



February 2017

CAPITOL POLICE BOARD

Fully Incorporating
Leading Governance
Practices Would Help
Enhance
Accountability,
Transparency, and
External
Communication

Accessible Version

GAO Highlights

Highlights of [GAO-17-112](#), a report to congressional requesters

Why GAO Did This Study

The Board is charged with overseeing and supporting the Capitol Police. GAO was asked to review the Board's operations, including the Board's accountability and level of communication. This report examines (1) the roles and responsibilities of the Board and the Police Chief and the comparability of the Board's scope to other law enforcement oversight entities; (2) the extent to which the Board's Manual incorporates leading practices for accountability, transparency, and external communication, and how the Board implements these practices; and (3) Congressional stakeholder perspectives on the Board's approaches and adjustments to enhance them.

To complete this review, GAO analyzed relevant statutes and Board governing documents and operations. GAO also used internal control and corporate governance standards to articulate the key principles of accountability, transparency, and effective external communication; identified six leading practices that facilitate these principles; and analyzed the Board's Manual against each. GAO also interviewed Board members and staff, Congressional stakeholders, and experts selected for their knowledge of law enforcement oversight.

What GAO Recommends

GAO recommends that the Board revise its Manual to fully incorporate leading practices, including evaluating its performance, and engage with stakeholders and incorporate their views, as appropriate, on any changes. The Board did not state whether it concurred with the recommendation.

View [GAO-17-112](#). For more information, contact Gretta L. Goodwin at (202) 512-8777 or goodwing@gao.gov.

February 2017

CAPITOL POLICE BOARD

Fully Incorporating Leading Governance Practices Would Help Enhance Accountability, Transparency, and External Communication

What GAO Found

The Capitol Police Board (Board) has wide-ranging responsibilities and according to experts with knowledge of law enforcement oversight bodies, like civilian oversight boards, the Board's scope is unique by comparison. For example, the Board has authority for security decisions, as well as certain human capital and personnel matters, including the approval of officer terminations.

In 2013, the Board adopted a Manual of Procedures (Manual) that references its operations and establishes protocols for outreach with the Congressional committees and leadership offices (stakeholders) with whom the Board interacts. This Manual fully incorporated one and partially incorporated five of the six leading practices that facilitate the principles of accountability, transparency, and effective external communication; however, the Board has not always implemented these practices, such as notifying stakeholders that certain information on the Board's decisions and operations is available to them.

The Extent to Which the Capitol Police Board's Manual of Procedures Incorporates Accountability, Transparency, and Communication Leading Practices

Leading Practice	Connection to accountability, transparency, and communication	Extent to which Manual incorporates the practice
Define roles, responsibilities, and areas of authority	Promotes accountability	Partially incorporated
Oversee functions of the corporation (Capitol Police)		Partially incorporated
Conduct performance evaluations and reviews		Partially incorporated
Develop processes for internal functions of the board		Fully incorporated
Disclose information to stakeholders	Fosters transparency	Partially incorporated
Develop processes for communication with stakeholders	Enhances effective external communication	Partially incorporated

Source: GAO analysis. | GAO-17-112

Note: A determination of "fully incorporated" means that procedures in the Manual align with all activities associated with the leading practice; "partially incorporated" means that procedures in the Manual align with some activities associated with the leading practice; and "not incorporated" means that no provisions in the Manual align with any activities associated with the leading practice.

Some stakeholders raised concerns, such as the Board not adequately soliciting their input, and suggested adjustments to enhance the Board's approaches. Board officials told us that the Manual has not incorporated some leading practices, in part because they address activities beyond statutory requirements. Leading practices note that effective governing bodies make commitments to stakeholders that exceed basic requirements, and GAO found the Manual includes activities that go beyond what is statutorily prescribed. Working to fully incorporate leading practices into its Manual and operations would help the Board enhance its accountability, transparency, and effective external communication with stakeholders.

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February 7, 2017

The Honorable Charles Schumer
Minority Leader
United States Senate
The Honorable Roy Blunt
United States Senate

The Honorable Shelley Moore Capito
United States Senate
The Honorable Brian Schatz
United States Senate

The U.S. Capitol is one of the most recognizable symbols of American democracy and, as such, is a target for terrorist activity. The U.S. Capitol Police is responsible for protecting the Congress, as well as its members, staff, visitors, and facilities so that it can fulfill its constitutional and legislative responsibilities in a safe, secure, and open environment. By statute, the Capitol Police Board (Board) is charged with overseeing and supporting the Capitol Police, which in turn is to police the Capitol buildings and grounds under the direction of the Board.¹ The Board is comprised of the Senate and House Sergeants-at-Arms, the Architect of the Capitol, and the Chief of the Capitol Police, who is a non-voting member. The Board and the Capitol Police interact with multiple committees and congressional offices in their respective capacities, including the Senate Committee on Rules and Administration, the Committee on House Administration, and the Senate and House Legislative Branch Appropriations Subcommittees.

The House Committee on Appropriations' July 2001 report that accompanied the Legislative Branch Appropriations Act, 2002 stated that correspondence and answers related to routine budget matters that the Committee was seeking from the police had to be routed through the Capitol Police Board where they were held up pending review. In particular, the report noted that "the unnecessary bureaucracy of the review process added by the Board impedes appropriations review and oversight."² The committee's 2001 report also included a provision for us

¹Pub. L. No. 108-7, div. H, § 1014(a)(1), 117 Stat. 11, 361 (2003); 2 U.S.C. § 1961.

²H.R. Rep. No. 107-169, at 12 (2001).

to review the Board's structure. Thus, in 2002 we provided insights into the Board's operations, internal controls, and standardized governance practices, as well as alternatives to the existing Board's design. Although the Board has undergone some changes since that time— such as designating the Chief of the Capitol Police (Chief) as a non-voting member in 2003 and adopting a Manual of Procedures (Manual) in 2013 to document, among other things, its mission, purpose, and composition—according to some Congressional stakeholders, accountability and communication challenges persist.³ In light of this, you asked us to review similar topics as those we explored in 2002.

In this report, we examine the following:

1. What are the roles and responsibilities of the Board and the Chief of the Capitol Police, as set out in statute and in the Board's Manual of Procedures, and how does the Board's scope compare to other law enforcement oversight entities?
2. To what extent does the Board's Manual incorporate leading practices from internal control and other standardized governance principles to facilitate accountability, transparency, and effective external communication and in what ways is the Board implementing these practices?
3. What are Congressional stakeholder perspectives on the degree to which the Board is accountable, transparent, and effective in its communication approaches and what options exist to enhance the Board's approaches?

To examine the roles and responsibilities of the Board and the Chief of Police as set out in statute and in the Board's Manual, and to determine how the Board's scope compares to other law enforcement oversight entities, we reviewed and analyzed the relevant provisions of statute pertaining to the Board as well as the Board's Manual. We also conducted interviews with officials from four organizations with expertise in law enforcement oversight and governance issues, which we selected in order to understand how entities overseeing law enforcement agencies

³In its 2003 report to Congress, the Board defines its stakeholders as the House and Senate leadership and the committees of jurisdiction, which include the House and Senate Legislative Branch Appropriations Subcommittees, the Senate Committee on Rules and Administration, and the Committee on House Administration. Throughout the report, our use of "stakeholders" refers to congressional staff from the leadership offices as well as these committees of jurisdiction.

are structured and how they function.⁴ We selected these particular organizations because they have a breadth of knowledge about law enforcement oversight structure and functions in other settings. We also spoke with the National Council on State Legislatures (NCSL) to understand how law enforcement oversight efforts are structured and function at state capitols and identify the similarities and differences to the operations of the Capitol Police Board. In addition, we solicited input through interviews, phone calls, and emails with current Board members, Board staff, and stakeholders.

To examine the extent to which the Board's Manual incorporates leading practices from internal control and other standardized governance practices that facilitate accountability, transparency and effective external communication and describe the ways the Board is implementing these practices, we first identified the applicable leading practices. To do so, we relied on (1) federal internal control standards and (2) principles originating from the Business Roundtable and the Organization for Economic Cooperation and Development (OECD).⁵ Each standard and principle reflected the specific activities in which effective governing bodies should engage to facilitate accountability, transparency, and effective external communication. For our purposes, and using these practices as a guide, we used the following definitions for each term:

- **Accountability** occurs when an entity acknowledges and assumes responsibility for its actions and is answerable for any resulting consequences.
- **Transparency** occurs when an entity records and communicates information on activities to stakeholders who need it in a form and timeframe that allows these stakeholders to carry out their responsibilities.
- **Effective external communication** occurs when an entity utilizes various modes of communication, proactively when possible, to convey information to stakeholders.

⁴These organizations are the Commission for the Accreditation of Law Enforcement Agencies (CALEA), the Police Executive Research Forum (PERF), the International Association of Chiefs of Police (IACP), and the National Association for the Civilian Oversight of Law Enforcement (NACOLE).

⁵GAO, *Standards for Internal Control in the Federal Government*, [GAO/AIMD-00-21.3.1](#) (Washington, D.C.: November 1999); Organization for Economic Cooperation and Development, *G20/OECD Principles of Corporate Governance*, Ankara, Turkey: September 2015; and Business Roundtable, *Principles of Corporate Governance*, 2012.

We then analyzed the Board’s Manual for provisions related to these terms and assessed the extent to which the Manual incorporated the leading practices. A determination of “fully incorporated” means that procedures in the Manual align with all activities associated with the leading practice. A determination of “partially incorporated” means that procedures in the Manual align with some activities associated with the leading practice. A determination of “not incorporated” means that no provisions in the Manual align with any activities associated with the leading practice. We also obtained and analyzed Board documentation illustrative of its practices, such as the minutes of Board meetings held in fiscal years 2014 and 2015, and year-end reports for calendar years 2013 through 2015. We focused on documentation developed in 2014 and 2015 because the Board adopted the Manual in June 2013. In addition, we interviewed Board officials to understand their practices.

To identify the Congressional stakeholder perspectives on the degree to which the Board is accountable, transparent, and effective in its communication approaches and options that exist to enhance the Board’s approaches, we sought stakeholder views from the majority and minority staff of the committees who engage with the Board—Senate Committee on Rules and Administration, Committee on House Administration, and the Senate and House Legislative Branch Appropriations Subcommittees—as well as the majority and minority staff representing the leadership from the Senate and the House. We also solicited Board and stakeholder input and asked the organizations we had earlier identified as having expertise in law enforcement oversight and governance issues for their perspectives. We then analyzed the information we collected to identify the key themes in order to inform our analysis. For additional details on our scope and methodology, see appendix I.

We conducted this performance audit from January 2016 to February 2017 in accordance with generally accepted government auditing standards. These standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

History of the U.S. Capitol Police and the Capitol Police Board

Tracing its inception to 1828, the U.S. Capitol Police is responsible for protecting the Congress, its members, Capitol buildings and grounds, staff, and visitors from threats of disruption and crime. The Capitol Police carries out its responsibilities to protect what has been referred to as the Capitol complex by, among other activities, policing the Capitol buildings and grounds and protecting members of Congress.⁶ For fiscal year 2016, the Capitol Police had an enacted budget of \$375 million with over 2,100 sworn officers and civilian personnel.

The Capitol Police Board is charged with overseeing and supporting the Capitol Police. The origins of the Board trace back to 1867 when responsibility for the Capitol Police force was transferred by statute⁷ from the Commissioner of Public Buildings to the Sergeants-at-Arms of the House and the Senate.⁸ The 1867 statute also required the two Sergeants-at-Arms to “appoint the members of the Capitol Police.” Several years later, in 1873, the Architect of the Capitol was added to the

⁶The Capitol complex includes, among other things, the United States Capitol, Senate and House office Buildings, and parking areas, and the Library of Congress buildings and grounds. The Capitol Police has certain limited arrest authorities that extend beyond the area of the Capitol complex as well as authority to provide protection in any area of the United States to members of Congress, officers of Congress, and any member of the immediate family of any such member or officer, if the Capitol Police Board determines such protection to be necessary. 2 U.S.C. § 1966. The Supreme Court, while within the confines of the Capitol complex, is protected by its own police force.

