from the City and County of Denver Public Safety Review Commission which is the oversight board for citizen complaints concerning Denver police officers and sheriff's deputies.
CHAPTER 4

FINDINGS OF THE STUDY

This chapter will discuss the impetus for external review in the city of Denver Colorado and provide a history on the creation of the City and County of Denver Public Safety Review Commission, which is the external review body responsible for investigating allegations of misconduct against the police. This chapter will also discuss the establishment of a citizen review board in Clark County and the contentious issues that needed to be addressed prior to the final stages of the development of the board. In both instances (Denver and Las Vegas) the processes did not come without a great deal of contention on the part of political leaders, police, and members of the communities. Finally, the similarities and differences for the ordinances used to establish the review processes in both cities will be discussed and a comparison and a contrast of them in the sections of the ordinances that pertain to membership qualifications, funding, jurisdiction, and training.

The History of External Oversight in Denver

The history of external oversight of the police in Denver Colorado includes the initiatives by city officials and citizen advocacy groups addressing issues of alleged police abuse and misconduct. Since the police investigates allegations of police misconduct and abuse, the complaint investigation process was perceived to lack credibility by the public. In an attempt to respond to public opinion and enhance the credibility of the review process, efforts were made to develop external oversight of the police and to address the issue of accountability. This was
considered to be a supplement or an alternative to law enforcement officers investigating themselves (Walker and Wright, 1995).

This concept of citizen review was initially discussed in 1947 in Denver, when the Mayor, Quigg Newton, Jr. created a 21 member Charter convention to deliberate over racial hiring practices and the possibility of establishing a citizen review board to investigate complaints against the police (Walker and Wright, 1995).

Then in the 1950's the African American community was outraged when a young male was arrested for drunkeness in Five Points. Later this individual was shot and killed by police in front of Denver Juvenile Hall, which is currently known as the Gilliam Youth Services Center. The officer involved in the shooting claimed that the youth ran when he approached the door of the detention center. The officer drew his weapon and a chase ensued. Upon stumbling on a crack in the sidewalk the officer stated that his weapon accidentally discharged causing him to shoot the youth (Annual Report, Public Safety Review Commission, City and County of Denver, 1994).

Incidents such as these during the 1950s, 1960s, and 1970s caused an uproar in the Denver minority communities. The belief here was that the injuries or deaths came about under suspicious circumstances. This put more pressure on the demand for change that was surfacing as a result of these incidents (Annual Report, Public Safety Review Commission, City and County of Denver, 1994).

In response to these incidents, the Denver City Council then created the Community Investigation Committee. The committee authorized reports developed from a team of psychologist from R. J. Hernandez and associates, and from the Metro Denver Urban Coalition. A report was then released by the Community Investigations Committee addressing
problems of the police and their relations with the community. However, this still did not lead to any immediate action (Annual Report, City and County of Denver, Public Safety Review Commission, 1994).

It was not until 1974 that the issue of citizen review began to be considered seriously with the alleged mistreatment of Council-member Paul Hentzall. Council-member Hentzall parked his vehicle in a police parking lot while he attended a Denver Rockets basketball game. Upon returning to his vehicle he found that his tires had been flattened. He then went into the police administration building to file a report regarding the incident (Annual Report, City and County of Denver, Public Safety Review Commission, 1994).

In 1988 Denver Councilwoman Hiawatha Davis, introduced a proposal to study the issue of whether citizen review of police should exist. This proposal stemmed from community pressure indicating the need for a police review board. Due to heavy lobbying against this proposal it was not passed (Annual Report, City and County of Denver, Public Safety Review Commission, 1994).

In January of 1991, Jovan Ivory, who was at the time fifteen years of age, was apprehended after being chased by police and crashing his vehicle. Ivory stated that police kicked and beat him as he was lying on the ground. As a result he suffered multiple cuts, bruises, several loose teeth, and a broken nose. He also stated that the police called him several racial epithets during this ordeal (Annual Report, City and County of Denver, Public Safety Review Commission, 1994).

This incident was the impetus for many residents of the community. It took only one week to decide to conduct a hearing where victims and witnesses could disclose their experiences of alleged police misconduct. This 19 member panel composed of citizens, was
headed by Councilwoman Hiawatha Davis. The panel heard 15 hours of testimony from citizens who had experienced or witnessed everything from rudeness to intimidation, coercion, theft, false arrest, rape, and wrongful death (Annual Report, City and County of Denver, Public Safety Review Commission, 1994).

Many of these citizens who testified, stated they did not file complaints against the officers involved in the incidents of misconduct for four reasons: 1) they believed that nothing would be done by the police, 2) fear of retaliation, 3) insensitive or unwelcome bureaucracy, and 4) prior or pending criminal charges (Annual Report, City and County of Denver, Public Safety Review Commission, 1994).

Those who did file complaints found the following results 1) police were exonerated, complaint unfounded, or action justified, 2) No information was provided to the complainant regarding the investigation 3) A long delay in completing the investigation 4) No appropriate disciplinary action taken. The panels research influenced the drive to enact an ordinance that would establish a citizens review board that could independently investigate complaints. Initial attempts failed as bills were denied passage (Annual Report, City and County of Denver, Public Safety Review Commission, 1994).

In June of 1992, Executive Order No. 106 was issued by Mayor Wellington E. Webb creating a Public Safety Review Commission (PRSC) composed of 7 members with the power to review complaints and subpoena only witnesses exclusive of the complainants and the witnesses filed against (Annual Report, City and County of Denver, Public Safety Review Commission, 1994).

In August of 1992, the Denver City Council enacted Ordinance 585, Series of 1992, which was a compromise sponsored by Councilman Timothy Sandos. This ordinance allowed for
the review of cases only after an internal departmental investigation had been conducted (Annual Report, City and County of Denver, Public Safety Review Commission, 1994).

**The Denver Public Safety Review Commission**

The Public Safety review Commission is responsible for ensuring that citizen complaints against the members of the Denver Police and the Denver Sheriff’s Departments are investigated thoroughly and without bias. The determinations of such should be decisive and equitable.

The commission has given all investigations a thorough analysis and has developed an internal computerized system for tracking complaints and is one of the most comprehensive systems in the United States (Annual Report, City and County of Denver Public Safety Review Commission 1993).

The Public safety review Commission was appointed on October 28, 1992. The internal policies and procedures regarding the budget, training schedules and design standard forms were established immediately. The commission was sworn into office on January 8, 1993 (Annual Report, City and County Denver Public Safety Review Commission, 1993).

The Public Safety Review Commission for the City and County of Denver is staffed by an executive council and one assistant. The Commission consists of seven members who are appointed by the mayor and confirmed by the Denver ordinance 585, Series of 1992. The complaints received by the commission are either referred to the Internal Affairs division of the police department or considered by the commission itself. The Commission has the authority to subpoena witnesses and documents concerning the complaint as well as conduct evidentiary hearings. The local police union has debated the issue of subpoena authority. The city ordinance addresses the issue of outside investigators. It allows for the Commission to hire outside investigators to investigate cases of misconduct at their discretion and within its budget. This
situation has only occurred once in the last four years (Annual Report, City and County of Denver Public Safety Review Commission, 1993).

If the Chief of Police is in disagreement with the Commission's findings, he or she has ten days to submit an appeal to the mayor. The findings of the Commission cannot be overturned unless the Mayor determines that there is a preponderance of evidence that the Commission acted in an arbitrary and capricious manner (Annual Report, City and County of Denver Public Safety Review Commission, 1993.)

Initially (1992) the major portion of the funding for the PRSC was administered with the assistance of contract employees. The current operating budget for the Denver Public Safety Review Commission is $130,000, which is funded by the city and county of Denver. According to staff, the program budget has remained relatively stagnant since 1996. The commission may at its discretion and within the budget refer a complaint to a contract investigator. However, this has only occurred once since 1996 (Annual Report, City and County of Denver Public Safety Review Commission), (Don Burnette, personal communication, July 14, 1999).

**Denver Public Safety Review Commission Caseload Statistics**

The following information provides statistical information on the caseloads of the effectiveness of the Denver PRSC. Keeping in mind the fact that no two review boards are exactly alike, based on this information one can assume that the LVMPD citizen review board will possess some of the same characteristics as the PRSC when reviewing complaint allegations.

