

CIVILIAN OVERSIGHT 101

BART Police Citizen Oversight Board

Gianina Irlando
Immediate Past President, NACOLE

April 8, 2024



Agenda

- Overview
- Evolution of Civilian Oversight: 1920s – 1990s
- Oversight Models & Ranges of Authority
- Principles for Effective Oversight

Civilian oversight alone is not sufficient to gain legitimacy.

Without it, however, it is difficult, if not impossible, for the police to maintain the public's trust and push sustainable reform efforts forward.



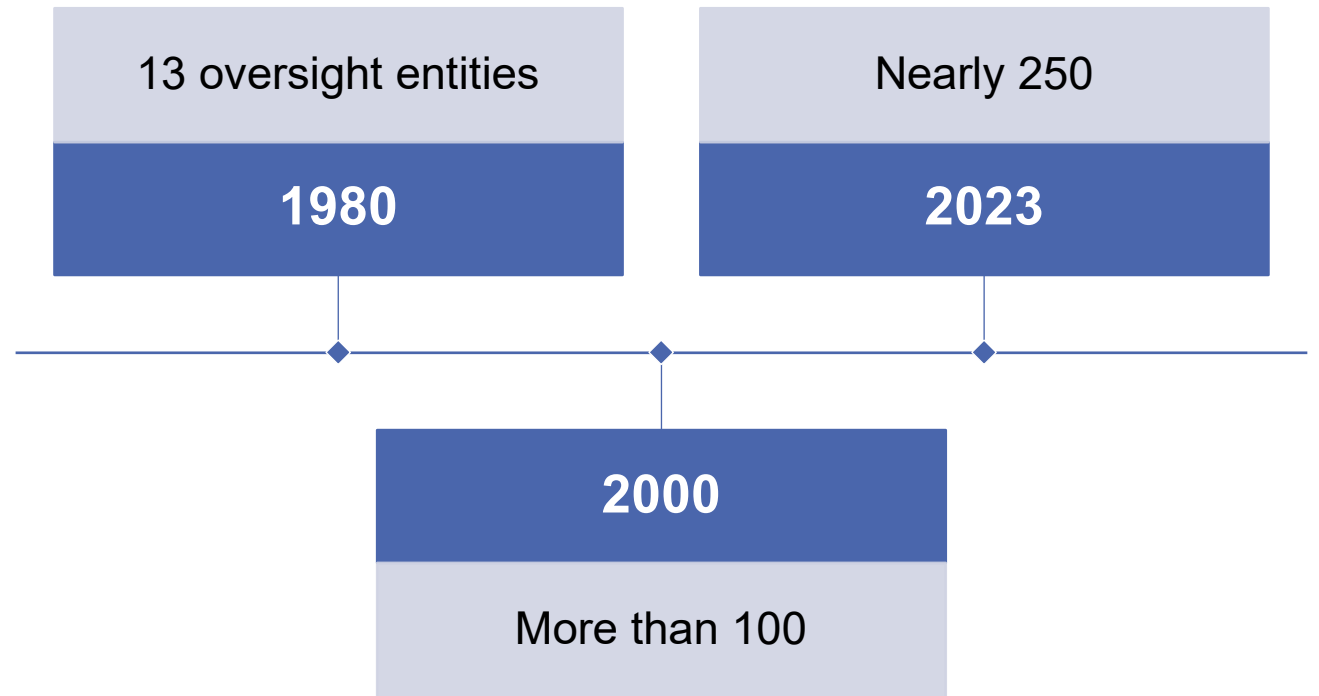
Civilian Oversight

A mechanism of facilitating civilians' involvement in holding the police accountable to the citizens they serve (Kim, 2022).

One or more individuals outside the sworn chain of command of a police department whose work focuses on holding that department and its officers and employees accountable (De Angelis, Rosenthal, Buchner (2016)

The independent, external, and ongoing review of a law enforcement agency, jail, or prison and its operations by individuals outside of the respective agency (Vitoroulis, McElhiney, & Perez, 2021).

Codified Civilian Oversight Entities in the U.S.