⁷Civil Expenses Appropriations Act of March 2, 1867, ch. 167, 14 Stat. 457, 466.

⁸The Senate Sergeant-at-Arms is the chief law enforcement officer of the Senate, charged with maintaining security in the Capitol and all Senate buildings, as well as protecting the members themselves. The Senate Sergeant-at-Arms serves as the executive officer of the Senate for enforcement of all rules of the Committee on Rules and Administration regulating the Senate Wing of the Capitol and the Senate Office Buildings and has responsibility for supervising the Senate floor, chamber and galleries. The House Sergeant-at-Arms is the chief law enforcement and protocol officer of the House of Representatives, and is responsible for maintaining order in the House side of the United States Capitol complex. The Sergeants-at-Arms review and implement all issues relating to the safety and security of members and the Capitol complex. The Sergeants-at-Arms also coordinate extensively with the U.S. Capitol Police and various intelligence agencies to assess threats against members and the Capitol complex.

Board; however, it was not until 1882 that federal law first referred, formally, to the “Capitol Police Board.”⁹ The composition of the Board remained unchanged until 2003 when the Chief of the Capitol Police was added as a non-voting, ex-officio member of the Board.¹⁰

Over time, laws have changed the roles of the Board and the Chief of the Capitol Police with respect to their authority to appoint members of the police force. In addition, various Congressional acts have sought to strengthen the qualifications for officers’ appointment. For example, in the early days of the Capitol Police, the Sergeants-at-Arms appointed force members. In 2003 however, an appropriations act delegated appointment and hiring authority to the Chief, who currently has the authority to set the terms, conditions, and privileges of employment with the Capitol Police.¹¹ Further, beginning in the early 1900s, federal law began requiring more stringent hiring standards, resulting in a police force with an increasing amount of law enforcement expertise. Specifically, in 1919, an appropriations act provided that any appointments to the Capitol Police be based “solely on account of efficiency and special qualifications.”¹² Later, in 1935, an appropriations act specified that all appointees to the Capitol Police were required to meet hiring standards that the Board prescribed.¹³

Capitol Police Board Structure, Composition, and Relationships to Stakeholders

The Board is comprised of the Senate and House Sergeants-at-Arms, the Architect of the Capitol, and the Chief of the Capitol Police. The chairman is the presiding officer of the Board and this position alternates annually

⁹Sundry Civil Expenses Appropriations Act, ch. 433, 22 Stat. 302, 337 (1882). The Act appropriated funds for “the Sergeant-at-Arms of the Senate, the Sergeant-at-Arms of the House of Representatives and the Architect of the Capitol Extension, constituting the Capitol Police Board,” to furnish uniforms for the Capitol policemen and watchmen.

¹⁰Consolidated Appropriations Resolution, 2003, Pub. L. No. 108-7, div. H, § 1014, 117 Stat. 11, 361.

¹¹Pub. L. No. 108-7, div. H, § 1018(e)(1), 117 Stat. at 367-68. 8.

¹²Appropriations, Sundry Civil Expenses Act, ch. 24, Pub. L. No. 66-21, 41 Stat. 163, 226 (1919).

¹³Legislative Branch Appropriations Act, 1936, Pub. L. No. 74-200, ch. 374, 49 Stat. 459, 468 (1935).

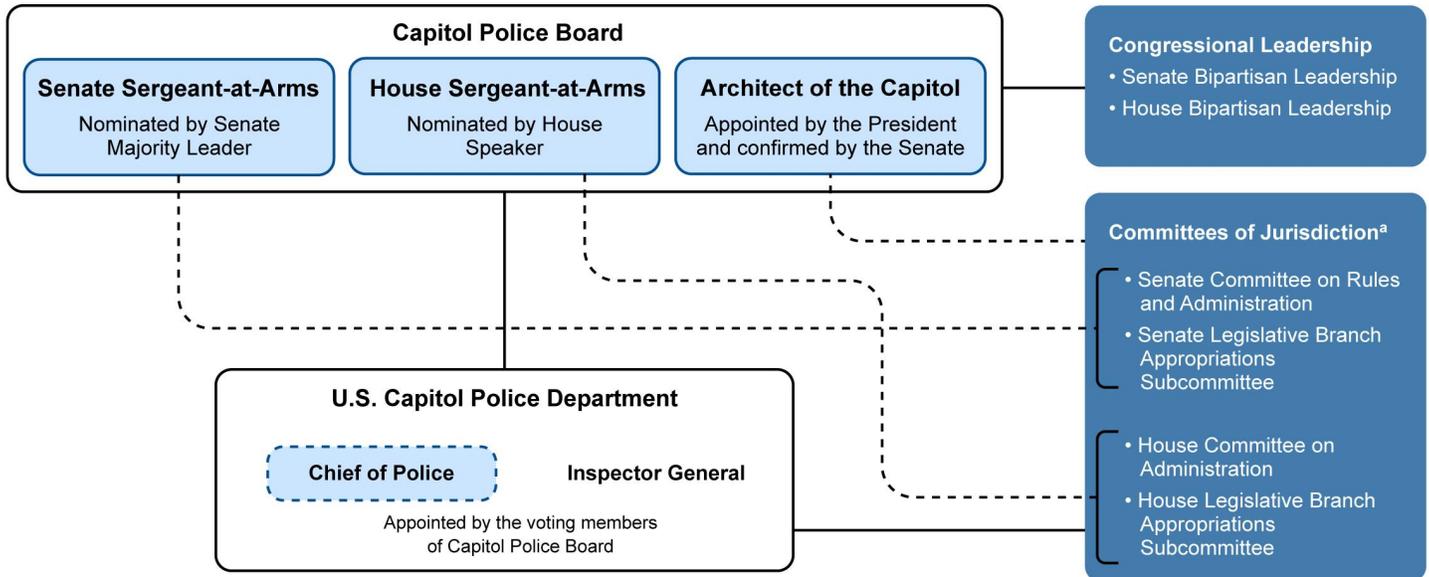
between the two Sergeants-at-Arms.¹⁴ The Capitol Police Board also has one staff member assigned—the executive assistant, who is to serve as a central point for communication and to enhance the overall effectiveness and efficiency of the Board’s administration activities.¹⁵ In addition, the Board’s counsel consists of the general counsels for the Senate and House Sergeants-at-Arms, the Architect of the Capitol, and the Chief.

As figure 1 illustrates, the Board members come into their positions in different ways and the Board and the Capitol Police have different reporting relationships to the congressional committees of jurisdiction.

¹⁴The House Sergeant-at-Arms serves as the chairman in even-numbered calendar years and the Senate Sergeant-at-Arms in odd-numbers ones.

¹⁵Pub. L. No. 108-7, div. H, § 1014(c)(1), 117 Stat. at 362. Though this individual reports to the chairman of the Board, the Chief of Police makes the appointment after consulting with the two Sergeants-at-Arms. Also, the Inspector General of the U.S. Capitol Police is to be appointed by, and under the general supervision, of the Capitol Police Board. 2 U.S.C. § 1909.

Figure 1: Capitol Police Board’s Structure, Composition, and Congressional Relationships



Legend

- Direct reporting relationship
- - - - Under jurisdiction, but not a direct reporting relationship
- ▭ Voting members of Capitol Police Board
- ▭ Nonvoting members of Capitol Police Board

Source: GAO analysis. | GAO-17-112

^aAlthough the committees of jurisdiction generally have jurisdiction over the members of the Board in their individual capacities, statute also creates a direct relationship between certain committees and the Board as a whole in certain areas. For example, the Board is to establish and maintain unified schedules of rates of pay for the Capitol Police, with the approval of the Committee on House Administration and Senate Committee on Rules and Administration. 2 U.S.C. § 1923. Further, the Board has responsibility for maintaining the security systems for the Capitol buildings and grounds, under the direction of the Committee on House Administration and Senate Committee on Rules and Administration. 2 U.S.C. § 1964.

As table 1 below shows, each of the committees of jurisdiction also has unique yet related responsibilities for helping to maintain and secure the Capitol grounds and Capitol complex operations. Recognizing the importance of these committees, the Board considers all of these committees to be stakeholders for engagement.

Table 1: The Roles of the Congressional Committees Related to the U.S. Capitol Police and the Capitol Police Board Members

Committee	Committee’s Role in Capitol Security
Senate Committee on Rules and Administration	<ul style="list-style-type: none"> • Drafts Senate authorizing legislation related to the Capitol Police and the Senate Sergeant-at-Arms. • Has jurisdiction, under the Standing Rules of the Senate, over the administration of the Senate Office Buildings and the Senate wing of the Capitol.
Committee on House Administration	<ul style="list-style-type: none"> • Drafts House authorizing legislation related to the Capitol Police and the House Sergeant-at-Arms.
Senate Legislative Branch Appropriations Subcommittee	<ul style="list-style-type: none"> • Reviews budget requests related to agencies within its jurisdiction, including the Capitol Police, Senate Sergeant at Arms, and Architect of the Capitol, and hears related testimony from government officials. • Drafts legislation to appropriate funds to agencies within its jurisdiction.
House Legislative Branch Appropriations Subcommittee	<ul style="list-style-type: none"> • Reviews budget requests related to agencies within its jurisdiction, including the Capitol Police, House Sergeant at Arms, and Architect of the Capitol, and hears related testimony from government officials. • Drafts legislation to appropriate funds to agencies within its jurisdiction.

Source: GAO Analysis. | GAO-17-112

Board’s 2003 Review of its Structure and Functions

The Consolidated Appropriations Resolution, 2003, directed the Board to examine its mission and assess the effectiveness and usefulness of its statutory functions.¹⁶ In response, the Board issued a report to the Congress in 2003 that analyzed corporate governance standards, such as *Standards for Internal Control in the Federal Government* and the Business Roundtable’s *Principles of Corporate Governance*, and the applicability of those standards to the Board.¹⁷ The Board’s report also detailed the Board’s roles and responsibilities, including the statutory authorities to address such responsibilities, and its administrative structure and reporting requirements. The Board also made recommendations in that report concerning its mission, administration, processes, alternative operating structures, and the elements for necessary legislative adjustments that the Board believed would help it more effectively carry out its mission. For example, the Board recommended that:

¹⁶Pub. L. 108-7, div. H, § 1014(b), 117 Stat. at 361-362. The law directs the Board to submit this report to the Speaker and Minority Leader of the House and the President pro tempore and Minority Leader of the Senate.

¹⁷GAO, *Standards for Internal Control in the Federal Government*, [GAO/AIMD-00-21.3.1](#) (Washington, D.C.: November 1999). Business Roundtable, *Principles of Corporate Governance*, May 2002.

“...[we] should serve as the board of directors for the Capitol Police in accordance with current corporate governance principles to include incorporation of articulated processes and procedures, defined roles and responsibilities, established structures for information flow and formalized mechanisms for independent self-management.” –The Board in its 2003 report to Congress.

The Board also stated in that report that corporate governance theory would provide an effective model for the Board to follow in terms of roles, functions and processes for the future.¹⁸

In addition, the Board’s report stated that the Board intended to develop and maintain a procedures manual that would formalize existing operating procedures and, at a minimum, include new procedures for: (1) documentation of functions and processes; (2) meetings; (3) internal and external communication; and (4) periodic review and evaluation of the Board’s mission and processes. The Board’s report outlined the importance of these areas to its successful operation.

