

**Brief**

# Democratizing Police Oversight

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## Key Takeaways

**States are increasing public participation in police oversight at a variety of levels.**

**Increasing use of oversight boards and changes in their composition, and collecting and sharing policing data are some of the ways legislatures hope to bring the public into the fold.**

Various high-profile events in 2020, including the death of George Floyd, brought America's system of policing sharply into focus. Public interest—and outcry—in changing training and certification requirements, standards for use of force and new systems for decertification reached historic levels. In a [2022 Gallup poll](#), 9 in 10 Americans supported changes to policing, with 5 in 10 supporting “major changes” and 4 in 10 supporting at least “minor changes.”

Not only did state legislatures act on the public's interest, but they also worked to bring the public into the fold. The creation or revision of oversight and review boards, police officer standards and training (POST) restructuring, and changes to transparency of officer records were some of the more prominent options adopted by legislatures since NCSL began tracking the issue in 2020. Nationwide, states enacted at least 92 of the 659 police oversight bills introduced from 2020-22, according to NCSL's [Legislative Responses for Policing](#) database.

## A Shift in Oversight Approaches

Oversight bodies vary greatly across local jurisdictions and laws in the states reflect these myriad approaches as well. However, common oversight functions can include intake and investigation of complaints, participation in the disciplinary process, and reviewing, setting or recommending policy or changes to policy. The degree of public transparency of proceedings and access to department records is also variable across jurisdictions. There are [various models](#) of oversight, but increasingly oversight bodies represent hybrid approaches with oversight functions designed to meet the needs of individual communities.

Oversight bodies have received significant legislative attention in recent years with states authorizing the creation of new community or civilian review boards or modifying existing laws. In Virginia, [S 5035 \(2020\)](#) gave local jurisdictions the statutory authority to create civilian review boards that “shall reflect the demographic diversity of the locality.” The legislature explicitly defined the powers given to the boards, which touched on nearly every aspect of policing. Many of these enumerated powers were later included in proposed legislation in other states as well. These include:

- Receiving, investigating, and issuing findings on complaints made by the public.
- Investigating and issuing findings on the use of force, including deadly force.
- Making binding disciplinary decisions including suspension with or without pay, or even termination.
- Investigating agency and departmental policies, practices, and procedures, including reviewing investigations conducted internally.
- Requesting expenditure reports and making budgetary recommendations.
- Publishing reports on law enforcement activities, investigations, findings, determinations and other oversight activities.

In California, the legislature authorized counties to create sheriff oversight boards with [A 1185](#) (2020). In California's case, members of these boards are appointed by the county board of supervisors. Counties may also opt to create independent offices of inspectors general to assist the boards with their oversight work. Each board and inspector general created under the new law was given statutory power to issue subpoenas for the following:

- Any person as a witness on any subject matter within the jurisdiction of the board.
- Any officer of the county in relation to the discharge of their official duties on behalf of the sheriff's department.
- Any books, papers, or documents in the possession of or under the control of a person or officer relating to the affairs of the sheriff's department.

## Changes in Board Composition

Arizona, Maryland and Oregon all made changes to the composition or procedures of review boards in their respective states. In [Arizona](#), the legislature enacted a requirement that members of review boards undergo specialized training specific to law enforcement functions.

In [Maryland](#), the legislature empowered the Baltimore City Police Commissioner to remove officers from consideration of promotion if the board sustains certain misconduct complaints. And in [Oregon](#), the legislature incorporated civilian or community oversight boards into its statutory definition of a "criminal justice agency."

In 2022, New Hampshire created a statewide oversight body. Rather than having local level civilian review boards, [NH H 1682](#) (2022) created a law enforcement officer review committee housed in the state's POST Council. The committee has review authority over complaints and investigations of misconduct carried out by law enforcement agencies. Committee hearings are not public, however, after an investigation, the committee can direct a staff attorney to present a recommended finding to the POST at a public hearing.

In addition to creating this committee with non-law enforcement community members represented, New Hampshire also statutorily added more people to the POST. The law now requires a professor who primarily teaches criminal justice, an officer with a rank under lieutenant, and two additional community members, bringing the total to four community representatives.

Vermont also established [statewide oversight](#), expanding the duties of the state's Criminal Justice Council to include maintaining statewide standards of law enforcement officer professional conduct by accepting and tracking complaints, adjudicating charges of unprofessional conduct, and imposing certification sanctions. The same legislation also restructured the membership of the board to include an employee of the Vermont League of Cities and Towns, an appointment from the Center for Crime Victim Services, an appointment from the Human Rights Commission, an appointment from the Vermont Network Against Domestic and Sexual Violence and seven members of the public without connections to law enforcement. Of those seven appointees, one is required to be a mental health crisis worker, one must have lived experience of a mental health condition or psychiatric disability and at least two should be from nominations submitted by local NAACP chapters in the state.