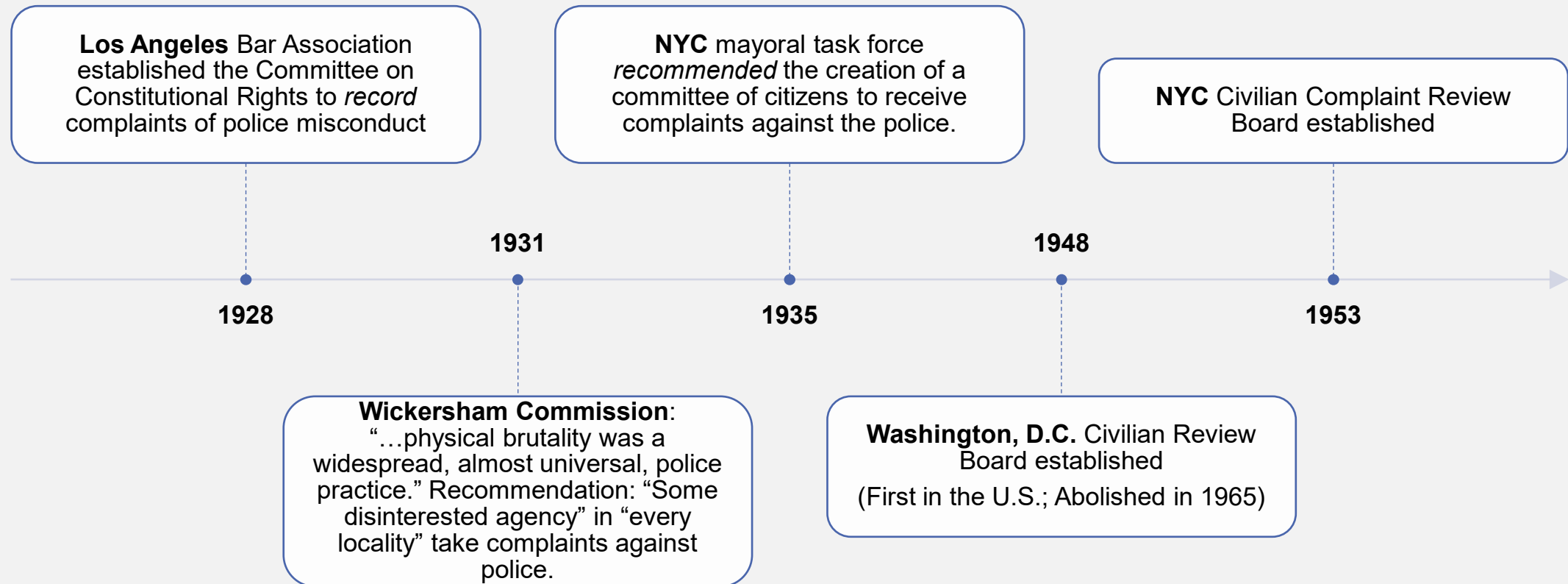


WHY OVERSIGHT?



EVOLUTION OF CIVILIAN OVERSIGHT: 1920s – 1990s

1920s – 1960s: Early Civilian Review Boards



1920s – 1960s: Early Civilian Review Boards

Philadelphia Police Review Board established by mayoral executive order
(Disbanded in 1967)

Kansas City, MO, Office of Community Complaints established by state statute.
(Oldest continuously operating oversight agency)

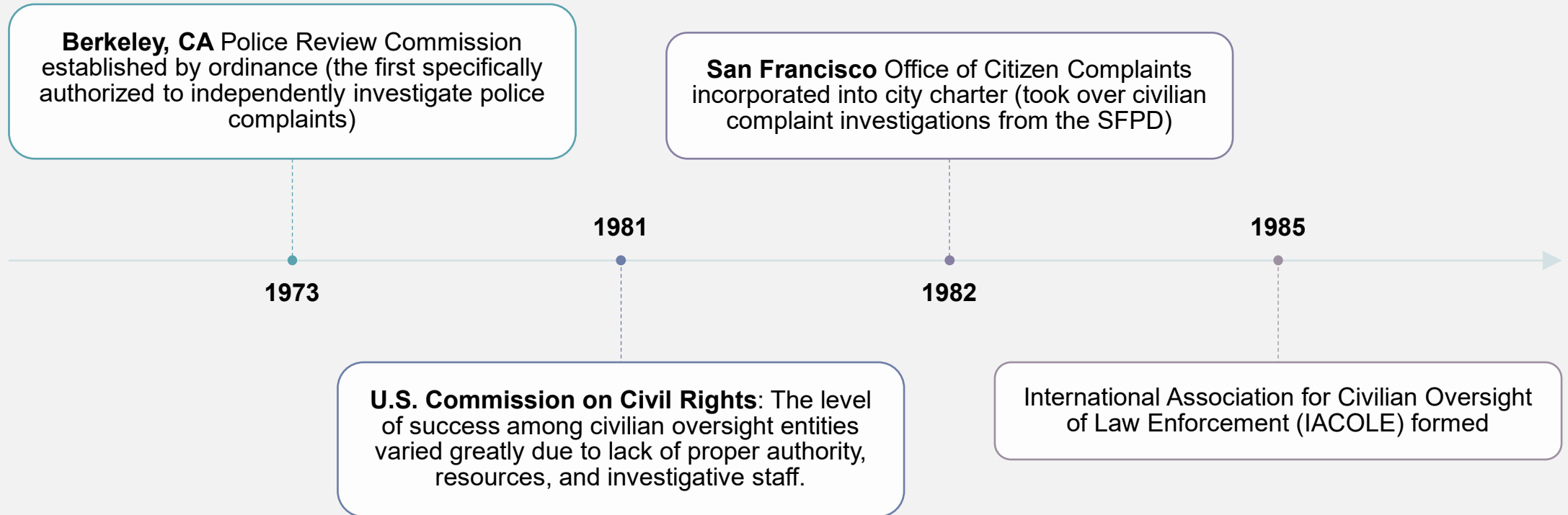
1967

1958

1969

Kerner Commission highlighted the “abrasive relationship between the police and minority communities” and recognized the lack of “effective mechanisms for handling complaints against the police.” Recommendation: “A specialized agency, with adequate funds and staff, be created separate from other municipal agencies to handle, investigate and to make recommendations on citizen complaints.”