Board’s 2013 Manual of Procedures

The Consolidated Appropriations Resolution, 2003, also directed the Board to document its functions and processes.¹⁹ While in its 2003 report to Congress the Board spoke of its plans to develop such a document, it was not until 2013 that the Board adopted its official Manual of Procedures. The Manual serves as a reference tool to assist Board members in their oversight and support of the Capitol Police and helps ensure continuity when membership and chairmanship of the Board change. It describes the Board’s purpose, mission statement, internal procedures, authorities relating to its oversight roles and responsibilities over the Capitol Police, and authorities relating to the security of the Capitol complex. The Manual also identifies areas where the Board has statutory authority to issue regulations regarding the Capitol Police and the security of Congress. Further, the Manual identifies instances where the Board is required to obtain approval from, consult, or provide documentation to congressional leadership or committees.

¹⁸United States Capitol Police Board, *Report to Congress Pursuant to Public Law 108-7*, October 20, 2003.

¹⁹Pub. L. No. 108-7, div. H, § 1014(d), 117 Stat. at 362.

The Board and the Chief of Police Have Varied Responsibilities, and the Board's Scope of Duties is Unique Among Law Enforcement Oversight Organizations

The Board Has a Broad Oversight Role and Shares Management Responsibilities with the Chief

In statute and as outlined in its Manual, the Capitol Police Board has varied and wide-ranging roles and responsibilities. Its purpose is to oversee and support the Capitol Police in its mission and to advance coordination between the Capitol Police and the Sergeants-at-Arms, in their law enforcement capacities, and the Congress.²⁰ With respect to oversight, in general, the Capitol Police is to police the U.S. Capitol buildings and grounds, under the direction of the Board, and is authorized to protect, in any area of the United States, members of Congress, under the direction of the Board.²¹ The Board appoints the Chief of the Capitol Police, who serves at the pleasure of the Board,²² and the Board meets at least once annually to review the Capitol Police's annual budget request to Congress.²³ The Board must approve in advance any deployment of Capitol Police officers by the Chief outside the jurisdiction of the Capitol Police,²⁴ and in an emergency situation, as determined by the Board, the

²⁰Id. at § 1014(a)(2), 117 Stat. at 361.

²¹2 U.S.C. §§ 1961, 1966. The Capitol Police is authorized to protect, in any area of the United States, members of Congress, certain officers of Congress, and any member of the immediate family of any such Member or officer, if the Capitol Police Board determines such protection to be necessary.

²²2 U.S.C. § 1901. The Board also appoints the Inspector General of the Capitol Police. 2 U.S.C. § 1909.

²³As a part of this review, the Manual requires the Board's approval of the Capitol Police's budget request pertaining to areas where the Board has exclusive or shared statutory authority with the Chief, such as the authority to determine rates of pay, which is a key area of the budget.

²⁴2 U.S.C. § 1978. The Chief must also provide prior notification to the Committee on House Administration, the Senate Committee on Rules and Administration, and the Committees on Appropriations of the House of Representatives and Senate of the costs anticipated to be incurred with respect to the deployment.

Chief must obtain Board approval before appointing special officers.²⁵ The Board also has authority to issue regulations that govern the law enforcement authority of the Capitol Police.²⁶

The Board has several oversight responsibilities related to human capital. For example, the Board is to establish and maintain unified schedules of rates of pay for the Capitol Police, with the approval of the Committee on House Administration and Senate Committee on Rules and Administration,²⁷ and the Board and the Chief have authority to determine rates and amounts of basic pay, among other things.²⁸ Further, the Chief may terminate an officer, member, or employee of the Capitol Police only after notifying and receiving the Board's approval.²⁹

Although some human capital responsibilities are shared with the Board, the Chief has certain separate responsibilities in this area as well. For example, the Chief may appoint, hire, suspend with or without pay, discipline, discharge, and set the terms, conditions, and privileges of employment of Capitol Police employees.³⁰ The Chief may also establish regulations to provide for training of employees³¹ and may establish an

²⁵2 U.S.C. § 1974. Such appointments are subject to final approval by the Speaker of the House of Representatives (in consultation with the Minority Leader of the House of Representatives) and the President pro tempore of the Senate (in consultation with the Minority Leader of the Senate), acting jointly. A special officer may be any law enforcement officer from any federal agency or state or local government agency made available by that agency to serve as a special officer of the Capitol Police within the authorities of the Capitol Police in policing the Capitol buildings and grounds or any member of the uniformed services, including members of the National Guard, made available by the appropriate authority to serve as a special officer of the Capitol Police within the authorities of the Capitol Police in policing the Capitol buildings and grounds.

²⁶2 U.S.C. § 1967. The Board is required to obtain approval from the Committee on House Administration and Senate Committee on Rules and Administration before such regulations are to take effect.

²⁷2 U.S.C. § 1923.

²⁸2 U.S.C. § 1921a.

²⁹2 U.S.C. § 1907(e)(1)(B). If the Board has not disapproved the termination prior to the expiration of the 30-day period beginning on the date the Board receives the notice, the Board is deemed to have approved the termination.

³⁰2 U.S.C. § 1907(e)(1).

³¹5 U.S.C. § 4120.

educational assistance program for employees to recruit or retain qualified personnel.³²

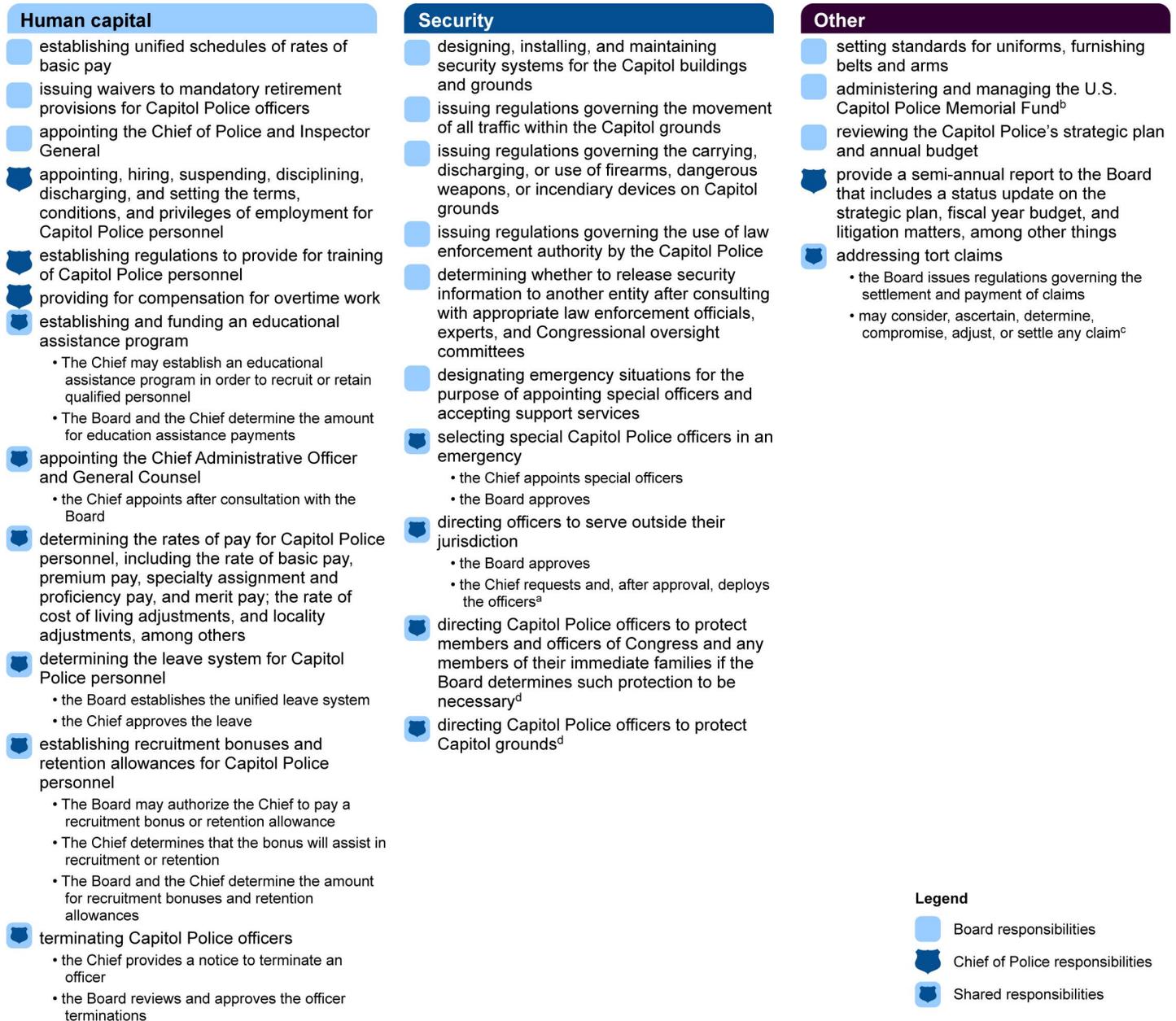
In addition to its oversight responsibilities, the Board also has separate security responsibilities. For example, the Board has responsibility for maintaining the security systems for the Capitol buildings and grounds, under the direction of the Committee on House Administration and Senate Committee on Rules and Administration.³³ The Board also has exclusive charge and control of the regulation and movement of all vehicular and other traffic, including parking, within the U.S. Capitol grounds.³⁴ Figure 2 provides additional details on the specific roles and responsibilities of the Board and the Chief and highlights areas where there are joint responsibilities.

³²2 U.S.C. § 1926.

³³2 U.S.C. § 1964.

³⁴2 U.S.C. § 1969.

Figure 2: Roles and Responsibilities of the Capitol Police Board and Chief of the U.S. Capitol Police



Source: GAO analysis. | GAO-17-112

^aAccording to the Board's Manual, the Board's approval is not required if the purpose for deployment is responding to an imminent threat or emergency, intelligence gathering or providing protective services. However, the Board should be advised of any deployment in response to an imminent threat or emergency at the earliest possible moment after deployment.

^bThe U.S. Capitol Police Memorial Fund was created by statute in 1998 to provide compensation to the families of Capitol Police officers killed in the line of duty. 2 U.S.C § 1951.

^cThe Chief of the Capitol Police, in accordance with regulations prescribed by the Attorney General and any regulations as the Capitol Police Board may prescribe, may consider, ascertain, determine, compromise, adjust, and settle any claim for money damages against the United States for injury or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee of the Capitol Police while acting within the scope of his office or employment. 2 U.S.C. § 1977(a).

^dStatute provides that the Capitol Police is to do these activities under the direction of the Board. The Chief is not explicitly mentioned in the statute; however, the Chief, as the official responsible for the administration of the Department, also plays a role in these activities. 2 U.S.C. §§ 1961, 1966.

The Board's Scope is Unique Among Law Enforcement Oversight Entities

As depicted in Figure 2, the Board's current scope is wide, ranging from making security decisions and establishing unified schedules of rates of pay, to approving terminations. According to officials representing two of the four law enforcement expert groups with whom we spoke, such a wide ranging scope for an oversight body is atypical. Two of the four groups we spoke with indicated that typically, law enforcement oversight bodies focus exclusively on a narrow range of issues.³⁵ For example, according to two of the law enforcement expert groups we spoke with, many of these bodies are responsible for setting the strategic and policy direction of the law enforcement agency, which the Chief of Police is then responsible for implementing, but they do not have day to day input or authority over matters such as the termination of officers. Further, an official from one of the law enforcement expert groups told us that other oversight entities, such as law enforcement civilian oversight boards, may direct their attention on the appropriateness of the law enforcement agency's policies and training but do not have a more expansive purview.

Officials from three of these four law enforcement groups emphasized that a police chief generally has, or should have, the leeway to execute the decisions of the oversight body as he or she sees fit and some groups saw the scope of the Board as an anomaly among the other law enforcement entities with which they are familiar. An official from one of these groups added that putting management decisions, such as approving terminations, up to a vote as is done by the current Board, may

³⁵The other two law enforcement expert groups did not speak specifically to this issue but described some of the issues within the scope of other law enforcement oversight bodies.

hinder a chief's ability to effectively lead the agency.³⁶ We discuss possible adjustments to the Board's scope later in this report.

