

**2006-2007
FRESNO COUNTY GRAND JURY**



**FINAL REPORT
#2**

A POLICE AUDITOR—ASSURING TRANSPARENCY

Transparency in law enforcement enhances public trust
“Sunshine is the best disinfectant” Supreme Court Justice Louis D. Brandeis

INTRODUCTION

An independent police auditor has been proposed for the city of Fresno three times in the last few years. It has been debated repeatedly, but it has not been adopted. On the basis of our investigation, we believe this proposal has merit and should be implemented.

Background*

1. The Fresno Police Department has an active Internal Affairs Department which investigates allegations of serious wrong-doing by police officers. That this process is taken seriously by the department is indicated by the fact that in 2005 nearly half of the investigations of officer misconduct originated within the department itself (11). In addition, the Fresno Police Department has an employee intervention program and is currently developing an “early alert system” which will identify officers who need additional training or counseling (12-a).
2. The establishment of an independent auditor is one among several “best practices” currently recommended for police departments (24). “In various ways, these best practices are incorporated into all the consent decrees and memoranda of understanding currently in force (in various police agencies around the country)” (24 page 1).
3. “...citizen oversight agencies however show promise for making some significant, lasting contributions to police accountability. This promise is found in the auditor model of oversight...” (24 page 2). There is a general agreement that a police auditor serves a useful function in many cities but disagreement about whether this position is needed in Fresno (12-a, 12-b, 12-f).
4. There is disagreement on the degree of citizen satisfaction with the practice of depending on the police to regulate themselves. Polling agencies consistently find (20), in national surveys including several Gallup Polls, Harris Poll, Washington Post/Kaiser/Harvard Racial Attitudes Survey, Freedom of Information in the Digital Age Survey and others, that a substantial proportion of respondents, especially in the minority community, are suspicious and distrustful of the police. There is

* Numbers in parenthesis refer to citations numbered on pages 8 and 9.

no reason to believe that the City and County of Fresno are exceptions to this trend of suspicion and mistrust of the police (12-a, 12-b, 12-f).

5. Some Fresno residents are suspicious of the police, fear profiling, and believe that internal police investigations are likely to protect the police. They fear that the police cannot do an unbiased investigation of themselves (12-a, 12-b, 12c, 12-f).
6. People who make complaints about police conduct which rise to the level of an official internal affairs investigation currently receive a written status report about the conduct of the investigation (12-a). However, it is not clear that all formal complaints about possible police misconduct now receive a written acknowledgement and response. The Fresno Police Complaint Procedures form indicates that they do, but interviews indicated that this might not always be the case (12-f).
7. Many California cities and cities across the country have independent auditors or review boards overseeing city police departments or county-wide sheriff's departments (10, 21). Many of these have originated from political pressure or legal agreements or decrees which have come as a result of highly publicized citizen-police confrontations (12-b, 17). Fresno is the largest city in California that does not have some form of citizen review (10, 18). Fresno is the largest city in California that does not have some form of citizen review (10, 18).
8. An independent police auditor's office ideally accomplishes three key objectives:
 - o Citizen satisfaction (citizens can be assured that complaints are thoroughly investigated and that internal affairs investigations are conducted appropriately).
 - o Prudent financial management (the cost of an auditor is minimal compared with the potential cost associated with settlements in cases of excessive force and the potential cost of lawsuits filed by citizens whose complaints are either unanswered or improperly investigated).
 - o Police officers' support (the auditor would be able to provide independent confirmation of the professionalism of the police officers where this has been challenged) (12-c).
9. Proposals to establish an independent police auditor in Fresno have been brought to a vote in the City Council and defeated each time. The reasons given for the lack of support for these proposals have included opposition from union members, lack of money (cost), disagreement over the control of appointments by Mayor or City Council, and the existence of boards or investigative agencies that can now provide police oversight (5 – six articles in the Fresno Bee in 2005 and 2006). Some people believe that the

office is beneficial to some other cities, but would not be helpful in the city of Fresno for several reasons (12b, 12d). These reasons include the perception that there is not a great deal of community interest, a belief that current internal affairs investigations conducted by the police department are sufficient, and a fear that an independent police auditor might inhibit proactive policing and demoralize police officers.

10. Every person interviewed stated that an independent police auditor provides useful benefits---at least in principle. The current Police Chief and Mayor are on record as being in support. Among the benefits claimed for the position are:

- It would provide transparency (12).
- It would reassure the public about the professionalism of the police force (12).
- It would enhance the trust that the community has in the police force (12).

Research data

The Grand Jury utilized a variety of resources in its investigation of the advisability of an independent police auditor in Fresno.

Interviews of representatives from:

1. The Fresno Police Department.
2. The Fresno City Council.
3. The Fresno City Mayor's Office.
4. The Fresno Police Officers' Association.
5. The Fresno County Probation Department.
6. A community advocacy group.