1970s – 1980s: Emergence of Investigative Models



1990s: Expanded Powers, Independent Auditors/Monitors

Seattle, WA, ordinance established an independent civilian auditor to audit and review civilian complaint investigations completed by Seattle PD's Internal Investigations Section

1991

1993

San Jose, CA, ordinance created an Independent Police Auditor to review completed complaint investigations, analyze complaint trends and statistics, and review and recommend improvements to SJPD policies and procedures

National Association for Civilian Oversight of Law Enforcement (NACOLE) established

1995

**Recent Years:
Reactive → Proactive**

Reactive

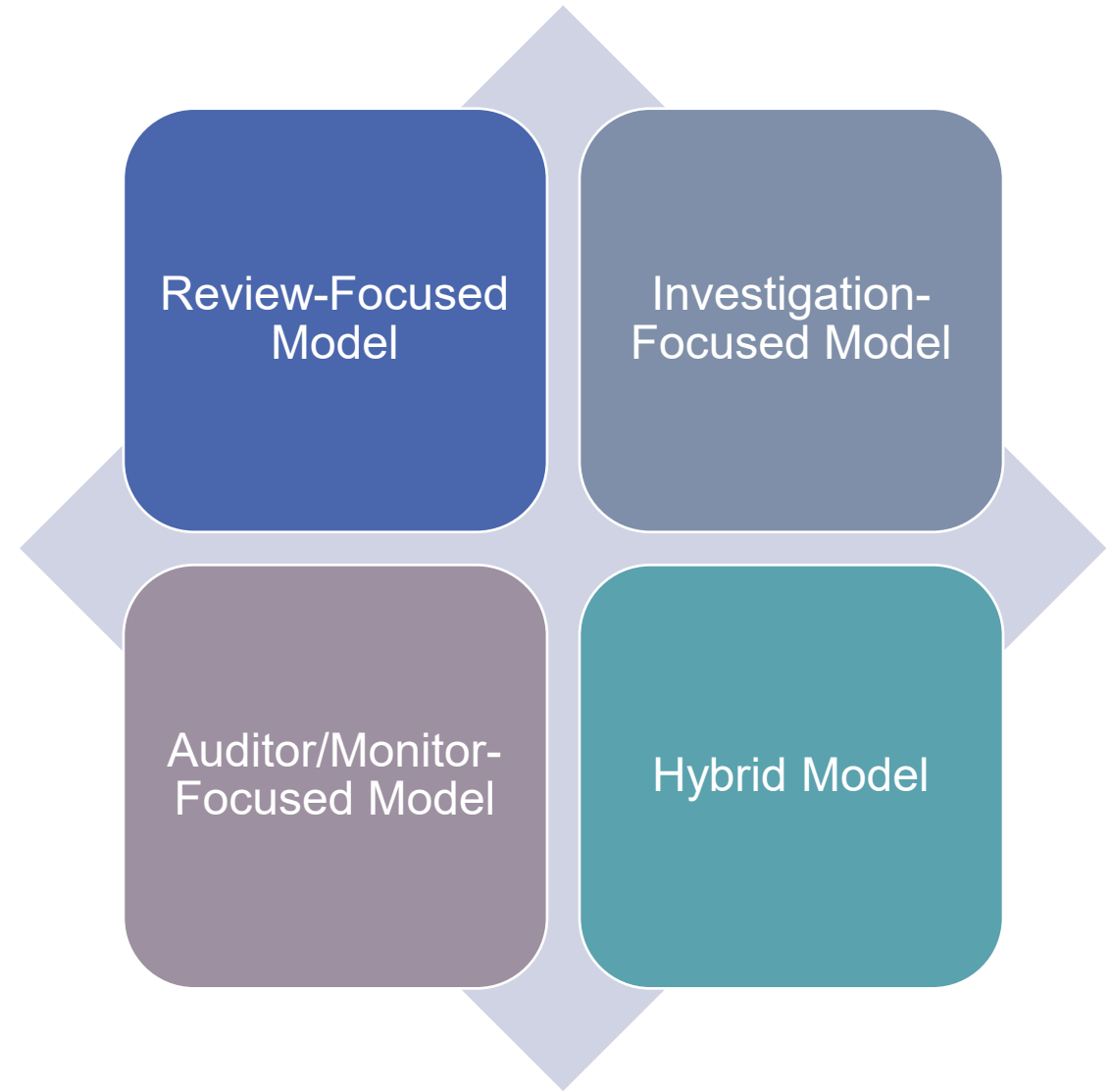
- Created after a high-profile incident or scandal
- Responds to complaints
- Emphasizes legalistic rules
- Uses adversarial, administrative process
- Recommended sanctions for officers
- Relies on deterrence