Regardless of what the specific roles and responsibilities of an oversight body are, officials from all four of these expert groups emphasized the importance of having clearly defined roles and responsibilities between the oversight body and the police chief.

The Board's Manual Has Fully or Partially Incorporated Leading Practices to Facilitate Accountability, Transparency, and Effective External Communication, but the Board Has Not Always Implemented Manual Provisions as Designed

The Board's Manual of Procedures fully incorporated one of the six leading practices and partially incorporated the other five to facilitate accountability, transparency, and effective external communication. We identified these six leading practices—broad areas that represent a summary of the activities that effective governing bodies should adopt—from established internal control and corporate governance standards. These six practices are: (1) defining roles, responsibilities, and areas of authority; (2) overseeing functions of the corporation—or in the Board's case, the Capitol Police; (3) conducting performance evaluations and reviews; (4) developing processes for internal functions of the board; (5) disclosing information to stakeholders; and (6) developing processes for communication with stakeholders. As noted earlier, the Board stated in its 2003 report to Congress that it found significant value in adopting corporate governance principles, at least as a standard of guidance given the unique characteristics of the Board and Congress. Further, according to the Board, in developing its mission-related processes, the Board was guided by corporate governance standards and best practices, federal

³⁶Although decisions of the Board are made through voting, according to the Board, they operate by consensus.

standards for internal controls, and other related sources.³⁷ Fully incorporating these leading practices into its Manual would better position the Board to have reasonable assurance that its approaches facilitate accountability, transparency, and effective external communication. Table 2 illustrates each of the six leading practices; the implications for accountability, transparency, and effective external communication; and the extent to which the Board’s Manual incorporates them.

Table 2: Leading Practices for Facilitating Accountability, Transparency, and External Communication and the Extent to Which the Capitol Police Board’s Manual of Procedures Incorporates Them

Leading Practice	Implications for accountability, transparency, and effective external communication	Extent to which Manual incorporates the practice
Define roles, responsibilities, and areas of authority	Promotes accountability	Partially incorporated
Oversee functions of the corporation		Partially incorporated
Conduct performance evaluations and reviews		Partially incorporated
Develop processes for internal functions of the board		Fully incorporated
Disclose information to stakeholders	Fosters transparency	Partially incorporated
Develop processes for communication with stakeholders	Enhances effective external communication	Partially incorporated

Source: GAO analysis. | GAO-17-112

Note: A determination of “fully incorporated” means that procedures in the Manual align with all activities associated with the leading practice; “partially incorporated” means that procedures in the Manual align with some activities associated with the leading practice; and “not incorporated” means that no provisions in the Manual align with any activities associated with the leading practice.

In the following sections, we describe the six practices and the activities associated with each. We also assess the Board’s incorporation of these practices into its Manual as well as its implementation.

³⁷To identify the leading practices, we used the same corporate governance standards and federal internal control standards criteria that the Board used in its 2003 report, although we worked with an updated version of the Business Roundtable *Principles of Corporate Governance* from 2012. In addition to these criteria, we also consulted the corporate governance standards criteria from the G20/Organization for Economic Cooperation and Development that was published in 2015.

Accountability Leading Practice 1: Define Roles, Responsibilities, and Areas of Authority

The Manual partially incorporated this leading practice, as Table 3 illustrates.

Table 3: Extent to Which the Capitol Police Board’s Manual of Procedures Incorporates Leading Practices to Define Roles, Responsibilities, and Areas of Authority

Define roles, responsibilities, and areas of authority	Partially incorporated
Clearly define key areas of authority and responsibility and establish appropriate lines of reporting.	Fully incorporated
Clearly understand decisions that require specific board approval.	Fully incorporated
Limit access to records to authorized individuals and assign and maintain accountability of records.	Fully incorporated
Educate stakeholders about the board’s role and its oversight responsibilities.	Partially incorporated

Source: GAO analysis. | GAO-17-112

Note: A determination of “fully incorporated” means that procedures in the Manual align with all activities associated with the leading practice; “partially incorporated” means that procedures in the Manual align with some activities associated with the leading practice; and “not incorporated” means that no provisions in the Manual align with any activities associated with the leading practice.

The following sections outline the extent to which the Board incorporated each of the four activities within this practice area into its Manual and discusses how it implemented them.

Clearly define key areas of authority and responsibility and establish appropriate lines of reporting. The Manual fully incorporated this activity. For example, it presents areas where the Board has statutory authority and responsibilities regarding the Capitol Police and the security of the Capitol complex. The Manual also sets out the various reporting requirements of the Chief and Inspector General of the Capitol Police to the Board. In practice, the Chief reports routinely to the Board on Capitol Police initiatives such as security projects and the Inspector General reports quarterly on audit findings. In addition, the Manual, based on statutory provisions, identifies areas where the Board is to obtain approval from, consult with, or provide documentation to its stakeholders. As appendix II, table 9 illustrates, federal law establishes these lines of reporting, and each provision makes varying distinctions between congressional stakeholders, including leadership offices and committees, when determining to whom the Board is accountable in specific instances. In practice, the Board has followed the Manual’s directives, though as we

later show, stakeholders continue to express concerns that the Board's roles and responsibilities remain, in some cases, unclear to them.

Clearly understand decisions that require specific board approval. The Manual fully incorporated this activity. In particular, the Manual presents areas where the Chief is to obtain the Board's approval on Capitol Police matters. In practice, the Board has implemented this provision, such as when it directs the Chief to submit formal notice to the Board so that it can review a potential officer termination.

Limit access to records to authorized individuals and assigning and maintaining accountability of records. The Manual fully incorporated this activity. For example, it sets out the review process for the release of security information by the Capitol Police. In addition, the Manual includes the Board's policy for retaining official records and sets out the responsibilities of the executive assistant in supporting this policy. In practice, Board officials explained that the Board assigns records retention responsibilities to its executive assistant and this individual maintains records and keeps a log to track any incoming or outgoing Board documents.³⁸ As a part of the security review, Board officials review outgoing documents for possible redactions of security information.

Educate stakeholders about the board's role and its oversight responsibilities. The Manual partially incorporated this activity. It establishes materials that the Board develops, such as the Manual, minutes of Board meetings, and year-end reports, which provide summary information to a prescribed list of stakeholders regarding its operations. However, the Manual does not address how the Board should educate stakeholders who do not have access to these materials about its roles and responsibilities.³⁹ For example, the Manual establishes that the Board is to distribute its year-end report to the leadership offices, as well as to the Senate Committee on Rules and Administration, the

³⁸Board officials explained that the permanent records the executive assistant maintains include meeting agendas and minutes, historical documentation and timelines, and files related to specific subject matters. Temporary records include handwritten meeting minutes, working files, and emails, among other items.

³⁹According to the Board, there are certain materials that describe situations that the Board and the Capitol Police are involved in that are law enforcement sensitive or require security clearances. As such, the Board may not share such information with Committee staff if such staff do not have the necessary clearance level for access.

Committee on House Administration, and the Senate and House Legislative Branch Appropriations Subcommittees. While the Board provides the committees with the year-end report, with regard to the Manual and meeting minutes, the Board largely follows statute which directs the Board to make the Manual and meeting minutes available to certain leadership offices and does not list the committees.⁴⁰ In practice, Board officials told us that they used the statute as the baseline when creating the Manual, but they did not reconcile inconsistencies in access to materials that could inform and educate stakeholders in instances where the statute was silent. According to the Board, it prepared a high-level briefing that was delivered to stakeholders in the House with an overview of Board operations but it has not developed any other related briefings for stakeholders.⁴¹ As we will later describe, some stakeholders expressed a concern that the roles of the Board and the Chief are not clear to them and they wished for more information about the breadth of the Board's oversight. Providing briefings or taking other efforts to educate stakeholders on its role—and formalizing such activities with references in the Manual—could help the Board fully incorporate this leading practice.

Accountability Leading Practice 2: Oversee Functions of the Corporation

The Manual partially incorporated this leading practice, as Table 4 illustrates.

⁴⁰According to the Manual, at the beginning of each Congress, the Executive Assistant is to make the Manual of Procedures available for examination to each of the following: (1) Speaker of the House of Representatives; (2) House Minority leader; (3) President pro tempore of the Senate; (4) Senate Minority leader; (5) Chief of the Capitol Police; (6) Comptroller General; (7) Senate Majority leader; and (8) House Majority leader. Individuals listed in 1-6 are listed in the relevant statute. Pub. L. No. 108-7, div. H, § 1014(d)(1), 117 Stat. at 362. Individuals listed in 7 and 8 were added at the discretion of the Board, according to the Manual. The Executive Assistant is to make the minutes available for distribution to the Speaker and Minority Leader of the House of Representatives and the President pro tempore and Minority Leader of the Senate. Pub. L. No. 108-7, div. H, § 1014(d)(2), 117 Stat. at 362.

⁴¹According to Board officials, the high-level briefing was provided to House committee staff but not Senate staff as the Senate staff was unable to attend the meeting due to scheduling conflicts.

Table 4: Extent to Which the Capitol Police Board’s Manual of Procedures Incorporates Leading Practices to Oversee Functions of the Corporation

Oversee functions of the corporation	Partially incorporated
Select a chief executive officer and oversee the chief executive officer and senior management.	Fully incorporated
Oversee the corporation’s legal and ethical compliance.	Fully incorporated
Oversee the corporation’s internal audit function.	Partially incorporated
Oversee the corporation’s strategic plans.	Partially incorporated
Oversee the corporation’s annual operating plans and budgets.	Partially incorporated
Oversee the corporation’s risk assessment and management processes.	Partially incorporated

Source: GAO analysis. | GAO-17-112

Note: A determination of “fully incorporated” means that procedures in the Manual align with all activities associated with the leading practice; “partially incorporated” means that procedures in the Manual align with some activities associated with the leading practice; and “not incorporated” means that no provisions in the Manual align with any activities associated with the leading practice.

The following sections outline the extent to which the Board incorporated each of the six activities within this practice area into its Manual and discusses how it implemented them.

Select and oversee the chief executive officer and senior management. The Manual fully incorporated this activity. For example, it sets out the Board’s procedures for selecting, reviewing, and removing the Chief. In addition, the Manual states that the Board is to review the Chief’s leadership, management, and administration of the police department every three years. In practice, Board officials explained that the Board has not yet overseen a Chief for longer than three years since the Board adopted the Manual, and therefore has not completed a review of the Chief’s performance.

Oversee the corporation’s legal and ethical compliance. The Manual fully incorporated this activity. For example, the Manual states that the Chief is to report to the Board about ongoing and pending legal issues and the Inspector General is to report to the Board on any of the police department’s violations of laws and other serious problems, abuses, or deficiencies. In practice, the Chief and the Inspector General report to the Board as these matters arise.

Oversee the corporation’s internal audit function. The Manual partially incorporated this activity. It states that the Inspector General reports to the Board, but it does not address any Board responsibilities in ensuring that the inspector’s audit findings and recommendations are promptly

resolved as internal control standards suggest. In practice, Board members and staff explained that they do work with the Capitol Police to ensure recommendations from the Inspector General's reports are implemented, but these efforts are not codified in the Manual to help ensure accountability. Ensuring the Manual reflects the Board's oversight has been consistent with leading practices would help ensure that the accountability provisions are preserved when Board members transition.

Oversee the corporation's strategic plans. The Manual partially incorporated this activity. For example, the Manual states that the Chief's semi-annual report is to include a status report on the goals, objectives, and strategic plan of the Capitol Police; however, it does not address any Board responsibilities in monitoring implementation of the plan by the Capitol Police to facilitate accountability, as governance principles suggest. In practice, Board officials explained that the extent of the Board's monitoring is limited to when Capitol Police officials bring up matters related to the strategic plan to the Board. Including a provision in the Manual to direct the Board to monitor implementation would help the Board hold the Chief accountable to the department's goals and strategies.