Between 1993-1996, 1,813 complaints were investigated by the Denver police department. Of that number, 292 (16%) were accepted by the Review Board and forwarded to the police.

The police sustained 224 (12.36%) of the complaints that were investigated. Complainants who were unhappy with the complaint process are allowed to file appeals. There
were 367 (20.24%) appeals filed with the Review Board by dissatisfied complainants. The review board agreed with the police department on 283 of the complaints that were filed (77.11%). Of those cases where the review board requested the Police Chief change his conclusion regarding the matter, the police chief responded to 55% of the request (Annual Report, City and County of Denver Public Safety Review Commission, 1993-1996).

In 1997 445 complaints were investigated by the Denver police department. The review board accepted and forwarded 47 (or 10.56%) were accepted. Findings revealed that the police sustained 42 (or 9.44%) of the complaints investigated. The appeal rate for dissatisfied complainants was 70 (or 15.73%) of all complaints. The review board and the police department were found to be in agreement on 54 of the complaints or 77.14% of the time (Annual Report, City and County of Denver, Public Safety Review Commission, 1997).

Finally, in 1998, 373 complaints were investigated by the police department. The review board accepted 37 (or 9.92%) of those complaints. Findings revealed that the police sustained 26 (or 6.97%) of the complaints that were investigated. Dissatisfied complainants appealed 24 (or 6.43%) of all complaints to the review board. The review board agreed with the police department on seven complaints or 29.17% of the time. At the time this data was compiled some of the complaints were still under review by the board. Since then the number or percentage of complaints has increased (Annual Report, City and County of Denver, Public safety Review Commission, 1998).

The History of the Establishment of the Clark County Citizen Review Board Ordinance

The history of the establishment of a citizen review board in Las Vegas is somewhat different but just as contentious as the history of Denver’s PRSC. The Las Vegas ordinance for citizen review began in the state legislature whereas the Denver PRSC sought a mayoral decree
for its creation. The ordinance to provide for the establishment of a citizen review board at the Las Vegas Metropolitan Police Department has been put into effect. This ordinance was introduced by Senator Joe Neal, in 1997 during the Legislative Session for Senate Bill (SB) No. 39, which permits Cities and Counties to create review boards for local law enforcement agencies. According to Senator Neal the intent of this board is to have someone from outside the organization (LVMPD) ferret out the facts and report them to the City council and County commission. It is not a board aimed towards punishment (Smith, 1998, March 20).

Title 2 of the Clark County code had to be amended by adding chapter 2.62 to provide for the establishment of a citizen review board. This ordinance designates for the following: the qualifications and means of the selection of members; to provide for the training of members; to set forth the jurisdiction of the review board; to provide the establishment of the screening panel and other panels of the board; to specify procedures for the conduct of the panels; and providing for appeal of recommendations of panels.

The county and city upon mutual agreement, will provide funding, legal counsel and other resources as they determine to be necessary for the performance of the functions of the director and the review board.

**Political Opposition to the Establishment of a Citizen Review Board in Clark County**

Most inquiries regarding citizen review boards generally stem from three sources. They are as follows: citizens' groups, civil liberties organizations, and government officials who perceive problems of local police accountability (Fyfe, 1985). From its inception the concept of citizen review has been faced with opposition stemming from the police and local politicians. There were two key political issues that Clark County commissioners expressed concern over. The first was the issue of funding the new citizen review board. The initial cost of the board had
been estimated to be $400,000. This cost figure was deemed to be rather costly by commissioners Lance Malone and Erin Kenny. The estimated cost has since then been reduced to $200,000. After conducting research regarding the cost of citizen review boards in other cities, Commissioner Kenny found that the costs tended to remain stagnant in most cases (Freiss, February 17, 1999). Even more supportive of this notion of the stagnation is the Public Safety Review Commission’s cost (PRSC), which has remained at $130,000 since 1996. This cost figure is relevant to the LVMPD because the PRSC is the system of oversight that most closely resembles that of the LVMPD’s (Dario Herrera, personal communication, February 11, 1999).

Clark County Commissioner Lance Malone, a former police officer, expressed concern over the provision in which the appointees serving on the board could be persons convicted of misdemeanors or felonies who had their rights reinstated. However, panelist could not be former police officers or relatives of current or former police officers (Freiss, January 20, 1999). Other commissioners also questioned why retired police officers would not be allowed to become eligible appointees for the board. This issue was expected to become the most contentious of them all. Assemblyman Wendell Williams, who co-authored the bill for the existence of review boards, was opposed to this issue along with Gary Peck, the Nevada Executive Director of the American Civil Liberties Union. They viewed a change in the ordinance regarding the appointment of former police officers would threaten the independence and the credibility of the review board (Freiss, February 17, 1999). The current ordinance (2.62.040) allows for no more than three former police officers to be members of the board simultaneously.

The final form of opposition and the most stunning to everyone involved in the issue of establishing the review board was suggested by Commissioner Kenny that the idea of citizen
review be junked and replaced with a governor-appointed ombudsman paid by the police Department to screen complaints (Friess, January 20, 1999).

After conducting further research on the issue, Commissioner Kenny found that the external review boards that had been established in other cities have been found to be in accordance with the internal investigations findings approximately 85 percent of the time. As a result of this and other pertinent research, Commissioner Kenny became a supporter of the concept of citizen’s review (Friess, February 17, 1999).

The Las Vegas Metropolitan Police Department Citizen Review Board

The Las Vegas Metropolitan Police Department Citizen Review Board was created by Senate Bill No. 39 pursuant to the authority of chapter 289 of the (NRS) Nevada Revised Statute. Clark County Code 2.62 provides for the establishment of the Las Vegas Metropolitan Police Department Citizen Review Board. The ordinance states that the purpose of this review board is to act as an advisory committee to the department on issues regarding police officers, complaints against police, to review the findings of the internal complaint investigations process, and make recommendations to the sheriff regarding disciplinary actions. However, the final decision regarding the issue is made by the chief law enforcement executive.

Senator Joe Neal who sponsored SB No. 39, pushed for the citizen review board to have subpoena power and the allowance for the board to conduct its own investigations. Some members of the Fiscal Affairs Committee feel that a separate board to police the police would lengthen the review process and create another layer of bureaucracy (Levy, March 6, 1997).
A Comparison and Contrast of the Denver PRSC the LVMPD Citizen Review Board

There were some similarities and differences found in all sections of these ordinances governing external review. It should be noted that some of the differences were major while others were minute. However, the scope of this study focused on the sections of membership qualifications, funding, jurisdiction, and training when comparing and contrasting the two boards. The Las Vegas Metropolitan Police Department and the Denver Public Safety Review Commission were created as a result of high-profile cases of alleged misconduct by the police. In both cases state legislation was enacted to create local ordinances to set policies and procedures for these boards to adhere to.

The similarities that were found under the section of membership and qualifications for both ordinances were as follows: that appointed members must be residents of the City and County in which the police department serves, not be officers or current employees of the department, and not be a person convicted of a felony.

The differences were found in the size of the two boards and the length of terms they serve in office. The Denver PPRSC consist of 7 members who are appointed by the Mayor. The LVMPD citizen review board consists of 25 members, 13 who are appointed by the County fiscal affairs committee and 12 who are appointed by the City fiscal affairs committee. The length of terms served by each member of the Denver PSRC is 4 years while the term for the LVMPD citizen review board members is 3 years. It should be noted that there are other minor differences in the ordinances, however, they were not mentioned.

In the ordinances the sections on funding are basically the same. The Public Safety Review Commission receives its funding from the City and County of Denver. Funding for the
Las Vegas Metropolitan Police Department Citizens Review Board will be provided by the City and County upon mutual agreement as well. The members of these boards shall serve without compensation. Members of the review boards shall not incur any expenses for which funding has not been approved by City and the County, however, they may be reimbursed for reasonable expenses incurred in the performance of their duties.

Excluding the cost of these boards there are no significant differences in the section of funding.

The section of jurisdiction for both review boards is the most extensive and crucial area. The similarities are found in the power to make recommendations to the chief law enforcement executive regarding complaints, department policies, procedures and programs.