Proactive

- Identifies potential problems
- Focuses on organizational change
- Focus on prevention
- Builds partnerships with law enforcement
- Creates bridges between law enforcement and the community

OVERSIGHT MODELS AND RANGES OF AUTHORITY

Models of Civilian Oversight





Baltimore Civilian Review Board. Photo by the Capital News Service.

Review-focused Models

- Review completed complaint investigations
- Typically, a volunteer board/commission
 - Some/all members appointed by the mayor or city council
 - Authorizing legislation may designate seats to representatives from community groups
 - Staff support for administrative and clerical functions
- Public meetings in accordance with state law and union contracts

Range of Authority: Review-focused Models



Receive complaints and forward them to LE for investigation



Remand cases back to LE's internal affairs for further investigation



Hear appeals from complainants or subject officers



Recommend case dispositions, discipline, or revisions to departmental policies and procedures



Hold public forums



Conduct community outreach



Nashville's Community Oversight Board meets for the first time at the Metro courthouse on Tuesday, Feb. 12, 2019. *Shelley Mays, /Tennessean*

Investigation-focused Models

- Conduct investigations independently of internal affairs units OR replace internal affairs units
- Paid, professionally trained investigative staff
 - Along with a volunteer board/commission

Range of Authority: Investigation-focused Models



Conduct interviews, gather evidence, prepare investigative reports, make recommendations



May be limited to investigating only certain allegations



May be limited to investigating allegations based on the who filed the complaint



Greater access to LE records and databases compared to review-focused models



More likely to be authorized to subpoena documents and witnesses compared to other models

AUDITOR/MONITOR- FOCUSED MODELS



Office of Inspector General Public Safety's IG Lisa Judge presenting to the Seattle Community Police Commission (Facebook photo)

- Promote organizational change by addressing systemic issues, analyzing patterns and trends, and addressing policy and procedure deficiencies
- Paid staff (Inspector General, Police Monitor)

Range of Authority: Auditor/Monitor-focused Models



Broad mandates to audit, monitor, investigate, and review a wide range of LE policies, practices, and procedures
(e.g., complaints, discipline, training, staffing and recruitment, use of force, crime-prevention strategies)



Access to a broader range of department records and information; more direct access



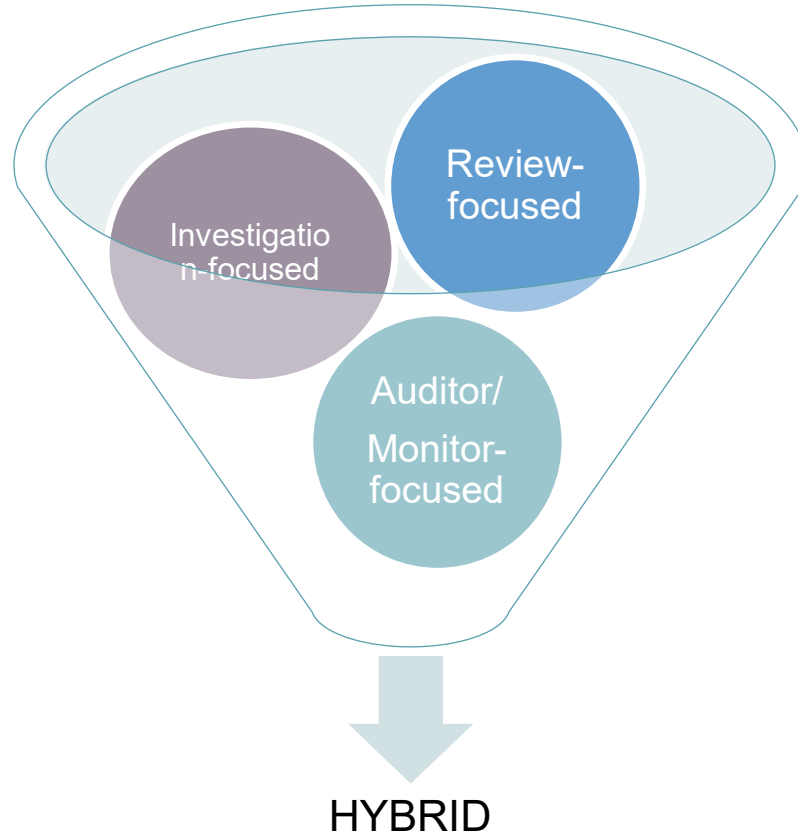
Review/monitor complaint process to ensure fairness, thoroughness, and compliance with policies and procedures