Oversee the corporation's annual operating plans and budgets. The Manual partially incorporated this activity. The Manual states that the Board will meet at least once a year to review the Capitol Police's annual request for funding and accompanying budget justification before submitting it to the appropriations committees but it does not detail the Board's responsibilities for providing input to the request for funding or approving the request in areas where it has statutory responsibility, such as determining Capitol Police amounts and rates of pay. In practice, Board members and staff explained that the Board reviews and approves the Capitol Police's budget justification in its entirety before it is submitted to the appropriations committees. In our discussions with the Board, officials explained that the Board and the Chief may discuss the manpower needed to support an initiative or project included in the justification and as needed, they may also discuss projects that leadership offices would like to include in the department's justification. After the Board approves the justification, Capitol Police management works with the appropriations committees, and the Board members may reach out to the committees if additional communication is necessary. In addition, the Manual states that the Chief's semi-annual report is to include a status report on the Capitol Police's spend plan. However, it does not address any Board responsibilities in monitoring budget execution by the Capitol Police, which may include activities such as

assessing whether the budget is appropriately responsive to changing security conditions, as governance principles suggest. In our discussions with the Board, officials explained that the Board proactively monitors the police department's execution of the budget but these efforts are not codified in the Manual. Codifying them as such could help the Board ensure the police department's accountability for sound fiscal stewardship.

Oversee the corporation's risk assessment and management processes. The Manual partially incorporated this activity. As discussed above, the Manual states that the Chief reports to the Board on the Capitol Police's strategic planning and the Inspector General reports to the Chief and the Board on findings or operational deficiencies from audits. Internal control standards consider strategic planning and consideration of audit findings, among others, to be methods for identifying internal or external risks to an organization for achieving its objectives. However, beyond addressing these actions that can help identify risk, the Manual does not address any Board mechanism for overseeing the Capitol Police's analysis and management of such risks, as governance principles suggest. Such responsibilities could include estimating the significance of the risk, assessing the likelihood of its occurrence, and deciding how to manage the risk and what actions should be taken. In practice, the Chief explained that he monitors the impact of a risk, such as workforce gaps, and reports this to the Board; however, Board officials did not specify their level of engagement in risk assessment and management and the Manual is silent on the issue. Determining how the Board could enhance the Chief's accountability for department-wide risk assessment and management could enhance the Board's oversight. Further, documenting this effort in the Manual would codify the procedures once implemented.

Accountability Leading Practice 3: Conduct Performance Evaluations and Reviews

The Manual partially incorporated this leading practice, as Table 5 illustrates.

Table 5: Extent to Which the Capitol Police Board’s Manual of Procedures Incorporates Leading Practices to Conduct Performance Evaluations and Reviews

Conduct performance evaluations and reviews	Partially incorporated
Continuously review internal structure of the corporation to ensure clear lines of accountability.	Partially incorporated
Set performance objectives for the corporation and monitor implementation and performance.	Not incorporated
Evaluate board performance on a continuing basis.	Not incorporated

Source: GAO analysis. | GAO-17-112

Note: A determination of “fully incorporated” means that procedures in the Manual align with all activities associated with the leading practice; “partially incorporated” means that procedures in the Manual align with some activities associated with the leading practice; and “not incorporated” means that no provisions in the Manual align with any activities associated with the leading practice.

The following sections outline the extent to which the Board incorporated each of the three activities within this practice area into its Manual and discusses how it implemented them.

Continuously review the internal structure of the corporation to ensure clear lines of accountability. The Manual partially incorporated this activity. For example, it states that the Chief is to report any proposed changes to the Capitol Police including employment and personnel procedures, organizational restructuring and security procedures. However, the Manual does not address any Board responsibilities related to monitoring the internal structure of the police department to ensure there are clear lines of accountability for management. In practice, Board officials explained that the Board monitors specific mission or operational areas of the Capitol Police through the Inspector General’s work. However, these efforts are not codified in the Manual. Codifying them as such would help the Board ensure that the department has a sound internal management structure in place, thereby helping the Board to enhance its overall oversight.

Set performance objectives for the corporation and monitor implementation and performance. The Manual has not incorporated this activity. In the Board’s year-end reports, the Board includes highlights of the Capitol Police’s performance, such as the number of vulnerability assessments conducted by the Capitol Police and the number of individuals screened at the U.S. Capitol Visitor Center and congressional office buildings, among other areas of performance. However, the Manual does not address any Board responsibilities in setting objectives or monitoring performance in these areas as governance principles suggest. In practice, Board officials told us that the Board and the Chief are engaging in these activities. The Chief develops any metrics that may be

needed and the Board measures the police department’s performance and gauges effectiveness or areas where the department may need to be improved. Codifying these practices would formalize performance monitoring and help ensure the department is accountable to the Board for the metrics it has established.

Evaluate board performance on a continuing basis. The Manual has not incorporated this activity. In the Board’s 2003 report to Congress, it stated that a forthcoming procedures manual would include a directive for the Board to evaluate its mission, structure, and functions at the beginning of the second session of each Congress to identify opportunities for improvement. However, the Manual that the Board ultimately approved in 2013 does not include such a directive. In practice, Board officials told us that the Board has not evaluated its performance or its mission, structure, and functions since 2003 when it was directed by law to do so. Determining how the Board could best self-assess on a continuing basis could enhance the Board’s accountability to the police department and to stakeholders. Further, documenting this effort in the Manual would codify the performance self-assessment methods once implemented.

Accountability Leading Practice 4: Develop Processes for Internal Functions

The Manual fully incorporates this leading practice, as Table 6 illustrates.

Table 6: Extent to Which the Capitol Police Board’s Manual of Procedures Incorporates Leading Practices to Develop Processes for Internal Functions

Develop processes for internal functions	Fully incorporated
Consider the appropriate frequency and length of board meetings.	Fully incorporated
Meet regularly in executive sessions.	Fully incorporated
Develop carefully planned and flexible agendas.	Fully incorporated
Provide a robust orientation for new members.	Fully incorporated

Source: GAO analysis. | GAO-17-112

Note: A determination of “fully incorporated” means that procedures in the Manual align with all activities associated with the leading practice; “partially incorporated” means that procedures in the Manual align with some activities associated with the leading practice; and “not incorporated” means that no provisions in the Manual align with any activities associated with the leading practice.

The Manual fully incorporated each activity within this practice area. For example, the Manual establishes the frequency of Board meetings, including regular executive sessions, and has a process for developing meeting agendas and describes the contents of its orientation materials

for new members. In practice, the Board has implemented all of these provisions to hold itself accountable and to remain accountable to the department and its stakeholders. For example, the Board met regularly in calendar years 2014 and 2015 to discuss security issues, initiatives across the Capitol complex, and Capitol Police matters. The Board also documented these discussions in the meeting minutes. Further, the executive assistant maintains a log to track the status of ongoing projects and the Board member with the responsibility for implementation, and the Board uses this log to ensure progress.

Transparency Leading Practice: Disclose Information to Stakeholders

The Manual partially incorporates this leading practice, as Table 7 illustrates.

Table 7: Extent to Which the Capitol Police Board’s Manual of Procedures Incorporates Leading Practices to Disclose Information to Stakeholders

Disclose information to Stakeholders	Partially incorporated
Clearly document internal control, transactions, and significant events and make readily available.	Fully incorporated
Oversee the process of disclosure and communication of information for stakeholders to make informed decisions.	Partially incorporated
Disclose corporate governance structure and policies.	Partially incorporated

Source: GAO analysis. | GAO-17-112

Note: A determination of “fully incorporated” means that procedures in the Manual align with all activities associated with the leading practice; “partially incorporated” means that procedures in the Manual align with some activities associated with the leading practice; and “not incorporated” means that no provisions in the Manual align with any activities associated with the leading practice.

The following sections outline the extent to which the Board incorporated each of the three activities within this practice area into its Manual and discusses how it implemented them.

Clearly document internal control, transactions, and significant events and make them readily available. The Manual fully incorporated this activity. For example, the Manual includes the Board’s policies and processes for reviewing security information before its release, and preserving documents and materials that may be relevant to lawsuits or investigations. In addition, the Manual sets out the Board’s procedures for significant events such as votes on issues that require a decision by the Board and documenting these decisions in Board meeting minutes. In practice, the executive assistant is responsible for documenting these

controls, transactions, and events, and has made decisions and records available when necessary.

Oversee the process of disclosure and communication of information for stakeholders to make informed decisions. The Manual partially incorporated this activity. For example, the Manual sets out the types of official records the Board maintains, such as the meeting minutes; however, it does not address stakeholders' access to information. According to statute and the Manual, the Board is to make the meeting minutes available for distribution to the House Speaker and Minority Leader and the Senate President pro tempore and Minority Leader.⁴² In practice and in accordance with the Manual, the executive assistant records the minutes for Board meetings as the Manual dictates. However, although the executive assistant told us that the Board sends a letter to these leadership offices notifying them that the minutes are available, the Board sent these letters for the first time in May 2016. Nevertheless, Board members and staff told us that, in their opinion, stakeholders face no barriers to information. They also asserted that Board members routinely make themselves available for discussion with stakeholders as needed. Further, they told us that if they were to receive requests for written materials they would consider the facts and circumstances of each request and work to ensure that any stakeholder with a need to know would receive a satisfactory response. Governance principles assert that a strong disclosure regime that promotes transparency is central to stakeholders being able to access regular, reliable, and comparable information. The principles also suggest that the information must be in sufficient detail for stakeholders to assess management's operational stewardship—in the Board's case, this equates to oversight of the Capitol Police and maintenance of security across the Capitol complex. As we describe later in this report, several stakeholders relayed concerns about the Board's transparency with respect to disclosure practices. Enhancing the Manual to reflect the Board's willingness to engage and determining the specific procedures to facilitate disclosure would help the Board improve its transparency and codify the procedures once implemented.

Disclose corporate governance structure and policies. The Manual partially incorporated this activity. For example, the Manual presents the Board's governance structure including the division of authorities between the Board, Capitol Police, and congressional leadership offices and

⁴² Pub. L. No. 108-7, div. H, § 1014(d)(2), 117 Stat. 11, 362 (2003).

committees. However, as previously described, the Board largely limits the Manual's availability to select stakeholders identified in statute.⁴³ Specifically, the Manual states that the Board will make the Manual available to the leadership offices, Chief, and Comptroller General; but this list does not include the committees that the Board considers its stakeholders— Senate Committee on Rules and Administration, Committee on House Administration, and the Senate and House Legislative Branch Appropriations Subcommittees. In practice, the Board sends a letter notifying the parties listed in the Manual that the Manual is available to them. However, the Board notified those parties that the Manual was available approximately a year and a half later than the designated timeframe—at the beginning of the next Congress. In addition, the Board did not notify all of the designated recipients, such as the Comptroller General, that the Manual was available. The Board also did not submit a biannual report to the joint leadership on the status of the legislative branch's emergency preparedness programs, as the Manual directs. Board officials explained that the Senate and House Sergeants-at-Arms individually report out on such programs. Nevertheless, such a separate reporting structure does not promote transparency and coordination across the two chambers in regards to emergency preparedness. Given that it has limited the availability of the Manual to leadership offices, based largely on statute, the Board could identify other mechanisms to communicate its corporate governance structure and policies to committee stakeholders who do not receive the Manual in order to fully incorporate this practice. Appendix II table 9, to which we have already alluded, outlines the distinct disclosure practices that statute requires.

Effective External Communication Leading Practice: Develop Processes for Communication with Stakeholders

The Manual partially incorporates this leading practice, as Table 8 illustrates.

