University of Oregon Police Department Oversight Report

UO Police Department Oversight Working Group and Vice President for Finance and Administration

August 18, 2011

Background
In January 2011, a working group (Group) was appointed by vice president for finance and administration Frances Dyke to research and consider possible oversight models for the University of Oregon police department. The Group was charged to: “Review possible UO Police Department oversight models, and report to the University’s executive leadership team about the advantages and disadvantages of the models reviewed. It is the goal that the oversight models reviewed by the working group will be culturally aligned to the campus community, equitable, transparent, understandable, accessible, representative of the campus population, and timely.”

In this context, “culturally aligned” means a system that acknowledges and balances campus expectations for participation, disclosure and communication, as well as reflects the unique nature of the campus community as compared to the larger community. In addition to the attributes listed above, the oversight system should also demonstrate accountability and responsibility to the campus community.

The working group reviewed findings from a survey of police oversight practices from other universities and cities, as well as a U.S. Department of Justice white paper about different oversight models. The working group submitted its report to vice president Dyke in June 2011. She reviewed the document, met with executive director and chief Doug Tripp and assistant vice president Brian Smith and recommended revisions. This report is the culmination of those efforts. It is recommended that the Police Advisory Council alternative be adopted.

An oversight mechanism is required in Oregon Senate Bill 405, signed by the Governor, which authorizes the Oregon University System to establish university police departments. The legislation states in part: “When a university establishes a police department and commissions one or more employees as police officers, the president of the university, in cooperation with the chief of the police department, shall establish a process by which the university will receive and respond to complaints involving the policies of the police department and the conduct of the police officers.”
The University President will determine ultimate accountability for the oversight mechanism (i.e., to whom it reports at the university) in accordance with the legislation.

The Group reviewed and discussed oversight models found in municipalities and universities both nationally and internationally. The Group also ascertained the scope of current UO public safety activity. The Group discussed the importance of creating a system that was appropriate to the number of complaints expected with the need to provide a transparent, accessible, and responsive oversight opportunity.

Other Jurisdictions
Various cities and universities were surveyed about their police oversight mechanisms. They were asked whether they have a police commission, a police review board, or both. From some selected respondents, the following information was obtained.

Eugene, Oregon has both a police auditor that receives complaints and a civilian review board that provides input about the fairness and diligence of police misconduct investigations. Additionally, the Eugene Police Commission acts in an advisory capacity to the City Council, the Chief of Police and the City Manager on police policy and resource issues. Springfield, Oregon has neither a police commission nor a police review board.

The University of California-Berkeley operates with a police review board that also includes police commission functions. It administers citizen complaints against the sworn members of the university police department, and monitors and reviews departmental policies and procedures. The University of Georgia has neither a police commission nor a police review board.

The University of Michigan-Ann Arbor structure includes both a police commission as well as an oversight committee mandated by state law. The state law enables higher education institutions to grant their public safety officers the same powers as police officers but only after the establishment of a public safety department oversight committee. This independent committee addresses grievances and complaints by persons against university police officers or the department. The committee may make recommendations concerning such grievances to the University of Michigan Executive Vice President and Chief Financial Officer, including recommendations for disciplinary action. The six-member committee is comprised of two student members, two faculty members (one Senate faculty and one non-Senate faculty), and two staff members (one union and one non-union), who are nominated and elected by their peers for two-year terms.
Finally, the University of Wisconsin-Madison has neither a police commission nor a police review board. Complaints are handled internally by the University police department through written or oral communication with a police supervisor.

**Goals of oversight system**
These goals are established for the UO police department oversight mechanism:

1. Receive and respond to complaints involving the policies of the police department and the conduct of the police officers, including officer-citizen interactions;
2. Maintain an advisory stance;
3. Be representative, fair, accountable and protect all parties' rights;
4. Create transparency by documenting outcomes and results to maintain trust;
5. Be timely and responsive;
6. Address a complaint at the earliest opportunity possible;
7. Incorporate ease of access for the complainant;
8. Reflect the unique UO community and the culturally diverse nature of the campus;
9. Be fiscally responsible by effectively using resources relative to the needs being addressed;
10. Utilize best practices and measurement tools to continually adapt and improve the public safety organization and services provided;
11. Incorporate legal, labor, and risk management policies;
12. Foster a collaborative and learning environment partnership between the police department and its customers; and
13. Develop and nurture a culture in which police officers accept responsibility when appropriate, acknowledge their mistakes, and improve their performance in a culture of learning.