Audit civilian and internal complaints, reviewing various aspects (e.g., intake, classification, adjudication, discipline)



Actively participate in open investigations

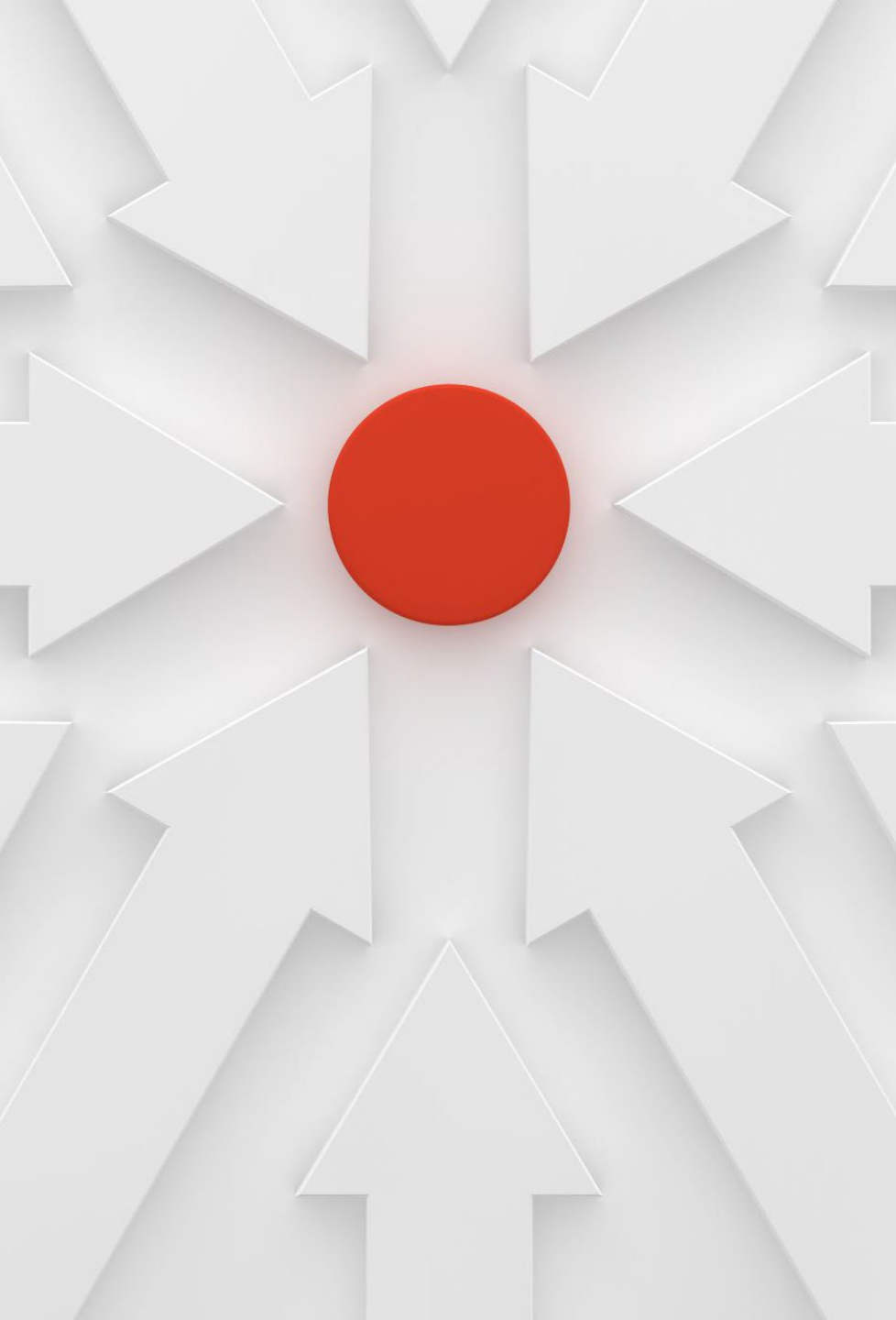


HYBRID MODELS