New Mexico legislation blended the expansion of review boards with another emerging policy tool: restructuring and changing the composition of state POST boards. The legislature [divided the Law Enforcement Academy Board](#) and created two more specialized boards in its place. The new Officer Certification Board is tasked with granting, denying, revoking and suspending officer certifications, and the officer training council is separately charged with developing new standards and training requirements.

In states that kept their POST boards, civilians are being given more roles and representation. South Dakota and Vermont now require members of the public to sit on oversight boards. South Dakota [S 60 \(2021\)](#) defined members as those who have never served as a certified law enforcement officer. In Vermont, [S 124 \(2019\)](#) specified that public membership on the state board include at least one mental health crisis worker, one with lived experience with a mental health condition or psychiatric disability and two selected from nominations submitted by the NAACP.

## Accessing Policing Data

State expansion of police officer oversight goes beyond increasing public input. States have begun democratizing the data and records that law enforcement agencies collect and use. Of the bills related to data and transparency, NCSL has identified at least 58 bills enacted by states out of over 300 bills that were introduced.

In recent years, at least 11 states—California, Colorado, Delaware, Illinois, Indiana, Massachusetts, Maryland, Nebraska, North Carolina, Oregon and Washington—required creation of public means for sharing decertification or disciplinary information. For example, in North Carolina, [NC S 300 \(2021\)](#) directed the state's POST board to develop and maintain a statewide database accessible to the public that contains all revocations and suspensions of officer certifications. Oregon enacted a similar policy with the passage of [OR H 3145 \(2021\)](#), which creates a public database containing suspensions and revocations of certification along with any discipline of officers involving economic sanctions.

Other states increased access to this information without providing public access. Legislation in New York repealed existing confidentiality laws. In other states law enforcement agencies are now required to contribute to—and cross reference—confidential employment information. [Alabama H 411 \(2021\)](#) and [Virginia H 5104 \(2020\)](#) both require hiring agencies to check previous employment history prior to hiring, with the Alabama law requiring the creation of a confidential database for agencies to use.

Greater access to law enforcement agency information goes beyond certification and decertification, data. Some state legislatures require agencies to publish their policies on the use of force or data detailing interactions with the public.

In [Wisconsin](#), lawmakers required law enforcement agencies to provide instructions to the public online on how to request a department's policies, and required they be provided free of charge. Alternately, [Alaska](#) required its department of public safety to publish the policies themselves online, with some exceptions.

## Setting New Standards

Increasingly state legislatures have taken a larger role in the development of law enforcement standards at the state level with some states crafting those standards in legislation and others referring the task to POST boards.

For example, at least [20 states](#) addressed state level standards for use of force. Of these, nine—Colorado, Connecticut, Illinois, Maryland, Massachusetts, Oregon, Vermont, Virginia and Washington—significantly expanded statutory use-of-force standards, creating more comprehensive statewide approaches.

Utah, on the other hand, passed [legislation](#) tasking the state POST council with creating minimum standards for officer misconduct, reporting misconduct, and the [creation](#) and annual review of a statewide use-of-force standard.

While elected lawmakers and the legislative process provided democratic oversight in the states that legislated standards, the POST council in Utah will have a similar role on an annual basis. State statutes require the council to have a minimum of three at-large members in addition to other enumerated representatives.

The Vermont legislature adopted a similar approach. The Vermont Criminal Justice Council was charged with studying policies related to body cameras, military equipment and facial recognition. To accomplish this with community input, the council's membership was [significantly expanded](#). The new members now include, among others, representatives from the Vermont League of Cities and Towns, the state's Center for Crime Victim Services, the Human Rights Commission, the Vermont Network Against Domestic and Sexual Violence, and more.

## A Final Word

These changes in oversight and transparency measures represent an ongoing interest in continuing to involve legislatures and the public in law enforcement accountability. Viewed in the context of a broader shifting policing landscape, including [systemic changes to police officer certification and decertification](#), it is clear states are working to further democratize policing in America.

## Related Resources

Updated August 16, 2023

### **How the States and Congress Can Protect Judicial and Election Workers**

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#### **Civil and Criminal Justice, Elections**

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An overview of framework designed by the Mental Health Matters National Task Force to promote workforce mental health.

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Updated August 13, 2023

### **The Legislative Primer Series on Front-End Justice: Deflection and Diversion**

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#### **Civil and Criminal Justice**

*Graphic*

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