The differences were found in that the Denver ordinance states that the PRSC has the jurisdiction to hire an outside investigator to perform investigations, establish procedures for filing of complaints and perform other duties as requested by the Mayor and make rules and regulations to adopt by-laws.

Prior to serving on any panel of review both ordinances require that members receive training on law enforcement policies and procedures of the department. The Denver PRSC differs in that it provides training to its members in the area of human rights and community relations. The LVMPD citizen review board includes training to its members on civil service rules related to conduct or the “Peace Officer Bill of Rights, collective bargaining agreements covering the department and officers.
CHAPTER 5

SUMMARY AND CONCLUSIONS

After careful analyses of this study and according to research on the topic, the survival of a citizens review board is highly dependent on the support of the local government and police officials. When looking at this issue of external review in terms of the long run and weighing out the cost and benefits, it appears as if the benefits exceed the cost by serving as form of a solution to the existing problem with the internal complaint investigations process police. It should be noted that the Denver review board disagreed with the internal affairs division on 1 out of 4 cases. The national average for the internal review of citizen complaints for law enforcement agencies in regards to finding any wrongdoings on the part of police is 10.1 percent.

The growth of citizen review boards from 1964 ranged from one in 1969-1970 to 66 in 1994-1995. Statistics (1995) indicates that 82% of the 66 review boards are multimember boards. The number of members can range from 3 to 24. Denver has a 7 member review board and the Las Vegas Metropolitan Police Department has a 25 member board that is city/county appointed.

A misconception is that those who are advocates of citizen boards desire to have procedures whereby an independent board of citizens would have the power to terminate or administer discipline to police.

The issue of independence is essential to setting up review boards. Independence is important to members of the community because it is what they perceive as enhancing the credibility or legitimizing the complaint process.
Citizen's oversight of police departments exists in most metropolitan areas in the United States. In the past 5 to 10 years Clark County residents have called for some form of external oversight of the police department when dealing with allegations of misconduct.

The City of Las Vegas is currently in the process of establishing a citizen's review board. According to Undersheriff Richard Wingert of the Las Vegas Metropolitan Police Department, (LVMPD), the City of Denver is the city which closely resembles the form of citizens review that is being considered for implementation by the LVMPD.

There is no standard model for a citizen's review board and without any detailed comparative evaluations, it is almost impossible to say that one particular approach towards citizen is best for a certain kind of jurisdiction. The primary differences in external review boards can be found in their structure/organization, authority and process. A common feature of all types of citizen's oversight is that of multi-member boards. These boards are designed to be investigative or review in nature.

The LVMPD citizen review board uses an independent investigative staff to conduct independent investigations of the police department.

Funding for citizen review board is crucial to its existence and should be a shared effort by both the city and the county with a matching fund basis.

I found the Denver citizen review board and the Las Vegas citizen review board to be similar in that each were a result of citizen pressure because of the many incidents of police misconduct. Denver's citizen review board was initiated by Executive Order 106 issued by the mayor. This order created the Public Safety Review Commission. This commission is composed of 7 members who have the power to review complaints and subpoena witnesses exclusive of the complainants.
Senate Bill 39 was introduced by State Senator Joe Neal in 1997. This bill permits cities and counties to create review boards for local law enforcement agencies in the state of Nevada. With the passage of Senate Bill 39, Title 2 of the Clark County Code had to be amended to include Chapter 2.52 which provides for the establishment of a citizen review board. The review board for Clark County and the City of Las Vegas consists of 25 members; 13 appointed by county representatives and 12 appointed by city representatives. The Ordinance provides for the citizen review board to be operated by a Director appointed by the County Manager.

The Las Vegas Metropolitan Police Department Citizen Review Board is in the final development stages at the completion of this paper. It will be effective in the year 2000. The perceived effectiveness of the Denver PRSC may be crucial to determining how effective the LVMPD review board will be.

Future research should be conducted in this area to test the success or failure of the citizens review board. The statistical data provided by the Denver Public Safety Review Commission in this study should be used as comparative tool.

Another area to be analyzed and a major concern of local politicians prior to the establishment of this review board was that of cost, which is currently estimated to be at $200,000.

Changes should be made to the existing process that will build community trust and create conditions for more effective and responsible law enforcement agency. What is good for one side is good for the other. Both the accused officer and the aggrieved citizen have a right have to a full and fair hearing. Therefore, continuing efforts to achieve and maintain public trust as well as address issues of accountability and independence are essential to the future of positive police and community relations.
REFERENCES


APPENDICES

Appendix 1- Senate Bill 39 authorizing the creation of a citizen review board

Appendix 2- Title 2 of Clark County Code ordinance adding chapter 2.62 To provide for the establishment of the Las Vegas Metropolitan Police Citizen Review Board

Appendix 3- Chapter 2 of revised Municipal Code to establish a Public Safety Review Commission in the City and County of Denver
Appendix 1

Senate Bill No. 39 authorizing the creation of a Citizen Review Board
Senate Bill No. 39

CHAPTER

AN ACT relating to peace officers; authorizing the creation of a review board to advise the governing body of a political subdivision on issues concerning peace officers, school police officers, constables and deputies of constables; and providing other matters properly relating thereto.

[Approved July 16, 1997]

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 289 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. 1. Except as otherwise provided in section 3 of this act, the governing body of a city or county may create a review board by ordinance to advise the governing body on issues concerning peace officers, school police officers, constables and deputies of constables within the city or county.

2. A review board created pursuant to subsection 1 must consist of:
(a) In a city or county whose population is 100,000 or more, 25 members; and
(b) In a city or county whose population is less than 100,000, 12 members.

3. Such a review board must be appointed by the governing body from a list of names submitted by interested persons. If an insufficient number of names of interested persons are submitted, the governing body shall appoint the remaining members in the manner it deems appropriate.

4. A person appointed to the review board must:
(a) Be a resident of the city or county for which the review board was created, except no member of the review board may be currently employed as a peace officer, school police officer, constable or deputy of a constable.
(b) Complete training relating to law enforcement before serving as a member of the review board, including, without limitation, training in the policies and procedures of law enforcement agencies, police of school districts and offices of constables, the provisions of NRS 289.010 to 289.120, inclusive, and the employment contracts of the peace officers.

Sec. 3. 1. If a metropolitan police department has been formed pursuant to NRS 280.110, the metropolitan police committee on fiscal affairs may request the participating political subdivisions to create a review board to advise the committee on issues concerning peace officers employed by the metropolitan police department. The participating subdivisions may jointly create such a review board by mutual ordinances.

2. A review board created pursuant to subsection 1 must consist of 25 members, appointed from a list of names submitted by interested persons. The members of the metropolitan police committee on fiscal affairs who are representatives of the county shall appoint 13 members of the review board, and the members of the metropolitan police committee on fiscal affairs who are representatives of each participating city within the county shall appoint an equal number of the remaining 12 members. If an insufficient number of names of interested persons are submitted, the members of the metropolitan police committee on fiscal affairs shall appoint the remaining members in the manner they deem appropriate.

3. A person appointed to the review board must:
(a) Be a resident within the jurisdiction of the participating subdivisions for which the review board was created, except no member of the review board may be currently employed as a peace officer.
(b) Complete training relating to law enforcement before serving as a member of the review board, including, without limitation, training in the policies and procedures of law enforcement agencies, the provisions of NRS 289.010 to 289.120, inclusive, and the employment contracts of the peace officers.