It will be important that the university invest in processes (alternative dispute resolution and adequate training of those involved in the oversight system) which are supported by helpful tools (for example, in-car video and officer-deployed audio systems). In addition, because access to the complaint process is key, it will be important to communicate complaint intake opportunities widely and effectively among the UO community.

**Different Oversight Mechanisms**
Four different oversight models are presented for consideration: (1) Police Advisory Council, (2) Police Review Board, (3) Police Commission, with or without an appeals board function, and (4) contracting with the Eugene Police Auditor. The benefits and disadvantages of each are described in this report.
It is important to note that specific details about the oversight model ultimately selected will need to be addressed before implementation. As an example, for either the police commission or police review board, such details would include oversight commission/review board structure and size, membership requirements, training of members, and the appointment process.

(1) Police Advisory Council
The office of the vice president for finance and administration recommends that this oversight model be adopted.

The UO currently has a Safe Campus Advisory Group that regularly convenes to review campus safety programs and strategies. The Safe Campus group provides feedback and recommendations to UO public safety leadership and other members of executive leadership on these topics. The Safe Campus Advisory Group is composed of representatives from a cross-section of the campus community to include faculty, staff, students and certain other representatives.

An oversight mechanism involving the UO Safe Campus Advisory Group would transform it into a Police Advisory Council (PAC) to review completed investigations of police misconduct allegations and to advise the police department on policy development.

The intake process for complaints would utilize internal administrative structures. Complaints would be received through the university police department, human resources, or student affairs. All complaints, regardless of how received, would be sent to university police department internal affairs personnel for follow-up.

Internal affairs staff would notify both the PAC and the vice president (whose portfolio includes the police department) of the filed complaints. Internal affairs would have the option of referring criminal cases to an external law enforcement agency.

Internal affairs would investigate and then report the investigation results to the PAC and the vice president. PAC would advise about the quality of the investigation to the vice president and the university police chief. The PAC could appeal the results of the internal affairs investigation to the president, with notification to the vice president and the police chief. The president may overturn or modify the police department’s internal findings and actions.

In sum, the general role of this structure would be to review the quality of completed investigations. The current Safe Campus Advisory Group would be converted into a
Police Advisory Council with a continuing role relative to policy and strategy engagement plus a quality assessment mechanism for the investigation of complaints.

**Strengths**
- Inexpensive to implement
- Nimble in the wake of an incident
- UO community members are already part of this group and would provide independent, third party oversight
- Membership represents different groups on campus – students, faculty and staff
- Comprehensively reflects the diversity, values and uniqueness of the UO
- Engaged in campus life
- Helps build trust with campus constituents; helps develop common unity – “community”
- Feedback would be provided from an outside viewpoint regarding policies, programs and strategies. This would be beneficial provided the police department was allowed to make the final decision about policy adoption

**Challenges/Weaknesses**
- Not as accountable as some would prefer

(2) Police Review Board
In this model, the university police department investigates allegations regarding officer actions and develops findings, which are then forwarded to the police review board. The board members review the department investigator’s case findings and recommend that the police chief either approve or reject the findings. The board’s role is to ensure a fair and thorough investigation of the complaint and to offer a determination of whether or not the Board concurs with the case outcome.