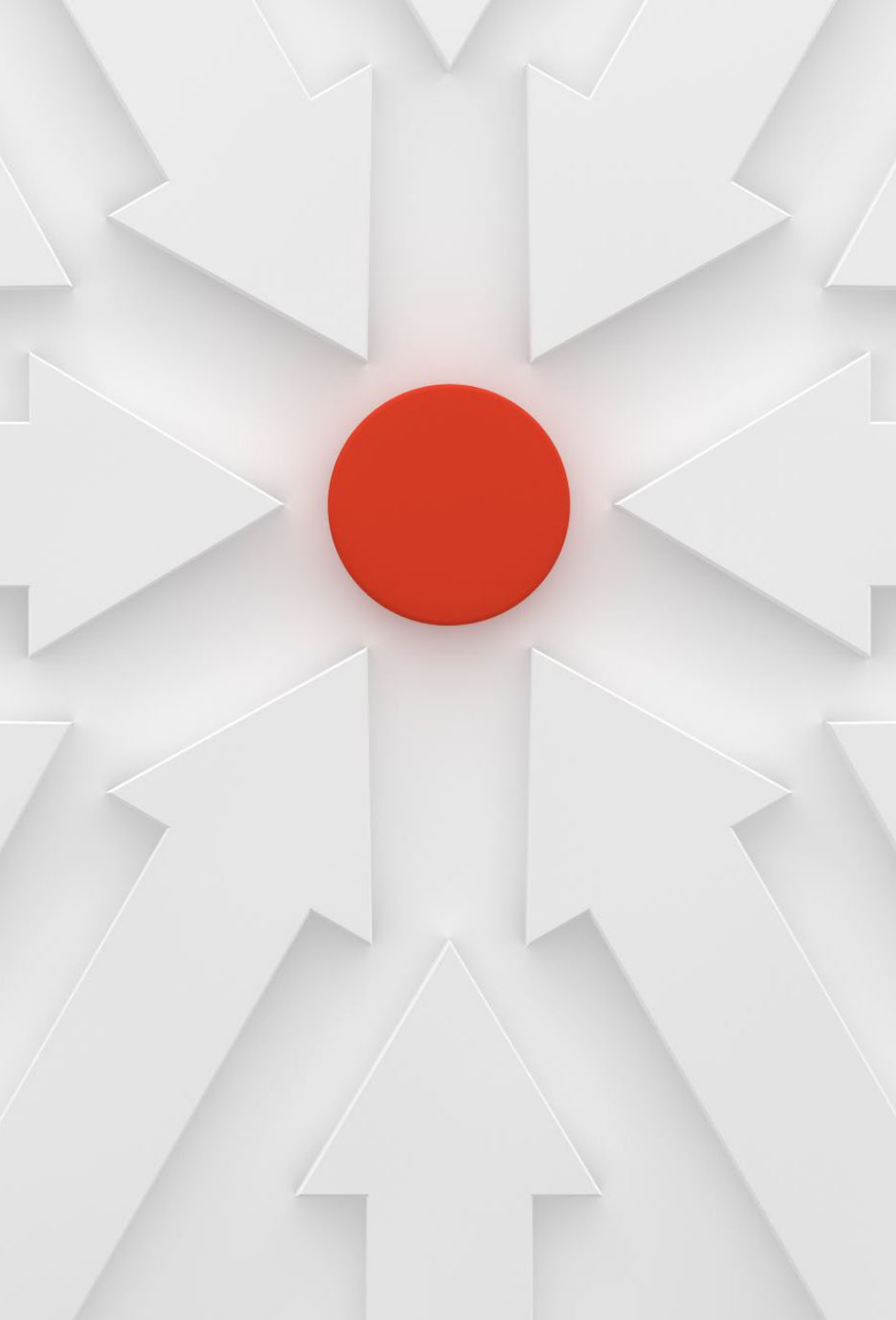
Hybrid Agency - One agency performing oversight functions of multiple models

Hybrid System – Multiple entities in a single jurisdiction providing oversight of the same LE department