Sec. 4. A review board created pursuant to section 2 or 3 of this act:
1. Does not have jurisdiction over any matter in which it is alleged that a crime has been committed.
2. Shall not abridge the rights of a peace officer, school police officer, constable or deputy of a constable that are granted pursuant to a collective bargaining agreement, a contract or any federal or state statute or regulation.
Sec. 5. 1. A review board that is created pursuant to paragraph (a) of subsection 2 of section 2 of this act or pursuant to section 3 of this act must meet in panels of five members to carry out its duties.
2. A review board that is created pursuant to paragraph (b) of subsection 2 of section 2 of this act must meet in panels of three members to carry out its duties.
3. Members must be selected randomly to serve on a panel, and the panel shall select one of its members to serve as chairman of the panel.
4. A panel of a review board created pursuant to section 2 or 3 of this act may:
   (a) Refer a complaint against a peace officer, school police officer, constable or deputy of a constable to the employer of the peace officer, school police officer, constable or deputy of a constable.
   (b) Review an internal investigation of a peace officer, school police officer, constable or deputy of a constable within the jurisdiction of the governing body that created the review board and make recommendations regarding any disciplinary action against the peace officer, school police officer, constable or deputy of a constable that is recommended by his employer, including, without limitation:
      (1) Increasing or decreasing the recommended level of discipline; and
      (2) Exonerating the peace officer, school police officer, constable or deputy of a constable who has been the subject of the internal investigation.
5. The employer of a peace officer, school police officer, constable or deputy of a constable shall make available to a panel of the review board any personnel file or other material necessary for the panel to conduct a review.
6. When reviewing an internal investigation of a peace officer, school police officer, constable or deputy of a constable pursuant to subsection 4, the panel shall provide the peace officer, school police officer, constable or deputy of a constable with notice and an opportunity to be heard. The peace officer, school police officer, constable or deputy of a constable may represent himself at the hearing before the panel or be represented by an attorney or other person of his own choosing. The review board, governing body and employer of the peace officer, school police officer, constable or deputy of a constable are not responsible for providing such representation.
7. The chairman of a panel of a review board shall report the findings and recommendation of the panel regarding disciplinary action to the employer of the peace officer, school police officer, constable or deputy of a constable.
8. A police officer, school police officer, constable or deputy of a constable may appeal a recommendation made by a panel of the review board. The ordinance pursuant to which the review board is created must specify the manner for conducting appeals, and may provide for, if both parties agree, without limitation, mediation, conciliation or review by another panel of randomly selected members of the review board. If the appeal is heard by another panel of the review board, the determination made by the panel hearing the appeal is final and binding and is not subject to judicial review.
9. The findings and recommendation of a panel of the review board are public records unless otherwise declared confidential by state or federal law.
10. A proceeding of a panel of such a review board is closed to the public.

Sec. 6. 1. A panel of a review board that is created pursuant to section 2 or 3 of this act may:
(a) Administer oaths;
(b) Take testimony;
(c) Within the scope of its jurisdiction, issue subpoenas to compel the attendance of witnesses to testify before the panel;
(d) Require the production of books, papers and documents; and
(e) Issue commissions to take testimony.
2. If a witness refuses to attend or testify or produce books, papers or documents as required by the subpoena, the panel may petition the district court to order the witness to appear or testify or produce the requested books, papers or documents.
Appendix 2

Title 2 of the Clark County code amended by adding Chapter 2.62 to provide for the establishment of the Las Vegas Metropolitan Police Department Citizen Review Board
SUMMARY - An Ordinance to amend Title 2 of the Clark County Code by adding Chapter 2.62 to provide for the establishment of the Las Vegas Metropolitan Police Department Citizen Review Board; to designate the qualifications and means of selection of members; to provide for the training of members; to set forth the jurisdiction of the review board; to provide for the establishment of a screening panel and other panels of the board; to specify procedures for the conduct of the panels; and providing for appeal of recommendations of panels.

ORDINANCE NO. (of Clark County, Nevada)

AN ORDINANCE TO AMEND TITLE 2 OF THE CLARK COUNTY CODE BY ADDING CHAPTER 2.62 TO PROVIDE FOR THE ESTABLISHMENT OF THE LAS VEGAS METROPOLITAN POLICE DEPARTMENT CITIZEN REVIEW BOARD; TO DESIGNATE THE QUALIFICATIONS AND MEANS OF SELECTION OF MEMBERS; TO PROVIDE FOR THE TRAINING OF MEMBERS; TO SET FORTH THE JURISDICTION OF THE REVIEW BOARD; TO PROVIDE FOR THE ESTABLISHMENT OF A SCREENING PANEL AND OTHER PANELS OF THE BOARD; TO SPECIFY PROCEDURES FOR THE CONDUCT OF THE PANELS; TO PROVIDE FOR APPEAL OF RECOMMENDATIONS OF PANELS; AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO.

THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF CLARK, STATE OF NEVADA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Title 2 of the Clark County Code is hereby amended
by adding Chapter 2.62 to read as follows:

2.62.010 Creation - Purpose. Pursuant to the authority of Chapter 289 of the Nevada Revised Statutes, there is created the Las Vegas Metropolitan Police Department Citizen Review Board. Such review board may advise the Las Vegas Metropolitan Police Department Committee on Fiscal Affairs and the Las Vegas Metropolitan Police Department on issues concerning peace officers employed by the department, refer complaints against officers to the department, and review internal investigations by the department regarding discipline. The purpose of the review board is to act as an advisory body to the FAC and the department, and to inform the public of their recommendations to the extent permitted by law. The review board shall perform its functions without regard to race, color, religion, sex, age, handicap, sexual orientation, national origin or political affiliation.

2.62.020 Definitions.

(a) "Board" means the board of county commissioners of Clark County, Nevada.

(b) "Citizen" means a member of the public.

(c) "City" means the City of Las Vegas, Nevada.

(d) "Council" means the city council of the City of Las Vegas, Nevada.

(e) "County" means Clark County, Nevada.

(f) "Department" means the Las Vegas Metropolitan Police Department.

(g) "Director" means the Director of the Las Vegas
n Police Department Citizen Review Board, or the
der's designee.

(h) "District Attorney" means the district attorney of
Clark County, Nevada.

(i) "Duties," as used in subsection 2.62.070(a) of the
county code, are the functions of referral of complaints against
officers to the department and the review of internal
investigations by the department.

(j) "FAC" means the Las Vegas Metropolitan Police
Department Committee on Fiscal Affairs.

(k) "Officer" means a peace officer employed by the Las
Vegas Metropolitan Police Department.

(l) "Panel" means a 5 member panel of the Las Vegas
Metropolitan Police Department Citizen Review Board.

(m) "Review Board" means the Las Vegas Metropolitan
Police Department Citizen Review Board.

2.62.030 Administrative support and funding.

(a) There shall be a director of the review board, who
shall be appointed by the county manager with the advice and
consent of the board of county commissioners, and who shall serve
at the pleasure of the county manager with the consent of the board
of county commissioners.

(b) The County and the City may, upon mutual agreement,
provide such funding, staffing, legal counsel and other resources
as they determine, according to their sole discretion, to be
necessary for the performance of the functions of the director and
the review board. Neither the director, the review board, nor any panel of the review board shall incur any expense for which funding has not been approved by the City and the County.

2.62.040 Membership.

(a) The review board shall consist of 25 members, 13 of whom shall be appointed by the members of the FAC who are representatives of the County, and 12 of whom shall be appointed by the members of the FAC who are representatives of the City.

(b) A person appointed to the review board must:

(1) Be a resident of Clark County, excluding any incorporated cities other than the City of Las Vegas;

(2) Not be currently employed as a peace officer.

No more than 3 members of the review board may be former peace officers:

(3) Not be a current employee in any capacity of the department; for a spouse, child, sibling or parent of such a person; or a former peace officer of the department;

(4) Not be a current elected official;

(5) Not be a person convicted of a felony; and

(6) Not be or have been a party in litigation against the department, or against the County or the City with regard to any detention facility.

(c) The members shall be appointed from a list of names submitted by interested persons. Notice that applications for appointment to the review board are being accepted shall be published at a minimum once in a newspaper having general
circulation in the County at least 30 days before the list is initially established. Applications for appointment shall be submitted to the director. Applicants must state whether they meet each of the eligibility criteria set forth in paragraph (b) of this section. Applicants shall waive confidentiality and privacy as to records of criminal history, employment history, and such other information as is necessary to verify their eligibility and suitability for appointment, and shall authorize disclosure of such information for that purpose. Information about an applicant which is of a confidential nature shall not be disclosed, except in the course of administration of this chapter, to authorized representatives of the County or City, or upon lawful order by a court of competent jurisdiction.

(d) The director shall prescreen applications and disqualify any applicant who does not meet the minimum requirements set forth in paragraph (b) of this section. Any applicant who is disqualified shall be so advised by the director. The director shall forward all applications, together with any grounds for disqualification, to the members of the FAC who are representatives of the City and the County.