⁴³According to the Manual, at the beginning of each Congress, the Executive Assistant is to make the Manual of Procedures available for examination to each of the following: (1) Speaker of the House of Representatives; (2) House Minority leader; (3) President pro tempore of the Senate; (4) Senate Minority leader; (5) Chief of the Capitol Police; (6) Comptroller General; (7) Senate Majority leader; and (8) House Majority leader. Individuals listed in 1-6 are listed in statute. Pub. L. No. 108-7, Div. H, § 1014(d)(1), 117 Stat. at 362. Individuals listed in 7 and 8 were added at the discretion of the Board, according to the Manual.

Table 8: Extent to Which the Capitol Police Board’s Manual of Procedures Incorporates Leading Practices to Develop Processes for Communication with Stakeholders

Develop processes for communication with stakeholders	Incorporation
Respond in a timely manner to stakeholder concerns.	Fully incorporated
Provide relevant and material information to stakeholders on a timely and regular basis.	Partially incorporated
Allow stakeholders to approve and participate in decisions.	Partially incorporated
Use appropriate mechanisms to communicate with stakeholders, solicit their views, and obtain feedback.	Partially incorporated

Source: GAO analysis. | GAO-17-112

Note: A determination of “fully incorporated” means that procedures in the Manual align with all activities associated with the leading practice; “partially incorporated” means that procedures in the Manual align with some activities associated with the leading practice; and “not incorporated” means that no provisions in the Manual align with any activities associated with the leading practice.

The following sections outline the extent to which the Board incorporated each of the five activities within this practice area into its Manual and discusses how it implemented them.

Respond in a timely manner to stakeholder concerns. The Manual fully incorporated this activity. It contains procedures, including timeframes, for responding to written inquiries from congressional leadership offices, committees, and members that require a substantive response from a Board member. In practice, Board officials implemented these provisions as designed and Board members explained that the nature of their informal interactions with members of Congress often does not warrant this formal process.

Provide relevant and material information to stakeholders on a timely and regular basis. The Manual partially incorporated this activity. The Manual states that the Board is to make the Manual available to specified recipients at the beginning of each Congress; however, the Manual does not include timeframes for providing stakeholders with access to Board materials aside from the Manual on either a routine or ad hoc basis. In practice, Board officials said that Board members and/or their staff have regular communication with members of Congress and their staff and the Board also conducts meetings as situations dictate. However, these efforts are not codified in the Manual to help ensure effective communication. Codifying existing approaches and expanding the Manual to document procedures for providing relevant and timely information to

stakeholders could help address some of the stakeholder concerns we describe in the section that follows.

Allow stakeholders to approve and participate in decisions. The Manual partially incorporated this activity. The Manual identifies areas where the Board is required by statute to obtain approval from congressional leadership offices or the committees of jurisdiction before issuing regulations.⁴⁴ However, the Manual does not address any Board responsibilities in allowing stakeholders to participate, as appropriate, in other decisions concerning changes across the Capitol—such as certain initiatives for the Capitol Police—that may affect stakeholders and their responsibilities. In practice, Board members and staff explained that they routinely communicate with the committees multiple times a day to ensure effective communication, but these efforts are not codified in the Manual. As we will later describe, some stakeholders also expressed a concern about the timing and nature of their engagement on key decisions. Codifying in the Manual these ongoing engagement efforts and taking time to assess gaps in provided and desired levels of communication could help the Board develop new practices to enhance its outreach.

Use appropriate mechanisms to communicate with stakeholders, solicit their views, and obtain feedback. The Manual partially incorporated this activity. For example, as discussed above, the Manual directs Board communication with its stakeholders in a number of ways, such as through written correspondence or by the distribution of materials such as its year-end reports. Governance principles recognize that an organization may use a number of mechanisms—both formal and informal to communicate with its stakeholders, and should consider mechanisms for soliciting feedback from its stakeholders, such as through periodic meetings to provide opportunities for them to ask questions and discuss matters that the Board is considering. In practice, Board officials and congressional stakeholders told us that the full Board has met with stakeholders on an ad hoc basis, but these efforts are not codified in the Manual to help ensure effective communication. As noted below, this area remains a concern to some stakeholders. Codifying existing practices in

⁴⁴For example, the Board must obtain approval of the Senate Committee on Rules and Administration and Committee on House Administration before issuing regulations regarding the law enforcement authority of the Capitol Police. 2 U.S.C. § 1967(a). Similarly, the Board is required to obtain approval of the Speaker of the House (in consultation with the Minority Leader of the House of Representatives) and the President pro tempore of the Senate (in consultation with the Minority Leader of the Senate) before issuing regulations regarding the appointment of special officers. 2 U.S.C. § 1974(f).

the Manual, and working to understand and address stakeholder concerns could help the Board more effectively communicate with stakeholders.

According to the Board, it limits its activities to areas specifically prescribed in statute. Therefore, the Board has not fully incorporated some leading practices into its Manual because it believes that some of them address areas beyond what is required in statute. However, in developing the Manual, the Board did incorporate some practices that were not set out in statute, as we have shown. For example, the Board included in its Manual a provision that it is to develop a year-end report and distribute it to congressional stakeholders—a practice that is not statutorily prescribed. *G20/OECD Principles of Corporate Governance* states that:

“The rights of stakeholders are often established by law... [but] even in areas where stakeholder interests are not legislated, many firms make additional commitments to stakeholders and concern over corporate reputation and corporate performance often requires the recognition of broader interests.” - *G20/OECD Principles of Corporate Governance*, 2015

In addition, the Board also explained that challenges to providing more transparency into its operations stem from the sensitivity of the law enforcement information for which it has responsibility.

Moving forward, fully incorporating these leading practices into its Manual—or codifying where the Board had been demonstrating such leading practices—would allow the Board reasonable assurance that its approaches facilitate accountability, transparency, and effective external communication with its stakeholders.

Most Congressional Stakeholders Expressed Concern Regarding the Board's Accountability, Transparency, and Communication Approaches, and Opportunities Exist to Enhance the Board's Operations

Our outreach to 11 congressional stakeholders⁴⁵—seven stakeholders from the committees and four stakeholders from the leadership offices—showed differences of opinion between stakeholders in leadership offices and those representing committees regarding the Board's accountability, transparency, and effective external communications approaches.⁴⁶ In addition, some of these stakeholders offered adjustments to the Board's structure and operations for consideration for addressing the concerns they raised.⁴⁷

⁴⁵We conducted semi-structured interviews with staff from the majority and minority sides of the committees that interact with the Board and Capitol Police—Senate Committee on Rules and Administration, Committee on House Administration, and Senate and House Legislative Branch Appropriations Subcommittees—as well as leadership offices—Senate Majority and Minority Leaders and Speaker of the House. Staff from the House Minority Leader's office provided a brief response via e-mail. Majority staff from the House Appropriations Committee declined to meet with us and staff from the offices of the House Majority Leader and Senate President pro tempore did not respond to our request to meet.

⁴⁶Since accountability, transparency, and effective external communications are similar concepts when it comes to interacting with stakeholders, some of the examples provided could be included in more than one category. For example, when stakeholders provided comments about a challenge area that affects accountability, the area may also have an impact on transparency. Rather than duplicate examples, we placed the remarks in the area we believe best suits the nature of the comment.

⁴⁷The stakeholder views represent the opinions of individual staff members from the committees and leadership offices that interact directly with the Board and may not necessarily represent the opinions of the committees they represent.

Leadership and Committee Stakeholder Perspectives Differed, but Concerns Exist About Board Approaches

Accountability

Three of the four stakeholders from leadership offices generally expressed satisfaction with the level of accountability the Board has demonstrated, while all seven stakeholders from the committees identified factors that limit their ability to hold the Board accountable.⁴⁸ One stakeholder from a leadership office noted that the bicameral structure of the Board precludes it from being accountable to any one person or entity in Congress, but this individual did not see this as a challenge. Rather, the individual observed that the Board's structure serves as an appropriate buffer between political influences and security decisions. In contrast, four of the seven committee stakeholders told us they saw the bicameral structure as a factor limiting accountability and that this, at times, challenges their oversight. For example, a single committee cannot call all of the Board members to a committee hearing because one of the two Sergeants-at-Arms is not under that chamber's jurisdiction. In addition, one stakeholder told us that there may be a perception that the Architect of the Capitol as a Board member is not fully accountable to the House committees because the Architect is confirmed by the Senate.⁴⁹ Aside from the bicameral structure, another factor that some committee stakeholders noted precluded them from ensuring accountability from the Board was a lack of insight into the Board's decision-making. For example, one stakeholder pointed to the difficulty in discerning whether the Board or the Chief made a decision regarding the Capitol Police. As a result, the Chief is, at times, held accountable for decisions made by the other Board members. According to several committee staff, this factor hinders their ability to determine who is responsible for Board decisions that have implications for their

⁴⁸One of the leadership stakeholders did not specifically comment on the accountability of the Board.

⁴⁹The Architect of the Capitol is appointed by the President by and with the advice and consent of the Senate after a commission recommends at least three candidates to the President. The commission consists of the Speaker of the House of Representatives, the President pro tempore of the Senate, the majority and minority leaders of the House of Representatives and the Senate, and the chairmen and the ranking minority members of the Committee on House Administration, the Committee on Rules and Administration of the Senate, the Committee on Appropriations of the House of Representatives, and the Committee on Appropriations of the Senate. 2 U.S.C. § 1801.

committees' work. In its written comments on a draft of this report, the Board indicated that no one outside of the U.S. Capitol Police and the Board should know how the Board reached a decision, as once a decision is reached, it is unanimous (see appendix III).

Three of the four leadership stakeholders found the roles, responsibilities, and lines of reporting between the Board and the Chief to be clear enough to promote accountability, unlike six of the seven committee stakeholders who did not.⁵⁰ Five of these six committee stakeholders noted that in their view, the Board intervenes in the Chief's management of the police department. For example, in the view of some committee stakeholders, the Board decides on and directs "a lot" of the Capitol Police department's spending, which they feel should be left to the discretion of the Chief. Some committee stakeholders also noted that the Sergeants-at-Arms told Capitol Police officers that they may come to the sergeants with any issues they may face within the police department. In the views of these stakeholders, officers should go to the Chief, not the Board, as this is a part of the day-to-day management of the department. Two committee stakeholders added that the Chief does not appear to have a sufficient voice in Board decisions regarding the Capitol Police and added that it appears the Chief does not provide his opinion if it is different from the Board's. These stakeholders perceived that this was the case because the Board hires the Chief. As committee stakeholders explained, as a result of unclear roles and responsibilities, it is difficult for them to determine what the Capitol Police—the department over which they have oversight authority—needs rather than what the Board needs. Further, across both leadership offices and committees, some stakeholders pointed out that the level of clarity in the roles and responsibilities of the Board and the Chief depends on the personalities or individual expectations of the Board members and the Chief.

Stakeholders also provided their perspectives of the Board's role overall. Some committee stakeholders said the Board did not involve the respective committee in decisions in areas where, in their view, the committee has authority, such as controlling access to the Capitol buildings and grounds, which further limited the Board's accountability. In addition, one leadership stakeholder noted that the issues encountered with the Board stem from their view that the Board is not proactively

⁵⁰One of the leadership stakeholders did not specifically comment on the roles, responsibilities, and lines of reporting of the Board.

identifying issues and taking steps to address them, such as when this stakeholder had to take the initiative to get the Board to address a security issue that had existed for nearly 15 years. This stakeholder said that such issues may be a result of how Board members perceive the Board's role in security matters. In its written comments on a draft of this report, the Board had indicated that it had brought this security issue to stakeholders' attention in 2003, but no action had been taken until the leadership stakeholder became aware of the issue and pushed the issue to conclusion (see appendix III).

Transparency

We also found differences of opinion between leadership and committee stakeholders with respect to their views on the Board's transparency. Three of the four leadership stakeholders told us that the Board operates in a transparent manner. One of these stakeholders noted that more insight into the Board's plans and progress on security initiatives would help the leadership office ensure that the Board is addressing necessary security issues around the Capitol complex. On the other hand, six of the seven committee stakeholders told us that the Board does not operate in a transparent manner.