**Strengths**
- Establishes third-party review of investigation and complaint resolution process
- Enables complainant to request redress around specific officer behavior and the department’s response
- Builds public trust in complaint handling process through independent oversight and reporting on findings
- Would allow department to conduct investigations and submit findings to the board for review
- Officers would have more faith in the process due to having people familiar with law enforcement procedure conducting the investigations
- Provides transparency and accountability to police department’s constituents
Challenges/Weaknesses

- Expensive, may use too many resources given the need
- Not nimble in the wake of an incident
- Requires commitment of time by board members to participate in training and to review investigative materials outside public meeting setting
- Confidentiality inherent in legal and labor arenas may preclude public disclosure of complaints (i.e., employment actions are not subject to release)
- Focuses on past behavior versus organizational improvements or prospective performance changes
- More difficult to establish given legal parameters
- Officers would be wary of program until it had an established reputation regarding viewpoints and consistency with allegations
- Might initially cause officers to avoid incidents or contacts to avoid the possibility of receiving complaints
- Does not fully empower the police department to address complaints

(3) Police Commission

Another proposed oversight option is a Police Commission, with or without an appeals board function.

A police commission is a policy advisory board, providing information to police department leadership on emerging campus safety issues and recommending the development and modification of department policy. Some models also address training issues and make recommendations for budget priorities. The police commission can also respond to community complaints about police response to incidents. It may also be charged with conducting a regular review of complaint statistics. Many oversight systems in the United States are hybrid models that merge features from different oversight types into customized approaches, making it possible, for example, to establish an appeals board function that responds to dissatisfaction with the way conduct complaints are resolved. The commission could establish an annual work plan to determine which policies to work on during a year.

Without an appeals board

The commission-only model is a policy advisory board, and does not handle complaints involving the conduct of individual employees. This model emphasizes partnership between the commission and the police department to research and evaluate model policies, discuss the pros and cons of the different elements in a public setting, and create recommendations that reflect community values. A police commission can also provide a forum for critique of high-profile incidents, creating an opportunity to provide an accounting of the police response from both public safety and community
perspectives, to air concerns, and to consider if policy or training issues are invoked. Important policy review can occur from incidents, and ultimately lead to improved training and better policies. The commission can also periodically review complaint statistics to understand the magnitude and nature of complaints, providing a mechanism to assess the sufficiency of the current process. It also supports increased learning for both community members and officers and offers the opportunity to commend officers for exemplary performance. This could improve department morale and enhance officer professional development.

A police commission is an advisory board with an appointed membership that meets regularly in a public meeting setting.

*With an appeals board*

Under this option, the police commission would function as outlined above, but would also include an appeals board function. This is not a typical arrangement, but the university might choose to include such a function even though it is predicted to have a low need based on the historically small number of complaints generated by UO Department of Public Safety activities.

An appeals board might be comprised of a small subgroup of the police commission or created as an independent group that includes a few commission members. It would entertain appeals from departmental investigations of complaints. It would not review the quality of the investigation, but would focus on the outcome, and would advise the university police chief regarding that outcome.

*Strengths – Commission component*

- Membership represents different groups on campus – students, faculty and staff
- Comprehensively reflects the diversity, values and uniqueness of the UO
- Engaged in campus life
- Helps build trust with campus constituents; helps develop common unity – “community”
- Opportunity to be involved at ground level in setting up policies and procedures
- More collaborative model with high level of police participation and partnership required for success
- Requires fewer legal hurdles to set up
- Enables thorough discussion and greater understanding of police issues and challenges; consistent with learning environment culture of UO
Challenges/Weaknesses – Commission component

- Time- and staff-intensive, especially for police department to staff
- Need some continuity in membership to maintain productivity and effectiveness given the learning curve
- Expensive, may involve too many resources given the need
- Not nimble in the wake of an incident; policy development can take time
- If many members, would be difficult to schedule meetings
- Can be weakened or ineffective if not given adequate support from UO
- Does not address specific complaints about officer conduct, would need to establish a referral mechanism for that
- With the use of Lexipol-approved policies by the police department, a police commission may “muddy” the water about the appropriate policies to adopt
- Having non-sworn personnel recommend additions, deletions or changes to policies or procedures could prove troublesome, since such recommendations may not rely on best practices
- Risk and liability issues resolved through the use of Lexipol policies could be compromised by this structure

To be most effective, the UO employee staffing the Commission would need to be at a sufficiently high-level in the university hierarchy to adequately coordinate discussions involving complex issues.