(e) The County and City members of the FAC shall alternately appoint persons to the review board from the list of applicants submitted to them, with the County members making the first selection.

(f) The members of the FAC who are representatives of the County may by mutual agreement select and appoint persons to
the review board from the list of applicants submitted to them. If
the County members of the FAC are unable to agree, each will
alternately make an appointment until requisite number of persons
has been selected. In such case, the first selection shall be made
by the member with the greatest amount of time served on the board.
If the County members of the FAC have equal amounts of service
time, the person to make the first selection shall be determined by
a toss of a coin.

(g) An updated list of applicants available for
appointment shall be maintained by the director to fill vacancies
on the review board. The director may update the list by adding
the names of additional applicants and deleting the names of
persons who become disqualified or who notify the director that
they are no longer interested in serving on the review board. The
director may accept applications at any time, but may solicit
applications only through advertisement as described in paragraph
(c) of this section. Except as otherwise provided herein,
applications shall remain active for a period of three years from
the date of submittal. All subsequent applicants shall be subject
to the same prescreening and background investigation requirements
as the initial applicants. Vacancies shall be filled by action of
the current representatives of the entity which originally
appointed the position. When openings exist for both County and
City members of the review board, the members of the FAC who
represent the County and the City will appoint review board members
and fill vacancies for unexpired terms from the most recent list of
applicants according to the procedures set forth in paragraph (e) of this section. The members of the FAC who represent the County will appoint review board members and fill vacancies for unexpired terms from the most recent list of applicants according to the procedures set forth in paragraph (f) of this section.

(h) The director shall forward the application of each person tentatively selected for appointment to the district attorney's office for background investigation. The district attorney's office will return the results of its investigation, including any areas of concern and any grounds for disqualification it has discovered, to the director, who shall forward them to the applicable appointing authority. The appointing authority shall then make the appointment final, or select another applicant according to the procedures set forth in this section. The appointing authority shall advise the director of any applicant who is disqualified, and the director shall notify the applicant.

(i) The director shall maintain a current list of review board members, and shall notify the FAC of all appointments to the review board.

(j) The initial County appointments to the review board shall consist of five members whose terms expire the first Monday in January, 2000; four members whose terms expire the first Monday in January 2001; and four members whose terms expire the first Monday in January, 2002. Thereafter, members shall serve for terms of three years. When a member resigns or otherwise has membership terminated, a new member will be selected to serve for the
remainder of the former member's term. No member shall be appointed more than three times, and no member shall be appointed to more than two three year terms.

(k) County appointees to the review board serve at the pleasure of the members of the FAC who represent the County, and may be removed from the review board without cause or notice upon mutual agreement of the County members of the FAC. Any member of the review board who ceases to meet the qualifications set forth in Section 2.62.040 shall automatically be removed from the review board.

(l) Members of the review board shall serve without compensation, but may be entitled to reimbursement for expenses upon prior approval by both the board of county commissioners and the city council, or as otherwise provided by agreement between the County and the City.

2.62.050 Training. Before serving on any panel, members of the review board must attend a training program related to law enforcement, which shall include, at a minimum, the policies and procedures of the department, the department civil service rules related to conduct, the provisions of NRS 289.010 to 289.120 inclusive, the collective bargaining agreements covering the department and its officers, and the conduct of proceedings pursuant to this chapter. Additional training shall, on occasion, be provided to review board members to update or supplement the information previously provided to members.

2.62.060 Jurisdiction.
(a) The review board shall have jurisdiction to:

   (1) Advise on issues concerning peace officers employed by the department, including:
       (A) Conducting reviews and making recommendations to the department concerning department policies, procedures and programs; and
       (B) Conducting reviews and making recommendations to the department concerning the provision of police protection and services;

   (2) Refer citizen complaints against officers to the department; and

   (3) Review completed internal investigations of officers by the department and make recommendations to the department regarding any discipline against officers.

(b) The review board shall not have jurisdiction to consider:

   (1) Discipline or actions taken against an officer based upon conduct which did not involve a citizen, including but not limited to tardiness, attendance, insubordination, and productivity;

   (2) Conduct of an officer which is the subject of an ongoing criminal investigation or prosecution, including appeals and other forms of judicial review;

   (3) Conduct which is the subject of an ongoing internal investigation by the department, including grievances;

   (4) Conduct previously submitted to the screening
panel which the panel did not refer to the department or a hearing panel;

(5) Conduct previously reviewed by a hearing panel;

(6) Conduct occurring on or prior to the date of the creation of the review board, which shall be deemed to be the latter of the effective dates of the County and City ordinances establishing the review board;

(7) Complaints received more than one year after the date of the incident giving rise to the complaint. An ongoing criminal investigation shall toll the period for submitting a complaint to the review board; and

(8) Any other conduct or matter for which jurisdiction is not provided under this chapter.

2.62.070 Selection of panels.

(a) The review board shall meet in panels of five to carry out its duties with regard to the referral of complaints to the department and review of internal investigations by the department.

(b) The review board may convene en banc for administrative purposes, including but not limited to training and establishing internal procedures. The review board may also convene en banc to consider issues of general concern regarding peace officers employed by the department.

(c) Panel members will be randomly selected by the director, who shall notify the members of their selection. No more than 1 former peace officer may be selected to serve on any panel.
(d) If a panel member is selected but is unavailable to serve, the director shall randomly select another member until the panel is filled. Eligible review board members who decline three successive appointments to serve on a panel for reasons other than personal bias or conflict of interest, or who fail to attend three successive meetings of a panel to which they have been appointed, shall automatically be removed from the review board, unless a member of the FBC representing the entity through which the member was selected finds that the member had good cause for declining to serve on a panel or failing to attend.

2.62.080 Screening panel.

(a) Upon the appointment of the initial members of the review board, the director shall randomly select the members of the first panel, hereinafter referred to as the screening panel.

(b) The initial term of the members of the screening panel shall expire the first Monday in July, 2000. Thereafter, the director shall randomly select screening panel members, who shall serve terms of six months expiring the first Monday of the following January or July. When a screening panel member resigns or otherwise has membership terminated, the director shall randomly select a new member, who shall serve the remainder of the former member's term. No screening panel member shall be eligible during their term on the screening panel to serve on any other panel. No member of the review board shall serve on two consecutive screening panels.

(c) Regular meetings of the screening panel shall be
held at least once a month. Special meetings shall be held upon
the call of the chair or two members of the panel.

(d) Citizen complaints against officers and requests to
review internal investigations regarding officers shall be
submitted to the director, who shall refer all complaints and
requests for review to the screening panel. The director shall
have no authority to dismiss or reject a complaint or request for
review.

(e) The screening panel shall review complaints and
requests for review to determine whether:

(1) The review board has jurisdiction to consider
the matter; and

(2) The matter has sufficient merit to warrant
further consideration by a hearing panel or the department.

(f) Upon review, the screening panel may:

(1) Determine not to refer a matter to a hearing
panel or the department;

(2) Refer a complaint against an officer to the
department; or

(3) Refer a request for review of an internal
investigation to a hearing panel.

(g) The screening panel must complete its review and
make its determination as to any complaint or request for review
referred to it within 15 days of the date the matter is first
considered by the screening panel. The 15-day period shall be
tolled during any ongoing investigation or proceeding which
interferes with the panel's jurisdiction pursuant to section 2.62.060 of the county code, or during any litigation over the screening panel's jurisdiction.

(h) Review by the screening panel shall be confined to the complaint or request for review, the records of the internal investigation for which review is requested, and such information as may be voluntarily provided by the complainant, the department, or the officer whose conduct is the subject of the complaint or request for review. The screening panel shall have no authority to take testimony, issue subpoenas or require the production of books, papers and documents.

2.62.090 Reviews of internal investigations.

(a) Upon a determination by the screening panel to refer a request for review of an internal investigation of an officer to a hearing panel, the director shall randomly select the members of the panel.

(b) The hearing panel may review the internal investigation, and make recommendations to the department regarding any disciplinary action against the officer, including, without limitation:

(1) Increasing or decreasing the recommended level of discipline; or

(2) Exonerating the officer who has been the subject of the internal investigation.