The six committee stakeholders who felt transparency could be improved said they lacked insight into the Board's decision-making in areas where the committees have responsibilities, such as Capitol Police matters or campus-wide security. For example, one stakeholder said that committee staff do not know if and when the Chief disagrees with a Board decision. Further, one committee stakeholder underscored a leadership stakeholder's perspective, noting that the Board is not upfront with congressional staff about the Board's security projects, so congressional staff have to ask very specific questions to obtain the information they need. Another committee stakeholder told us that the Board decided to close an area of the Capitol for recent events that had typically been open to members of Congress and their guests. In so doing, the Board informed leadership in a letter after rendering the decision, but did not consult with congressional staff from the cognizant committee prior to finalizing this decision. This stakeholder pointed out that the committee, not leadership, has jurisdiction over the chamber's grounds so the Board should be more transparent with its decisions. According to this stakeholder, the Board also does not trust congressional staff with security related information and the individual attributed this to the fact that congressional staff, for the most part, are not former law enforcement or security officials like the Board members.

The one committee stakeholder who was satisfied with the level of the Board's transparency acknowledged that based on personal opinion, additional transparency is not necessary because the Board deals with sensitive security-related matters better left discussed discreetly. Further, this stakeholder pointed out that the chamber's Sergeant-at-Arms keeps staff apprised of information that the committee needs and, if questions arise, the stakeholder knows who to contact.

Effective External Communications

Effective external communication is closely related to transparency and similarly, opinions were mixed between leadership and committee offices with respect to how well the Board communicates its decision-making. Specifically, all four leadership stakeholders expressed satisfaction with the Board's communication practices while five of the seven committee stakeholders stated otherwise.

In particular, all four of the leadership stakeholders expressed their satisfaction with the level of communication they had with individual Board members, even though one acknowledged that the Board as a whole could still take steps to improve stakeholder communication.

In contrast, five of the seven committee stakeholders stated that the Board does not communicate with them to solicit feedback when making decisions related to their committees' jurisdiction. For example, some stakeholders on the appropriations committees reported that the Board did not communicate its plans when initiating security projects in the middle of the fiscal year that had not been included in the annual budget request. These stakeholders shared the view that initiating significant security projects without their input limits transparency. One stakeholder found out about changes to security initiatives that have implications for future year appropriations in a widely-distributed notice of the changes, but not directly from the Board. Further, some stakeholders also expressed frustration with "going through" the Board when they have questions or concerns about the Capitol Police's budget justification. One of these stakeholders said that for other agencies within the committee's jurisdiction, staff can discuss matters directly with the leader of that agency and they perceived the Board as an unnecessary intermediary.

One of the committee stakeholders who felt satisfied with the level of the Board's communication told us that the congressional staff initiates a lot of the communication with individual Board members, in particular the Sergeant-at-Arms, and that practice met the individual's needs. The other

stakeholder from that committee found that communication between committee staff and the Board depended on the personalities of individual Board members and that was not problematic. For example, the Sergeant-at-Arms from their committee's chamber discusses items and issues the Board is considering with the congressional staff. Further, when this Sergeant-at-Arms took chairmanship of the Board, he met with committee and leadership stakeholders to discuss and solicit feedback on security issues he envisioned the Board tackling during his chairmanship.

Options Exist for Adjustments to the Board's Operations and Structure

Our analyses and discussions with law enforcement expert groups, congressional stakeholders, and others who are familiar with the workings of the Capitol Police Board identified options to enhance the Board's approaches that fall into two categories: (1) adjustments the Board might consider without any statutory change required, and (2) adjustments that would require statutory change.

Adjustments That Would Not Require Statutory Change

1. The provision of regular opportunities for the committees of jurisdiction and the leadership offices to meet with the full Board.

Some stakeholders suggested that more routine contact could enhance accountability, transparency, and communication. For example, congressional staff suggested periodic meetings between stakeholders and all four Board members in one setting or the Board could invite staff to scheduled Board meetings.⁵¹ These opportunities could address some stakeholders' concerns that they do not have insight into the Board's decision-making on security matters. One stakeholder told us that the existing monthly meetings on the House side between congressional staff

⁵¹According to the Board, its meetings take three forms: general, executive, and classified. The general session covers all matters that come before the Board other than personnel or classified matters. The executive session covers personnel, privileged, and law enforcement-sensitive matters. Generally, attendees for executive sessions include Board members, one designee from each Board member; counsel for each Board member; and other attendees as determined by the Board. Attendees for classified sessions include those with the appropriate security clearances and further determined on a need-to-know basis. The chairman, in consultation with other Board members and the executive assistant, determine proper clearance in advance of classified session, and the clearance levels vary depending on the nature of the subject.

from the leadership offices and the appropriations committees, as well as the House Sergeant-at-Arms, the Chief, and the Architect of the Capitol, are helpful tools. These meetings provide a platform for the relevant parties to discuss security issues that need to be addressed and projects that need to be funded. This individual wondered why the Board does not similarly coordinate meetings with all of the appropriate stakeholders from leadership offices or committees when it identifies security issues that require input from these stakeholders. Leadership and committee stakeholders who made these suggestions said that since congressional staff do not meet regularly with the full Board, additional opportunities to meet with all of the Board members at once would enhance transparency by providing insight into the Board's decision-making and allow stakeholders to be more informed of the Board's plans for the security of the Capitol complex. In addition, some of the stakeholders asserted that involving congressional staff in these meetings could also address their concerns related to ensuring accountability of the full Board.

2. The development and implementation of a consistent outreach strategy for soliciting stakeholder feedback, as appropriate, when the Board contemplates changing or issuing new security approaches.

One stakeholder noted that such a strategy would help ensure consistency in how the Board solicits feedback before finalizing decisions and would improve external communication. From this individual's perspective, issues between congressional stakeholders and the Board arise from the Board not communicating effectively with stakeholders. Further, a strategy to discuss decisions that the Board is considering could also address other stakeholders' concerns about the lack of insight into the Board's decisions in areas where stakeholders have specific responsibilities. For example, one stakeholder noted that the Board could better inform stakeholders on the reasons why the Board wants to pursue one option or initiative over another.

3. The clarification for stakeholders of when a decision is within the authority of the Board or the Chief.

Some stakeholders conveyed frustration that they did not always know the impetus for a decision and this affected who they could hold accountable. For example, some stakeholders commented that in their view, the Chief is at times held accountable for decisions made by the other Board members. Other stakeholders commented that the Board is too heavily invested in operational matters such as budget justification

review and personnel matters, although the statutory framework supports this role. Thus, if the Board were more transparent about distinguishing between areas within the Board's domain versus the Chief's, which some stakeholders noted was unclear to them, it could reduce some degree of confusion. Likewise, if the Board better explained its roles as directed by statute, and how it operationalized those requirements, it could address some stakeholders' concerns that the Board inappropriately intervenes in the Chief's management of the department.

Structural Adjustments that Would Require Statutory Change

1. A change to the scope of the Board's duties.

As mentioned earlier, the scope of the current Board's duties ranges widely from managing certain human capital and personnel issues to making security decisions. This contrasts from the scope of other law enforcement oversight entities that we noted earlier when recapping the views of the law enforcement expert groups with whom we spoke. In addition, some stakeholders expressed frustration concerning the wide scope of the Board's duties despite the professionalization of the Capitol Police department over time. For example, they noted that the Board's involvement in the budget process encroaches on their committees' ability to interact directly with the Chief on the Capitol Police's budget justification. Statutory change to reduce the Board's scope, expand its scope, or eliminate the Board altogether could also have practical implications on the Capitol Police. For example, if the Board's scope were to be reduced, the Chief may have to assume new responsibilities or adapt to a different level of oversight in the midst of ongoing Capitol Police operations. If the Board's scope were to expand, it would require the Board to quickly adapt to fulfill its new responsibilities and add competing pressures on their time. If the Board were to be eliminated entirely, some of its responsibilities may be reassigned to various entities, including the Chief, all the while having to maintain some type of congressional oversight structure for the Capitol Police.

2. A change to the composition and size of the Board.

As we previously described, the Board is currently comprised of the House and Senate Sergeants-at-Arms, the Architect of the Capitol, and the Chief of the U.S. Capitol Police who serves in a non-voting, ex-officio capacity. In speaking with law enforcement expert groups about the Board, one group specifically mentioned that the current Board is smaller than the size of traditional oversight bodies, which generally include at least seven members. Another law enforcement expert group mentioned

that the Board could benefit from expanding its size, and therefore its composition, to include representatives from other law enforcement agencies who could add a broader perspective. For example, one stakeholder suggested adding another Board member with specific expertise on counterterrorism. Further, corporate governance standards encourage the use of independent directors on a Board who do not have a material or financial connection to the corporation they oversee. Including representatives from outside law enforcement agencies could be one way to incorporate the use of independent directors into the Board's structure.

Congressional stakeholders also commented that the Capitol Police Board is smaller in size and composition compared to another body that has some similarities in role. For example, the Joint Congressional Continuity Board shares similar security related responsibilities but is larger than the Capitol Police Board.⁵² The Joint Congressional Continuity Board, while not a statutorily created organization like the Capitol Police Board, is comprised of the current Capitol Police Board members with the exception of the Architect of the Capitol, but also includes the Secretary of the Senate, the Clerk of the House, and the Chief Administrative Officer of the House.

Changes to the Board's composition and size could impact how the Board operates. For example, increasing the size of the Board may complicate its decision-making process and the Board's current practice to operate under consensus. In addition, according to the Board, the small size of the current Board makes it more nimble and adding additional members could negatively impact the accountability of individual members to Congressional stakeholders. Board members added that there may be challenges associated with adding more people to the Board because any new members may become involved in lawsuits that the Board may be involved with at any given time and face liability, which could impact their desire to serve on the Board. In addition, according to the Board, the structure and composition of the Board is its strength because it combines the law enforcement credentials of the Board members with the campus and infrastructure knowledge of the Architect of the Capitol. However, as some stakeholders and law enforcement expert groups have suggested, the Board may benefit from including other perspectives.

⁵²According to Congressional stakeholders, the Joint Congressional Continuity Board deals with issues related to emergency preparedness and the continuity of operations for Congress.

3. A change to Board members' selection processes, voting rights, and leadership assignments.

As we previously described, Board members come into their positions in different ways. The Speaker of the House and the Majority Leader in the Senate select the House and Senate Sergeants-at-Arms, respectively, the Architect of the Capitol is selected by the President and confirmed by the Senate, and the Chief of Police is selected by the Board. The mechanisms by which members are placed into their positions may have an impact on the Board's accountability to Congressional stakeholders. For example, some committee stakeholders noted that in their view, the Board members are accountable to congressional leadership and not the committees. Additionally, one law enforcement expert group we spoke with indicated that police chiefs are often selected by elected officials, rather than the oversight organization, which differs from the Board's current practice of selecting the Chief. With respect to voting, currently, all Board members vote except for the Chief of Police since one of the voting decisions that is made by the Board involves the hiring and firing of the Chief. The Board also has three voting members so that there is a tie-breaker, which serves a useful function in the event of disagreement and this principle may be valuable to retain if changes to voting are made. Changes to roles of the members, such as the voting status of members, may impact the amount of weight individual perspectives have in the Board's decision-making process. With respect to how the chairmanship of the Board is determined, the position rotates between the House and Senate Sergeants-at-Arms on a yearly basis but that could change to allow the Architect of the Capitol to serve in that role or to change the timing of the rotation. Changes to the current practice of alternating chairmanship of the Board could impact the continuity of Board initiatives, as individual members of the Board may have different priorities.

4. A change to the oversight of the Board's activities.

As we mentioned earlier, a number of the Board's activities are subject to the oversight of the Senate Committee on Rules and Administration, the Committee on House Administration, and the Senate and House Legislative Branch Appropriations Subcommittees, but four of the seven Congressional stakeholders we spoke with from the committees stated that they believed that the Board does not sufficiently take into account the role of these committees in making decisions involving the U.S. Capitol Police.