Strengths – Appeals Board component

- Offers complainant the opportunity to request third-party review of case disposition that is outside the auspices of the public safety department
- May fill perceived void in existing complaint process

Challenges/Weaknesses – Appeals Board component

- Quasi-judicial in nature, triggers more legal and labor issues
- May duplicate existing administrative processes
- High-level of training for board members needed to maintain legal protections
- Difficult to maintain correct protocols when used infrequently
- More challenging to set up; requires more rigorous review of protocols, training requirements, access to information and confidentiality

(4) Eugene Police Auditor

As noted previously, the Eugene Police Auditor’s Office is charged with protecting the rights of citizens and strengthening the remedies when individuals charged with enforcing the law and protecting public safety violate those rights. The Police Auditor has three broad mandates: 1) to receive and classify complaints of police misconduct;
2) to audit the investigations based on these complaints; and 3) to analyze trends and recommend improvements to police services provided by the Eugene Police Department. In addition, the Police Auditor supports a Civilian Review Board which provides input about the fairness and diligence of the investigation process. Ultimately, the goal of the Civilian Review Board is to make the system of police accountability more transparent and increase public confidence in the manner that Eugene police conduct their work. The Civilian Review Board consists of seven members from the community appointed by the Eugene City Council.

The final oversight mechanism presented for consideration would involve the UO contracting with the Eugene Police Auditor’s office to receive and respond to complaints involving the policies of the UO police department and the conduct of UO police officers. Many details would need to be addressed with this option as it is the only one in which a different government agency would be responsible for the oversight of UO police functions.

**Strengths**
- Little work required by UO staff to operate
- Current Eugene Police Auditor’s office is highly regarded
- Builds public trust in complaint handling process through independent oversight and reporting on findings
- Would likely satisfy the greater community and boost community trust
- Eugene Police Auditor already has its own professional website with online commendation and complaint forms

**Challenges/Weaknesses**
- Would not reflect the unique UO community and would not be accountable to the campus community
- Little UO involvement in how the process operates
- Contracting costs unknown
- Possible negative perception if outside entity was recommending improvements to campus police services
- The need to redact information is essential as well as time-consuming and expensive
- Can be challenging for Board members to be impartial
- Would require significant UO Police Department staff time to liaise with the Auditor and to attend meetings as a resource for board members when a UO police department case was being reviewed
- Potential for administrative, management and operational challenges in contracting with an outside entity for this type of service
• Utilizing an outside resource could harm the community-specific police model the UO is working to achieve

UO Police Department Oversight Working Group
The Group included the following members:
• Ben Eckstein, President (2011-2012), Associated Students of the University of Oregon
• Linda King, Associate Vice President, Human Resources, UO
• Terry Leary, Human Resources Manager, Campus Operations, UO
• Adam Lillengreen, Public Safety Officer, Department of Public Safety, UO
• Nick McCain, National Communications Coordinator, UO Residence Hall Association
• Serena Parcell, Graduate Student, Master of Public Administration, UO
• Margaret “Margie” Paris, Dean, Law School, UO
• Jeannine Parisi, Community & Local Government Liaison, Eugene Water & Electric Board
• Amelie Rousseau, President (2010-2011), Associated Students of the University of Oregon (term of office concluded June 30, 2011)
• Paul Shang, Assistant Vice President and Dean of Students, UO
• Brian Smith, Assistant Vice President for Administration, UO (working group chair)
• Doug Tripp, Executive Director & Chief, Department of Public Safety, UO
• Glen Waddell, Associate Professor, Economics, UO
• Mark Gissiner, Police Auditor, City of Eugene (resource to the working group)
• Carolyn McDermed, Senior Associate Director/Assistant Chief, UO (resource to the working group)
• Greg Rikhoff, Director, Community Relations, UO (resource to the working group)