(c) The chair of the hearing panel shall report the findings and recommendations of the panel to the department, the
officer who is the subject of the investigation under review, and the person who requested the review. The findings and recommendations of the panel shall be in writing, which shall be approved by the panel. In the event no findings and recommendations are approved by a majority of the panel, or a panel member dissents from the majority's decision, members of the panel may submit individual findings and recommendation to the chair to be reported to the department, the officer, and the person who requested the review. All findings and recommendations shall be reported to the department within the time for making determinations set forth in subsection 2.62.100(n) of the county code.

(d) In the case of an internal investigation into a citizen complaint for which an officer is potentially subject to discipline, the department may submit its proposed determination and any supporting materials to the director for review by the screening panel. The screening panel shall make its recommendation to the department within 15 days of the date that the proposed determination is received by the director. The screening panel shall report its findings and recommendations as set forth in paragraph (c) of this section.

2.62.100 Panel procedures.

(a) The director shall comply with all legal notice requirements for panel meetings. In addition, the director shall provide the department, and, if applicable, the complaining party and the officer whose conduct is under review with notice of the
proceedings, which shall include: the date, time and location of
the meeting; the names of the members of the panel; and a summary
of the alleged misconduct or item before the panel.

(b) At its first meeting, a panel shall choose one of
its members as chair. The panel may also choose a vice chair to
act in the chair's absence. Except as otherwise provided in
Subsection 2.62.080(h) of the county code, the chair shall preside
over all meetings of the panel, and shall have the power to
regulate all proceedings and take any action necessary for their
efficient conduct, including the power to: administer oaths and
affirmations; issue subpoenas (within the scope of the panel's
jurisdiction) to compel the attendance of witnesses to testify
before the panel; require the production of books, papers and
documents; determine the admissibility of evidence; limit the scope
of testimony; and dispose of procedural motions and requests. When
the chair is not present, the vice chair or designated temporary
chair shall be empowered to perform all acts prescribed for the
chair.

(c) A majority of the panel members shall constitute a
quorum at any meeting, and a majority of those present and eligible
to vote may take official action. No member shall be eligible to
vote on the findings and recommendations of a panel unless they
attended all meetings at which the panel received evidence on that
item.

(d) Subpoenas issued by the chair of a hearing panel
shall give reasonable notice of the date, time and place for the
taking of testimony. The chair may authorize the payment of reasonable expert witness fees when necessary, subject to the availability of funds. If a witness refuses to attend and testify or produce books, papers or other documents as required by subpoena, the panel may petition the district court to order the witness to appear and testify or produce the requested books, papers or document.

(e) The department shall make available to a hearing panel any personnel file or other material necessary for the panel to conduct a review. Upon completion of proceedings before a screening panel or hearing panel, the panel shall return all materials and copies of materials received from the department back to the department, unless the matter is referred to a hearing panel by the screening panel.

(f) Panel members shall consider all matters in a fair and impartial manner. A panel member who has a personal bias or prejudice in the outcome of a proceeding shall not sit on a panel hearing that matter. Personal interest in the outcome of a proceeding does not include holding or manifesting a political or social belief where such belief does not preclude objective consideration of a case on its merits. Examples of personal bias include, but are not limited to: familial relationship or close friendship with persons material to the proceedings, witnessing events material to the proceedings, being a party or witness to the proceedings, having a financial interest in the outcome of the proceedings or holding a bias that is sufficient to impair the
panel member's impartiality. Prior to the commencement of any proceeding before the panel, the department and, if applicable, the complaining party or officer whose conduct is under review, may submit a motion to disqualify a panel member for personal bias, stating with particularity the grounds for such disqualification. After consideration, the panel shall either deny the motion and direct the proceedings to go forward or cause the disqualified member to be removed. A panel member shall abstain from voting on any motion to disqualify themselves. A panel member may withdraw from a proceeding where they deem themselves unqualified for any reason. When a member of a hearing panel is disqualified, the proceedings shall be continued to allow the director to randomly select another panel member. When the person disqualified is a member of the screening panel, they shall abstain from voting and the disqualification shall be effective only as to the matter in which the motion to disqualify was submitted.

(g) The chair of a hearing panel shall determine the order of taking testimony. Questions may be posed by the chair, other panel members, or counsel for the review board. The officer whose conduct is under review shall have the right to have counsel or another representative of their choosing present during questioning of the officer. The chair may, at their discretion, permit the department, an officer whose conduct is under review, or their counsel or representatives to be present during questioning of any witness. Following questioning by the chair, other panel members and counsel for the review board, the chair may, at their
discretion, permit the department, an officer whose conduct is under review or their counsel or representatives to question the witness. The scope of questions, as well as any additional questioning, shall be determined by the chair.

(h) The chair of a hearing panel may, in their discretion, permit the department, an officer whose conduct is under review, or their counsel or representatives with the opportunity to present testimony and other evidence to the panel. When a hearing panel is reviewing an internal investigation of an officer, the officer shall, at a minimum, have the opportunity to be heard by the panel.

(i) In any proceeding before a hearing panel, the officer who was the subject of the investigation under review may represent themselves or be represented by counsel or another person of their own choosing. The officer is solely responsible for obtaining such representation, as to which the review board, the panel, the FAC, the department, the County and the City have no obligation.

(j) Evidence may be admitted if it is of a type commonly relied upon by reasonable and prudent persons in the conduct of their affairs. Patently unreliable, irrelevant, immaterial or unduly repetitious evidence may be excluded. Notice may be taken of judicially cognizable facts and of generally recognized technical or scientific facts.

(k) At the conclusion of evidentiary proceedings, if any, the panel members shall privately deliberate and vote upon the
action to be taken.

(1) The proceedings of a screening panel or a hearing panel shall be closed to the public. All records submitted to the panel which contain information declared confidential by law, including judicial precedent, and all records of proceedings before the panel, except public notices and the panel's findings and recommendations are deemed confidential. Custody of all records and copies of records which are designated as confidential pursuant to this paragraph shall be maintained by the director, who shall make the records available to the panel members for review at the office of the director and during proceedings of the panel. No panel member shall remove, record or copy any confidential record or copy of any confidential record from the office of the director or the location of proceedings before the panel. It shall be unlawful for any person to disclose records or the contents of records designated as confidential by this paragraph which they have obtained through proceedings under this chapter, except: in the course of administration of this chapter, to authorized representatives of the department, or upon lawful order by a court of competent jurisdiction. Any person violating the confidentiality provisions of this paragraph shall be guilty of a misdemeanor and upon conviction shall be punished by imprisonment in the County jail for a term not to exceed six months, or a fine not to exceed one thousand dollars, or both such fine and imprisonment. Violation of the confidentiality provisions of this paragraph shall also be grounds for removal of a member from the
review board. The findings and recommendations of a panel or panel
member shall not contain information declared confidential by law,
including judicial precedent, unless such information is designated
as confidential and disclosed as provided under this section for
confidential records.

(m) A panel shall not abridge the rights of an officer
which are granted pursuant to any applicable collective bargaining
agreement, contract, or law.

(n) A hearing panel must complete its review and make
its determination as to any request for review referred to it by
the screening panel within 90 days of the date the matter is first
considered by the hearing panel. The 90 day period shall be tolled
during any ongoing investigation or proceeding which deprives the
panel of jurisdiction pursuant to section 2.62.060 of the county
code, or during any litigation over the panel's jurisdiction or a
subpoena issued by the panel. Upon expiration of the 90 day
period, a panel shall have no authority to continue a review or
make a recommendation.

(o) Consideration of a citizen complaint against an
officer or a request for review of an internal investigation of an
officer by a panel shall not stay the imposition of discipline or
other action by the department. The screening panel or the hearing
panel to which the matter has been referred, however, may recommend
to the department that discipline be stayed pending review.

2.62.110 Appeals. An officer who is the subject of an
internal investigation which has been reviewed by a panel may
appeal the panel's recommendation through the procedures established in the applicable collective bargaining agreement. In the absence of such procedures, or in cases where the officer is not covered by a collective bargaining agreement, appeal shall be through the procedures established in the Las Vegas Metropolitan Police Department Civil Service Rules.