PRINCIPLES FOR EFFECTIVE OVERSIGHT

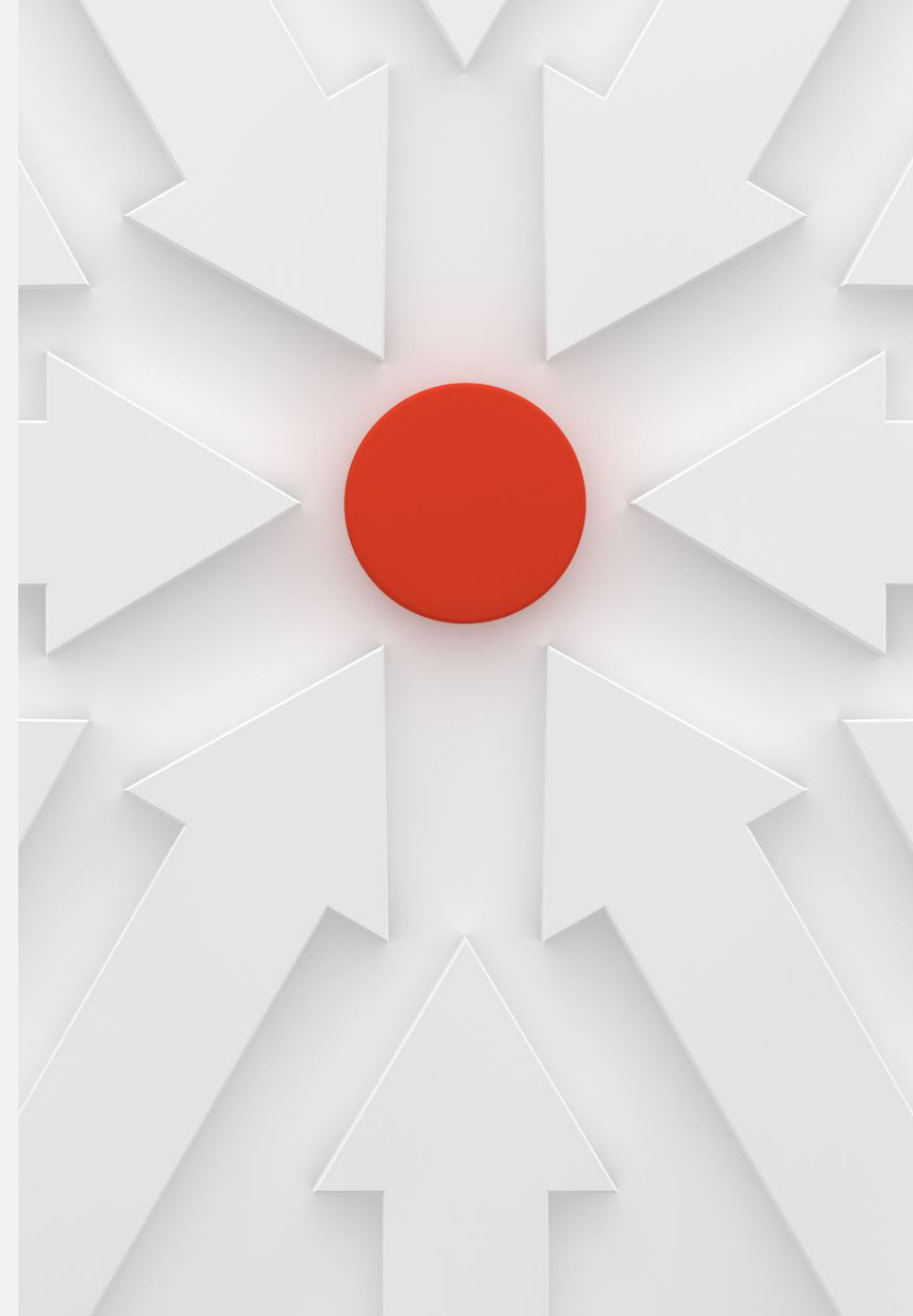


1. Independence
2. Clearly defined and adequate jurisdiction and authority
3. Unfettered access to records and facilities
4. Access to LE executives and internal affairs staff



