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# Women's Justice Center Centro de Justicia para Mujeres

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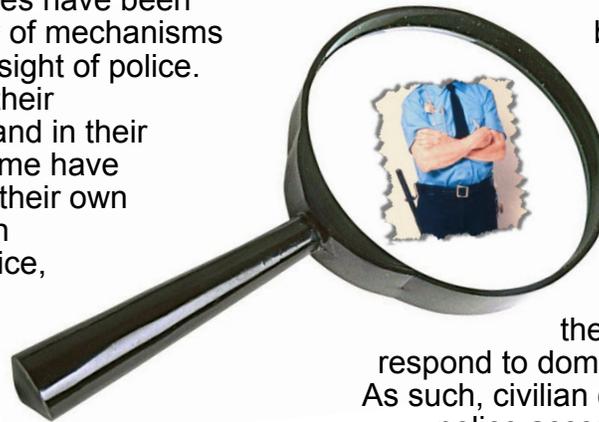
## Making Civilian Oversight of Police Work for Victims of Violence Against Women and Children

*When police fail to respond properly to violence against women, what can women do to hold police formally accountable? Civilian Police Oversight Boards may be one answer. But it looks like we're going to have to push them to do it.*

The U.S. and many other western countries have begun to seriously answer the big question of who polices the police. In the last twenty years, over 200 mostly larger U.S. municipalities have been implementing a variety of mechanisms to provide civilian oversight of police. These entities vary in their composition, powers, and in their degree of success. Some have the power to carry out their own investigations of citizen complaints against police, some merely oversee police internal investigations of complaints. Some have subpoena power, some don't. Some have significant disciplinary power over police, some can only make disciplinary recommendations.

But most all civilian oversight entities share two things in common. One, they share a core mission to act on the community's behalf to watchdog, expose, and address abuses of power by police. Of particular interest to women is that while police cannot generally be held accountable in a court of law for failing to properly

enforce violence against women laws, civilian oversight boards operate on different standards than the courts.



Civilian oversight boards do have the power to investigate police for failing to follow departmental policies, as well as for violating state laws. Most police departments have very clear and detailed written policies on how their officers are expected to respond to domestic and sexual violence. As such, civilian oversight boards can hold police accountable when police fail to respond to violence against women according to those policies.

A second common feature of civilian oversight boards is also of particular interest to women. Civilian oversight boards are mostly public, governmental bodies, funded and ordained with your tax dollars. As such, police oversight boards cannot discriminate. They must respond to all members of the community. Police oversight boards cannot just respond

to police abuses affecting one sector of the community or another. Under well established civil rights law, civilian oversight boards cannot ignore women's

plight with police abuse even though the police abuse most experienced by women is generally different from the kinds of police abuse experienced mostly by men.

For a brief overview of the history and forms of civilian review in the U.S., see Internal and External Oversight of Police in the U.S. (2005) by Merrick Bobb [www.parc.info/client\\_files/Altus/10-19%20altus%20conf%20paper.pdf](http://www.parc.info/client_files/Altus/10-19%20altus%20conf%20paper.pdf)

For a list of links to police oversight entities in the U.S. and other countries see [www.nacole.org/index.php?option=com\\_content&view=article&id=51&Itemid=57](http://www.nacole.org/index.php?option=com_content&view=article&id=51&Itemid=57)

## **Despite Mandates to Serve the Whole Community, Civilian Oversight Boards are Generally Ignoring Women's Plight with Police**

On first thought, if your city or county has a police oversight board, whatever its form, it would seem to be an ideal place for women to seek remedy for her complaints when police fail to respond properly to cases of violence against women, either in individual cases or systemically. But the disappointing reality is, even with the growing sophistication of oversight boards around the country, the process has virtually totally ignored police abuses of power that most frequently and most significantly affect women.

As you can easily see looking at the protocols and daily activities of most police oversight boards,

these entities are almost exclusively focused on issues of over-aggressive policing; i.e. police excessive use of force, police planting evidence, racial profiling, improper searches, over-aggressive response to mentally ill, in-custody deaths, etc., the forms of police abuses that primarily affect suspects and arrestees, the vast majority of whom are men.

But those abuses are only one half the picture of police misconduct and abuse. Police abuses against women most frequently take the form of denial of critical police services; malicious refusals to write reports, refusals to fully investigate, to log all the evidence, to

arrest perpetrators, to issue protective orders, malicious failures to provide interpreters, misinforming women of their rights, disregard of women's safety, etc., in short, police failures to properly investigate and enforce the violence against women laws, a denial of equal protection to women.

Yet as widespread and dangerous as these forms of police abuse are to women, they are rarely mentioned in police oversight definitions of abuse, nor are these forms of police abuse generally included in their trainings, protocols, or best practices documents, nor in academic discussions of police oversight.

## Denial of Critical and Adequate Police Services is Every Bit as Dangerous and Oppressive to Women as is Over-Aggressive Policing to Minority and Ethnic Communities

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There appears to be no recognition among civilian oversight personnel that malicious refusals of police to act are every bit as dangerous and oppressive to women as is over-aggressive policing to minority and ethnic communities. Nor is there any recognition that by ignoring the police abuses that disproportionately affect women, civilian oversight boards are ignoring their obligation to serve the whole community.

In fact, given that a third of all police calls are for domestic violence, and more calls yet are for sexual violence and child abuse, and given that policing is structurally, culturally, and stubbornly male dominated, civilian oversight boards should be especially watchful of police responses to female community members who are victims of gender based violence. It is unacceptable that civilian oversight bodies which are publicly ordained to handle police abuses against all citizens, then proceed to ignore police abuses against half the civilians.