SECTION 2. If any section of this ordinance or portion thereof is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not invalidate the remaining parts of this ordinance.

SECTION 3. All ordinances, parts of ordinances, chapters, sections, subsections, clauses, phrases or sentences contained in the Clark County Code in conflict herewith are hereby repealed.

SECTION 4. This ordinance shall take effect and be in force from and after its passage and the publication thereof by title only, together with the names of the County Commissioners voting for or against its passage, in a newspaper published in and having a general circulation in Clark County, Nevada, at least once a week for a period of two (2) weeks.

PROPOSED on the 16TH day of MARCH, 1999.

PROPOSED BY: Commissioner YVONNE ATKINSON GATES

PASSED on the ___ day of _____________, 1999.

AYES: ____________________

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______________________

______________________
Appendix 3

Chapter 2 of the revised Municipal Code of ordinance No. 585, Series of 1992 to establish the Public Safety Review Commission in the City and County of Denver
A BILL

FOR AN ORDINANCE AMENDING CHAPTER 2 OF THE REVISED MUNICIPAL CODE TO ESTABLISH A PUBLIC SAFETY REVIEW COMMISSION AND PROVIDE FOR ITS POWERS, DUTIES, AND RESPONSIBILITIES.

BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:

SECTION 1. Article VIII of Chapter 2 of the Revised Municipal Code is hereby amended by adding a new Division 6 to read as follows:

"DIVISION 6. PUBLIC SAFETY REVIEW COMMISSION

Section 2-240. Definitions.

(a) Commission as used in this Division shall refer to the Public Safety Review Commission.

(b) Complainant is that person or persons filing a complaint concerning an alleged use of excessive or unnecessary force, harassment, or abusive treatment committed by a Police Officer or Deputy Sheriff.

(c) Complaint means a charge of use of excessive or unnecessary force, harassment, or abusive treatment against a person who is not a member of the Police or Sheriff's Departments that was allegedly committed by a Police officer or Deputy Sheriff. A complaint may be in writing or may be oral.

(d) Deputy Sheriff shall include all ranks of sworn personnel within the Denver Sheriff's Department.

(e) Exonerated means that the action alleged by a complainant did occur but that action was justified, therefore no discipline was issued to the Police Officer or Deputy Sheriff.

(f) Not Sustained means the investigation did not result in findings which prove that the action occurred, nor do the findings prove that the action did not occur.

(g) Police Officer shall include all ranks of sworn personnel within the Denver Police Department.

(h) Sustained means the action alleged by a complainant did occur, and penalties or discipline may be made against the Police Officer or Deputy Sheriff.

(i) Unfounded means that the action alleged by the complainant has no merit or basis.

Section 2-241. Appointment and qualification of members.

The Public Safety Review Commission shall consist of seven (7) members who shall be residents of the City and County of Denver. The Mayor shall appoint the Commissioners with the advice of the City Council. No officer or employee of the City and County of Denver shall be appointed to the
Commission. In appointing members to the Commission, the
Mayor shall give consideration to individuals and members of
existing community groups and organizations which represent
the racial, ethnic, and cultural diversity of the City and
County of Denver. The membership of the Commission shall
reflect, as nearly as possible, the ethnic and sexual
proportions of the population of the City and County of
Denver.

Section 2-242. Compensation.

Members of the Commission shall serve without compensation;
provided, however, that members of the Commission may be
reimbursed for reasonable expenses incurred in performance of
their duties pursuant to the rules and regulations of the City
and County of Denver for such reimbursement.

Section 2-243. Terms of office.

The term of each member of the Commission shall be for four
(4) years. Any vacancy occurring during the term of any
member shall be filled by appointment by the Mayor with the
advice of the City Council. The members first appointed after
the effective date of this section shall be appointed as
follows: Two (2) members shall be appointed to serve for two
(2) years, and two (2) members shall be appointed to serve for
three (3) years, and three (3) members shall be appointed to
serve for four (4) years. After these initial appointment
terms have been served, each member of the Commission shall be
appointed thereafter for a four (4) year term. The members of
the Commission shall serve for not more than two (2) terms,
whether consecutive or otherwise. Each member shall continue
to serve in such capacity until the member's successor has
been duly appointed and is acting.

Section 2-244. Removal from office.

(a) Prior to the expiration of his or her appointed term, a
Commissioner may be removed from office for malfeasance
or willful misconduct in office, or willful or persistent
failure to perform his or her duties on the Commission.

(b) The absence of any member of the Commission for more than
three regularly scheduled meetings of the Commission
within any twelve consecutive month period shall
constitute an automatic resignation from the Commission.
Such a resignation shall not, however, disqualify an
individual from subsequently being appointed to the same
or any other City Board or Commission. In the event of
any removal or resignation of a Commissioner, a vacancy
shall be filled by appointment for the unexpired portion
of the term in the manner prescribed in Section 2-243.

Section 2-245. Officers.

The Commission shall elect from among its members a
chairperson and a vice-chairperson who shall serve in such
capacity for two years, or until their successors are duly
elected. In case of a vacancy in either of these positions,
the Commission shall elect a successor who shall serve the
unexpired balance of the predecessor's term.

Section 2-246. Meeting.

The Commission shall hold its first meeting within fifteen
(15) days after all of its members have been appointed. The
Commission shall fix the time and place of the regularly
scheduled meetings which shall not be less than once per
month. All meetings of said Commission shall be subject to
the provisions of Article III of Chapter 2 of the Revised
Municipal Code dealing with Open Meetings. The Chief of Police and the Director of Corrections (Undersheriff) or their authorized representatives may attend all regularly scheduled meetings of the Commission and may advise the Commission on any matter before it, but shall not vote on any such matter.

Section 2-247. Rules and records.

The Commission shall, in consultation with the Manager of Safety, Mayor, and City Council, adopt rules for the transaction of business of the Commission, which shall among other things include the manner of calling and giving notices of meetings and/or hearings and the method for appointing and establishing powers of any sub-committees. Said sub-committees may be formed to work in regard to reviewing and evaluating police and deputy sheriff policies, practices, procedures, and community relations. The Commission shall keep records of its rules, regulations, orders, findings, and determinations, which shall be subject to the provisions of Article III of Chapter 2 of the Revised Municipal Code dealing with Open Meetings.

Section 2-248. Powers and duties.

(a) The Commission shall have the power to: Amended 8-24-92.

(1) Review, evaluate, and recommend changes to the policies, practices, rules, and procedures of the Denver Police Department and the Denver Sheriff's Department;

(2) Make recommendations to the Chief of Police and the Director of Corrections (Undersheriff) for their implementation and development of programs and strategies to promote positive police-community relations. If the Commission is dissatisfied with the response of the Chief of Police or the Director of Corrections (Undersheriff), the Commission may submit its recommendation to the Manager of Safety and the Mayor;

(3) Make recommendations to the Chief of Police and the Director of Corrections (Undersheriff) regarding specific complaints. If the Commission is dissatisfied with the response of the Chief of Police or the Director of Corrections (Undersheriff), the Commission may submit its recommendation to the Manager of Safety and the Mayor;

(4) Review investigations conducted by the Police and Sheriff's Departments of complaints in accordance with Section 2-250 below;

(5) Determine which complaints shall be reviewed with a majority of the members of the Commission and conduct investigations of complaints of Police or Deputy Sheriff misconduct in accordance with the Section 2-250 below;

(6) Hire an experienced, qualified investigator or investigators to perform investigations;

(7) Subpoena witnesses to make statements and produce documents and subpoena documents;

(8) Make rules and regulations and adopt 'by-laws;

(9) Establish procedures for filing of complaints; and
(10) Perform such other duties as requested by the Mayor or Denver City Council in connection with Police and Sheriff community-relations. Amended 8-24-92.

INSERT NEW SUBSECTION (b). See page 4-A.

Section 2-249. Duties of Agency for Human Rights and Community Relations.

The Director of the Agency for Human Rights and Community Relations shall appoint and provide an employee(s) to establish and maintain records of complaints, to serve as the Secretary of the Commission, and to perform other duties as requested by the Commission.