Articles read and information from:

1. Newspaper articles (1998-2006).
2. The LexisNexis academic index.
3. The Roper Center public opinion data.
4. The Internet: National Association for Civilian Oversight of Law Enforcement.
5. Several Independent Police Auditors' Annual Reports from various California cities.
6. The Report of the Independent Police Auditor Study Commission, 2003.

We also obtained information from current and former Fresno County officials.

Findings

- F301 Many California cities and cities across the country have independent auditors or review boards overseeing city police departments or county-wide sheriffs' departments.
- F302 Some independent auditors or review boards have resulted from political pressure or legal decrees or agreements.
- F303 A proposal to establish an independent police auditor in the city of Fresno was brought to the City Council, and the proposal was defeated.
- F304 The Police Auditor proposal in the city of Fresno failed because of opposition from union members, concerns about cost, disagreement over control by the Mayor or City Council, and the existence of boards or investigative agencies that can now provide police oversight.
- F305 Some people believe that an independent police auditor may be beneficial in other cities, but one is not needed in the city of Fresno.
- F306 In 2005 about 50% of the Fresno Police internal affairs investigations were initiated within the Police Department.
- F307 The Fresno Police Department has a Police Chief's Advisory Board that provides a channel of communication between the police and the community.
- F308 The Fresno Police Department is developing an "early alert system" to ensure police professionalism.
- F309 There is concern that an independent police auditor might inhibit proactive policing and demoralize police officers.
- F310 There is general agreement that a police auditor serves a useful function in several California cities.
- F311 The current Police Chief and Mayor support the establishment of an office of independent police auditor in Fresno.
- F312 An independent police auditor can accomplish a balance of three key objectives, citizen satisfaction, prudent financial management, and police support.

- F313 Transparency in police operation and investigations of all inappropriate police behavior are the reasons most often stated when supporting the position of an independent auditor.
- F314 National surveys indicate that one important reason for distrust of the police stems from a concern for fair treatment of minorities.
- F315 National surveys indicate that a substantial number of minority citizens are suspicious and distrustful of the police.
- F316 Fresno's minority community shows the same concerns that the national surveys indicate.
- F317 Some members of the community have complained that some police behavior is the result of "profiling" by the police.
- F318 There is disagreement among the interviewees regarding the unbiased status of the current internal police investigations.
- F319 Information regarding what to expect from the police in various circumstances as well as the process for making complaints about police/sheriff misconduct is not widely disseminated.
- F320 It is not clear that all formal complaints of police misconduct receive a written response.
- F321 Nationally, establishment of an independent auditor is recommended as a "best practices" procedure for all law enforcement.

COMMENDATION

The Fresno Police Department is commended for the "early alert system" which is currently being developed. This system, and the observation that a significant number of internal affairs investigations are initiated within the department itself, indicates the concern that the Fresno Police Department has for the appropriate supervision and professional behavior of its employees.

CONCLUSIONS

The weight of the evidence supports the establishment of an independent police auditor in Fresno. A similar office has been established in many other cities and published sources indicated that the office works well where it has been established. In addition, there was agreement in local interviews that, at least in principle, the office performs a useful function. There was disagreement, however, about whether there is enough public discontent with the current practices to justify the

establishment of a new office. While there is no local survey available that can convincingly resolve this disagreement, a great deal of reliable national survey data shows a substantial current of discontent and suspicion of the police, especially in the minority community. There is no reason to believe that Fresno should be exceptional in this regard. We believe that an independent police auditor would address this problem by increasing transparency and enhancing public trust in the police.

RECOMMENDATIONS

The committee recommends:

- R301 That an Office of Independent Police Auditor be established in Fresno. (Findings F301,F310-F318, F321).
- R302 That the Fresno County Sheriff examine the advisability of establishing an independent auditor's office. (Findings F301,F310,F321).
- R303 That pamphlets containing information about what to expect from the police in various interactions with the public and how to file complaints if dissatisfied be widely disseminated (For example, sent out with utility bills annually). (Findings F315, F316, F319)
- R304 That the Fresno Police Department submit information on how to file a compliment or complaint about the police in the Fresno Bee in their weekly "at your service" feature. (Finding F319).
- R305 That all formal complaints about possible police misconduct receive a written response. (Finding 320).

REQUEST FOR RESPONSES

Pursuant to Penal Code § 933.05, the Fresno County Grand Jury requests responses as follows:

- A. Fresno City Council. (R301).
- B. Fresno Mayor (R301).
- C. Fresno County Board of Supervisors. (R302).
- D. Fresno County Sheriff. (R302).
- E. Fresno City Police Chief. (R301, R303, R304, R305).
- F. Fresno City Manager. (R301, R303).

Please be reminded that the responses from elected officials are due within 60 days of the receipt of this report and 90 days for others.

Table 1. A sample of large California Cities with police oversight; 2000 Census. Fresno included for comparison

City	Year Citizen Review began	population
San Diego	1988	1,223,400
San Jose	1993	894,943
Sacramento	1999	707,018
Long Beach	1991	461,522
Fresno	---	427,652
Riverside	2000	255,166
Berkeley	1973	101,517

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