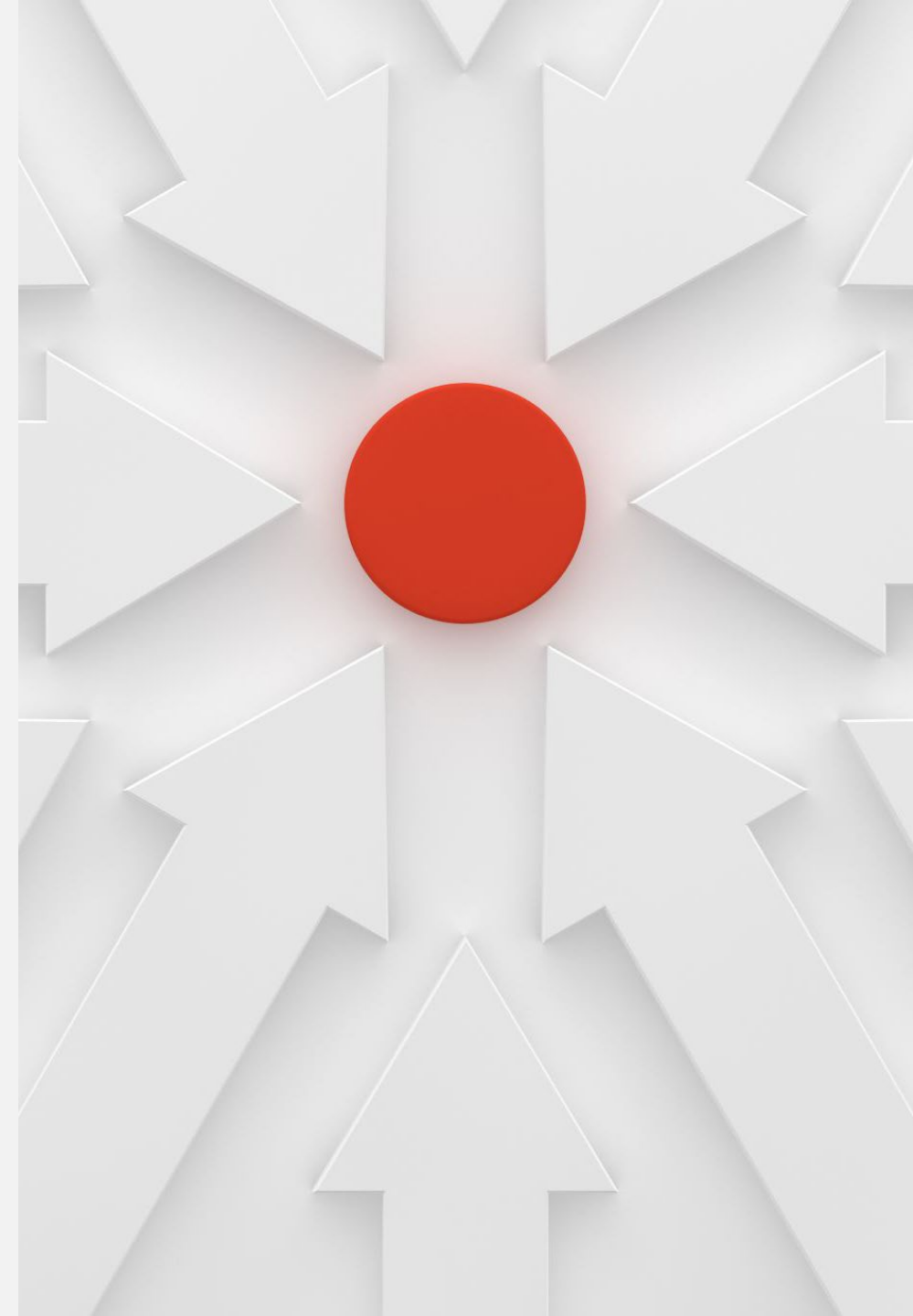
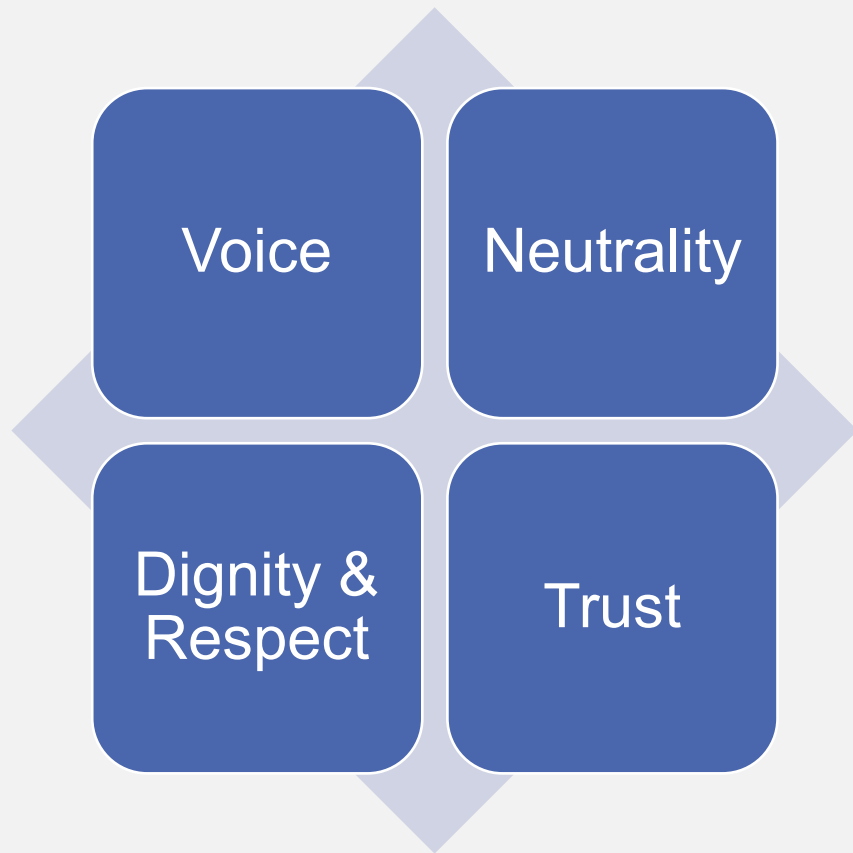
- 5. Full cooperation
- 6. Sustained stakeholder support
- 7. Adequate funding and operational resources
- 8. Public reporting and transparency

- 9. Policy and pattern analysis
- 10. Community outreach
- 11. Community involvement
- 12. Confidentiality, anonymity, and protection from retaliation



13. Procedural justice and legitimacy

Key Elements of Procedural Justice



13. Procedural justice and legitimacy

Legitimacy in Policing

- Police are trustworthy, honest, and concerned about the well being of the people they deal with
- Police authority ought to be accepted
- People should willingly accept police decisions and follow their directives
- People should comply with the law and cooperate with police

Legitimacy in Oversight

- The oversight agency is trustworthy, honest, and concerned about the well being of the people they deal with
- Oversight and its authority ought to be accepted
- People should accept oversight entity decisions and recommendations
- They should comply with the law and cooperate with the oversight agency



Gianina Irlando
NACOLE Board of Directors
girland@bart.gov