Section 2-250. Process for Filing Complaints, Reviewing Investigations, and Investigating Complaints

(a) Any person making a complaint may, in the complainant's discretion, file the complaint with either the Public Safety Review Commission or the Police or Sheriff's Department, as appropriate. If the complainant files the complaint with the Police or Sheriff's Department, the Police or Sheriff's Department shall notify the Public Safety Review Commission of the complaint within three (3) working days. If the complaint was an oral complaint, the Police or Sheriff's Department shall provide a written report of the complaint to the Public Safety Review Commission.

(b) When a complaint is filed with the Public Safety Review Commission, it shall within three (3) working days refer the complaint to the Police or Sheriff's Department, as appropriate.

(c) The Police or Sheriff's Department shall investigate the complaint and make a finding of unfounded, exonerated, not sustained, or sustained.

(d) After the investigation is completed by the Police Department or Sheriff's Department, the findings and outcome shall be verbally reported to the Public Safety Review Commission at the same time and in conjunction with the findings being reported to the complainant if the complainant agrees that the verbal report shall occur in this manner; if the complainant does not agree then the report shall be provided to the Public Safety Review Commission and the complainant in writing. The Police Officer or Deputy Sheriff shall be informed of the decision, concurrently.

(e) All complainants shall be contacted by the Public Safety Review Commission not less than 48 hours but no more than five days from the date on which the complainant was notified of the findings by the Police Department or the Sheriff's Department to determine if the complainant is satisfied with the outcome of the complaint.

(f) In the event the complainant is not satisfied with the outcome of the complaint, the complainant may submit a request that the Public Safety Review Commission review the complaint. No request for review shall be reviewed by the Commission if it is not filed within ten (10) days of the date the complainant is contacted by the Commission and told that the complainant may submit a request for review to the Commission, unless the complainant establishes to the Commission's satisfaction that the failure to file the request for review within the required time limit was due to mistake, excusable neglect, or other just cause. The Public Safety Review Commission shall have the right to choose which complaints shall be reviewed and in no event shall review of a complaint have
On page 4, line 4, add a new subsection (b) as follows:

(b) The Commission shall:

1. require each of its members to receive training at least once each year by the Department of Safety regarding Police and Sheriff's Department operations and procedures, and to receive training at least once each year by the U.S. Department of Justice regarding the criminal justice system, human rights, and community relations.

2. provide semi-annual reports to the appropriate committee of City Council regarding the activities of the Commission during the previous six months.

3. solicit broad community input, including the Department of Safety and the U.S. Department of Justice, with regard to the qualifications for the position(s) of investigator(s). These qualifications shall be used to develop a list of qualified investigators from which the Commission shall hire investigators.

4. be required to have four affirmative votes to carry out its powers and duties, except in those cases where the Commission should decide to conduct an independent investigation, as provided in Sections 2-250 (c), five affirmative votes shall be necessary.
complaint by the Commission be viewed as a right of any complainant.

(g) A request for review by the Commission must be reduced to writing by the complainant with the assistance of the Public Safety Review Commission and shall be signed by the complainant. A copy of each request for review must be filed with the Public Safety Review Commission and shall immediately be forwarded to either the Chief of Police or the Director of Corrections (Undersheriff), as appropriate. The request for review shall include an explanation as to why the complainant wants the complaint reviewed by the Commission.

(h) The Secretary of the Public Safety Review Commission shall make a presentation of all complaints at the regularly scheduled meetings of the Commission. The presentation shall include a discussion of the outcome of the complaints and identify those complaints where the complainant requested Commission review.

(i) The Public Safety Review Commission shall refer complaints requested for review by the Commission, but not chosen by the Commission to be reviewed, to other avenues open to the complainant, if any exist.

(j) The Commission shall only make recommendations pertaining to a specific complaint to the Police or Sheriff's Department when the investigation performed by the Police or Sheriff's Department arrived at an outcome of unfounded, exonerated, or not sustained.

(k) Complaints that the Commission has chosen to review with the outcomes of unfounded, exonerated, or not sustained shall be referred back to the appropriate department with recommendations from the Commission pertaining to outcome of that particular complaint and/or with recommendations pertaining to either department's policies and procedures within thirty (30) days from the date the Secretary of the Commission presents the outcome of the complaint to the Commission.

(l) Within thirty (30) days the Police and Sheriff's Department shall at one of the monthly meetings of the Commission provide a report on complaints with the outcomes of unfounded, exonerated, or not sustained that were referred to that department by the Commission. The complainant shall be notified of this meeting and may attend.

(m) For those complaints that the Commission has chosen to review with the outcome of sustained, the Commission shall only be able to recommend policy or procedure changes and must do so within thirty (30) days from the date the Secretary of the Commission presents the outcome of the complaint to the Commission. The Commission shall not provide recommendations regarding the discipline or penalties imposed on that specific complaint to the Police Department or the Sheriff's Department.

(n) A report must be provided back to the Commission within thirty (30) days at one of its monthly meetings by the appropriate department regarding those recommendations from the Commission stemming from complaints with the outcome of sustained that were referred back to that department.

(o) If the Commission is not satisfied with the report, the Commission may choose to hire an independent investigator to investigate the complaints resulting in outcomes of

Amended 8-24-92.
unfounded, exonerated, or not sustained. The
investigator shall conduct such investigations in a fair,
objective, and ethical manner with due regard for the
rights of Police Officers in accordance with the Denver
Police Department Officers' Bill of Rights and the rights
of Deputy Sheriffs of the City and County of Denver. The
investigator shall timely investigate complaints and in
no event shall any report regarding any investigation be
submitted over thirty (30) days from the date the
Commission authorized the investigation unless the
investigator establishes the need for additional time to
submit a report to the Commission. At the conclusion of
the investigation, the investigator shall submit
findings, in writing, to the Commission.

(p) Upon receipt of the report from the investigator, the
Commission shall within thirty-one (31) days take one of
the following actions:

(1) Direct the independent investigator to investigate
the complaint further; or
with an affirmative vote of 5 of its members Amended
Amended 9-24-92.

(2) Forward its findings and determination concerning
the complaint to the Chief of Police or the
Director of Corrections (Undersheriff), as
appropriate, along with recommendations from the
Commission.

(q) If the Commission has made recommendations and if the
Commission is not satisfied with action taken by the
Police Chief or the Director of Corrections, the
Commission may provide the recommendations to the Manager
of Safety. If the Commission provides the
recommendations to the Manager of Safety and if the
Commission is not satisfied with the action taken by the
Manager of Safety, the Commission may provide the
recommendations to the Mayor.

(r) The Commission shall not make a recommendation to sustain
a complaint unless the allegations of the complaint are
established by a preponderance of the evidence.

Section 2-251. Powers and Duties Reserved to Police Chief,
Director of Corrections, and Manager of Safety.

The Chief of Police and the Director of Corrections
(Undersheriff) along with the Manager of Safety, shall be
responsible for the discipline of the police officers and
deputy sheriffs, respectively. The establishment of this
Public Safety Review Commission shall not affect the powers
and duties of the Denver Civil Service Commission or the
Career Service Authority and the respective rights of police
officers and deputy sheriffs thereunder.

Section 2-252. Effective date and severability.

(a) Effective Date - The Commission shall only accept,
investigate, and review complaints regarding incidents
which occur on or after the effective date of this
ordinance.

(b) Severability - If any section, sub-section, sub-division,
paragraph, sentence, clause, or phrase of this ordinance
is for any reason held to be invalid or unconstitutional,
such decision shall not affect the validity of the
remaining portion of this ordinance. The Denver City
Council hereby declares that it would have passed such
section, sub-section, sub-division, paragraph, sentence,
clause, or other phrase of this ordinance irrespective of
the unconstitutionality or invalidity of any section,
The foregoing Ordinance No. 585 Series of 1992, was passed by the Council on the 24th day of August, 1992, and presented to the Mayor of the City and County of Denver on the 25th day of August, 1992. The Mayor did not sign the Ordinance or return it with his disapproval to the City Council. Therefore, Ordinance No. 585 Series of 1992, pursuant to section B1.5 of the Charter of the City and County of Denver (1960 compilation, as amended), has taken effect as if the said Mayor had approved it.