This has to change. There's no reason we can't make it change. And, in fact, we have a well established legal basis for making it change. As official public, governmental bodies, civilian oversight boards cannot continue to selectively focus their oversight services on police abuses that mostly affect men. Since this obligation is well established in civil rights law, women should be able to use that argument to push civilian oversight boards to fully respond to women's plight with police.

### How to Make Civilian Oversight of Police Respond to Women

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- ✿ Start now to encourage and help women make their complaints about police to their civilian oversight boards. There's nothing in the charters of any oversight board that says they can't respond to these cases now. Though few and far between, there are already cases where civilian oversight boards have sustained women's complaints of police failing to respond properly to domestic violence.
- ✿ Demand that the mandates, policies, protocols, trainings, outreach materials, and daily activities of your local civilian oversight board include complete information on police failure-to-act abuses in violence against women cases. Remember, because review boards are public entities, all their documents must be made available to you on request. (An exception may be for documents pertaining to an open investigation.) Also, obtain a copy of your police department's written policy for handling domestic and sexual violence cases. This document is also on the public record and must be provided to you on request.
- ✿ Make sure your police oversight board understands that police disregard and mishandling of violence against women cases is a violation of women's civil rights to equal protection of the law. (See federal civil rights case of Macias vs. Sonoma County Sheriff's Dept. at [www.justicewomen.com/macias\\_case\\_index.html](http://www.justicewomen.com/macias_case_index.html))
- ✿ Protest your civilian review board's inattention to police abuses against victims of violence against women and children. Go to the city council, to the review board itself, and to your community. Remind them at every step, that because civilian review boards are public entities, they cannot discriminate in providing their services, i.e., they cannot disproportionately focus on police abuses that principally affect men, while virtually ignoring the kinds of police abuses that primarily affect women.

One of the most critical places to direct your protest is to the National Association of Civilian Oversight of Law Enforcement (NACOLE) at [www.nacole.org](http://www.nacole.org), or on NACOLE's list serve at <http://groups.yahoo.com/group/policeoversight/?yguid=50137826>.

- ✿ Help write protocols to be used by your civilian oversight board for investigating police mishandling of cases of violence against women and children.
- ✿ Make sure that civilian oversight outreach materials to the community include specific information on police mishandling of cases of violence against women and children. Make sure these materials encourage women to make formal complaints to the civilian review board when their cases are mishandled by police.

## Checklist for Effective Civilian Oversight of Police in Violence Against Women Cases

The following are qualities needed for overall effectiveness of civilian review of police, along with the specific qualities needed to make civilian review work for women.

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- ✿ **Membership Must Be Independent and Representative:** The membership of your civilian oversight board must be completely independent of police, for obvious reasons. This means both active duty and retired police personnel should not be appointed to the board. In order to be representative, and to correct civilian oversight's current failures to deal with police abuses that primarily affect women, police oversight boards should include women in their proportion to the population, and should include women with knowledge of violence against women issues.
- ✿ **Policies, Protocols, and Reports:** Because civilian oversight boards are public entities, there are formal documents stating their authority, mandate, policies, procedures, and reports, all available to the public on request. These documents should include clear and complete information covering the kinds of police abuses primarily experienced by women.
- ✿ **Subpoena Power:** Civilian oversight boards must have subpoena power in order to be able to make police officials appear before the board, and to make police officials provide police documents essential to the board's investigations.
- ✿ **Training:** Civilian oversight boards have sometimes been ineffective because their members have been unfamiliar with proper police procedures, police policy, investigative procedures, legal standards, etc. But even when police oversight boards do get this training, issues relevant to proper police response to violence against women have been ignored in the curriculum. As such, it's crucial to insist that members of your civilian review receive full training in proper police handling of domestic violence, sexual violence, sex trafficking, child abuse; training sufficient so they can easily recognize when police have failed to effectively respond to these cases.
- ✿ **Own Initiative:** The power of 'own initiative' means that civilian oversight boards can initiate their own investigations of police rather than relying on community members to come forward with a complaint as the sole basis for opening an investigation. 'Own initiative' powers are especially important for handling police abuses that affect women because those abuses tend to be systematic. For example, if a civilian oversight board begins to hear case after case of police refusing to fully investigate rape cases,

with 'own initiative' powers, the civilian review board can then open up an investigation of police handling of all rape cases at that police agency.

- **Civilian Oversight Should Cover District Attorney Abuses:** District Attorneys are sworn law enforcement officers. When a suspect or arrestee is formally charged with a crime by the district attorney's office, there are still many serious abuses that can be perpetrated against the person by the district attorney's office. But at that point, the defendant will be assigned a defense attorney to look after the defendant's rights, so civilian oversight at that point would be redundant.

Because civilian review has been so narrowly focused on the law enforcement abuses that happen to suspects and arrestees, civilian oversight has not even considered covering abuses perpetrated by district attorneys because the defendant gets a defense attorney.

However, if civilian oversight truly looked at the law enforcement abuses women generally encounter, they would see a very different story, one in which women have no protection from district attorney abuse at all.

As with police, the kind of abuse women experience from district attorneys is generally different from district attorney abuses experienced by men. District attorney abuses of women are generally of the form of refusing to adequately prosecute violence against women cases when there is more than sufficient evidence to do so. When this happens, there is no defense attorney or any other official in place to stand up for her rights. As such, if civilian review of law enforcement is serious about covering law enforcement abuses against all community members, they should include investigation of alleged abuses by district attorneys, most particularly in violence against women cases where district attorney abuses of power are so prevalent.



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