Changes to the oversight into the Board's activities could take many forms. For example, our prior work on the Board found that oversight of

the Board and the U.S. Capitol Police could be consolidated into a single joint congressional committee, which could address concerns about holding the entire Board accountable as the joint committee would be bicameral and therefore would have jurisdiction over all the Board members. However, according to the Congressional Research Service, joint committees generally lack legislative authority, so their ability to streamline legislative action would be limited, and as one Congressional stakeholder we spoke with commented, joint committees can be difficult to form. During outreach for our current study, we learned from a National Council on State Legislatures (NCSL) representative that security and law enforcement at many state capitols is managed this way. Oversight of security and law enforcement at other state capitols is conducted by members of the legislature, such as in California—according to the representative from NCSL. Also, as this individual from NSCL described it, in New Mexico, a legislative council comprised of the leaders from the state House and Senate chambers oversees security. Changes to the oversight of the Board’s activities may have practical implications. For example, if oversight were to be consolidated into a joint committee, this would establish a single focal point within the Congress for oversight.

Changes to the oversight into the Board’s activities could also include restructuring the way in which the Board’s initiatives are funded. Representatives from another law enforcement expert group we spoke with indicated that law enforcement oversight bodies typically have funding that is separate from the law enforcement entity that they are overseeing, which enhances their independence and adds a layer of accountability to their appropriators. Further, Congressional stakeholders we spoke with indicated that, if the Board had separate funding, it would be required to follow the established budget justification process that requires engagement with the appropriators, which would also enhance the transparency of the Board’s activities.

Regardless of what change is made to the oversight of the Board’s activities, it is important that the Board’s relationship to the oversight committees is clear to both sides, given the perception among some Congressional stakeholders that the Board does not always appropriately acknowledge committees’ roles in oversight.

Conclusions

The Board has taken action to document its practices into a Manual of Procedures. While the Manual has incorporated some leading practices

to facilitate accountability, transparency, and effective external communication, and the Board has taken action to implement many of these provisions, Congressional stakeholders still have reservations about the Board's effectiveness. As a key governing document, the Manual could thus be strengthened to more fully incorporate the leading practices we identified, such as turning inward to assess its own performance, and thus address the stakeholder concerns we reported. In some instances, the Manual is silent on the effective governance practices that the Board is implementing and it could be strengthened by codifying these activities. In other instances, the Board is not implementing particular practices that the Manual directs. Adherence is thus warranted, and also could positively impact stakeholder relations. Finally, in some cases, the Manual is silent on a practice and the Board has not been addressing it either. In this last case, adjusting the Manual accordingly could help establish and routinize the desired leading practice on a prospective basis and also could alleviate some stakeholder concerns.

Revising the Manual to fully incorporate leading practices for internal control and governance standards would provide a sound and robust governing document, inclusive of all the Board currently does while also establishing new processes for the Board to do in the future. Additionally, revising the Manual would help the Board better ensure that its practices are designed to facilitate constructive and productive relationships with stakeholders while maintaining the Board's critical security focus. As the Board contemplates these revisions to the Manual, it would benefit from working to engage stakeholders in the process. The Board could do this by soliciting stakeholder input as it considers the non-statutory changes that stakeholders suggested to address their concerns, such as developing strategies for obtaining stakeholder feedback when making security decisions. Further, if the Board determines that statutory changes are needed, it should coordinate with stakeholders on such changes. Identifying and communicating potential changes to its congressional stakeholders, and incorporating their views into the revision process, as appropriate, would help the Board ensure that steps to revise its Manual best address both the leading practices and chief stakeholder concerns.

Our work indicates that stakeholders hold widely divergent views about the appropriate role of the Board, the level of transparency concerning its operations, and the extent to which it engages stakeholders when making decisions. These divergent views reflect a variety of competing interests and priorities. Our report also outlines a number of options requiring statutory change, which could further address concerns about the Board's

operations, but could also pose new challenges. These options center on changes to the Boards' scope and duties, its composition and size, and alternatives to congressional oversight of the Board, among other things. Ultimately, the decision of whether to implement these options, and if so, how to implement them, involves fundamental policy choices that only Congress can make taking into account the results of our analyses and discussions with law enforcement groups and stakeholders.

Recommendation

To ensure that the Capitol Police Board's current and any new approaches help enhance accountability, transparency, and effective external communication with its stakeholders, we recommend that the Board revise its Manual of Procedures to fully incorporate each of the leading practices for internal control and governance standards discussed in this report. In so doing, the Board should engage stakeholders in the revision process, such as by soliciting their input on any non-statutory changes that could particularly address the concerns stakeholders have raised, and incorporating their views as appropriate. If, in making revisions to its Manual, the Board determines that statutory changes may be helpful to enhance Board operations, then the Board should also engage with stakeholders on such proposed changes.

Agency Comments and Our Evaluation

We provided a draft of this report to the Board for their review and comment. The Board provided written comments, which are summarized below and reproduced in appendix III. The Board also provided technical comments, which we incorporated as appropriate. We also provided a draft of this report to congressional leadership—the Speaker of the House, Senate Majority Leader, and the Senate and House Minority Leaders.

In its written comments, the Board did not state whether or not it concurred with the contents of our draft report or our recommendation. However, the Board did present several areas that it wanted emphasized, such as its reporting structures and member credentials, both of which it asserts as strengths. Further, the Board noted that its Manual is an internal reference tool to guide current and prospective Board members and not a governance document. With respect to reporting lines, we revised our figure accordingly. With respect to the Manual, we are not

making revisions to our report because the Manual serves as the sole document to guide Board operations.

Additionally, the Board expressed concern with the applicability of the corporate governance leading practices we identified. In particular, the Board stated that such practices are geared towards corporations and not Congressional entities, such as the Capitol Police or the Board. We disagree. As we noted in our report, these standards have broad relevance to governing bodies seeking to facilitate accountability, transparency, and effective external communication in a range of contexts. Further, in identifying the leading practices, we were mindful of choosing practices that would be pertinent to the Board, given that it does not operate in a corporate setting. Additionally, the Board utilized an earlier version of these same practices in its 2003 report to Congress, as we cited. Relatedly, in the Board's 2003 report, it noted that the Board serves as the Board of Directors for the Capitol Police and indicated that following corporate governance standards would provide an effective model for the Board in setting out its roles, functions, and processes for the future.

We are sending copies of this report to the appropriate congressional committees and the Board. In addition, the report is available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff members have any questions about this report, please contact me at (202) 512-8777 or goodwing@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix III.



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Appendix I: Objectives Scope and Methodology

In this report, we examine the following objectives:

- (1) What are the roles and responsibilities of the Capitol Police Board (Board) and the Chief of the Capitol Police (Chief) as set out in statute and in the Board's Manual of Procedures and how does the Board's scope compare to other law enforcement oversight entities?
- (2) To what extent does the Board's Manual of Procedures incorporate leading practices from internal control and other standardized governance principles to facilitate accountability, transparency, and effective external communication and in what ways is the Board implementing these practices?
- (3) What are Congressional stakeholder perspectives on the degree to which the Board is accountable, transparent, and effective in its communication approaches and what options exist to enhance the Board's approaches?

To examine the roles and responsibilities of the Board and the Chief of the Capitol Police as set out in statute and in the Board's Manual of Procedures (Manual) and to determine how the Board's scope compares to other law enforcement oversight entities, we reviewed the relevant statutes that set out the Board and the Chief's roles and responsibilities. We also reviewed the Board's Manual to identify areas where it identifies the Board's roles and responsibilities, as well as those of the Chief in relation to the Board. We then analyzed the relevant statutory and Manual provisions to inventory the various roles and responsibilities of the Board and the Chief.

In addition, we conducted interviews with officials from organizations with expertise in law enforcement oversight and governance issues, such as the Commission on Accreditation for Law Enforcement Agencies (CALEA), Police Executive Research Forum (PERF), International Association of Chiefs of Police (IACP), and National Association for Civilian Oversight of Law Enforcement (NACOLE), to understand how organizations overseeing law enforcement agencies are structured and how they function. We also spoke with the National Council on State Legislatures (NCSL) to understand how law enforcement oversight efforts are structured and function at state capitols and whether any parallels exist to the Capitol Police Board. We selected these organizations because we spoke to many of the same organizations for our prior work

on the Board and they have a breadth of knowledge about law enforcement oversight structure and functions in other settings.

Further, we interviewed current Board officials—members, such as the House Sergeant-at-Arms, general counsel, and the executive assistant—as well as a former Board member, a former Chief of the Capitol Police, and current Capitol Police union officials. We also conducted semi-structured interviews with congressional staff from the majority and minority sides of the committees that interact with the Board—Senate and House Legislative Branch Appropriations Subcommittees, Senate Committee on Rules and Administration, and Committee on House Administration—as well as leadership offices—Speaker of the House and Senate Majority and Minority Leaders.¹ We spoke with these congressional staff to solicit their views on the roles and responsibilities of the Board and Chief. The information collected from interviews with these staff cannot be projected to all staff from the committees of jurisdiction and leadership offices. However, these interviews provided us with the perspectives of staff who work with the Board in their capacity as committee and leadership staff.

To examine the extent to which the Board’s Manual incorporates leading practices from internal control and other standardized governance practices to facilitate accountability, transparency and effective external communication and describe the ways the Board has implemented these practices, we first assessed the Manual using internal control and corporate governance principles.² For our purposes, and using these practices as a guide, we used the following definitions for each term:

- **Accountability** occurs when an entity acknowledges and assumes responsibility for its actions and is answerable for any resulting consequences.
- **Transparency** occurs when an entity records and communicates information on activities to stakeholders who need it in a form and

¹Staff from the House Minority Leader’s office provided a brief response via e-mail. Majority staff from the House Appropriations Legislative Branch Subcommittee declined to meet with us and staff from the offices of the House Majority Leader and Senate President pro tempore did not respond to our request to meet.

²GAO, *Standards for Internal Control in the Federal Government*, [GAO/AIMD-00-21.3.1](#) (Washington, D.C.: November 1999); Organisation for Economic Cooperation and Development, *G20/OECD Principles of Corporate Governance*, Ankara, Turkey: September 2015; and Business Roundtable, *Principles of Corporate Governance*, 2012.

timeframe that allows these stakeholders to carry out their responsibilities.

- **Effective external communication** occurs when an entity utilizes various modes of communication, proactively when possible, to convey information to stakeholders.

To identify the leading practices that reflect the specific activities that effective governing bodies should engage to facilitate accountability, transparency, and effective external communication, we consulted *Standards for Internal Control in the Federal Government*, the Business Roundtable's *Principles of Corporate Governance* and the G20/Organization for the Economic Cooperation and Development's *Principles of Corporate Governance*. We reviewed these sources to identify the standards that pertain to accountability, transparency, and effective external communication and would also be relevant to the Board, given that it does not operate in a corporate setting. Through this process, we identified six leading practices and 24 specific activities, or criteria, they encompass. The six leading practices reflect the specific activities in which effective governing bodies should engage to facilitate accountability, transparency, and effective external communication.

These leading practices are: (1) defining roles, responsibilities, and areas of authority; (2) overseeing functions of the corporation; (3) conducting performance evaluations and reviews; (4) developing processes for internal functions of the board; (5) disclosing information to stakeholders; and (6) developing processes for communication with stakeholders.

We then assessed procedures in the Manual against the activities associated with each leading practice we identified and determined the extent to which the practices were incorporated. To do this, we used a scale of "fully incorporated," "partially incorporated," and "not incorporated." A determination of "fully incorporated" means that procedures in the Manual align with all activities associated with the leading practice. A determination of "partially incorporated" means that procedures in the Manual align with some activities associated with the leading practice. A determination of "not incorporated" means that no provisions in the Manual align with any activities associated with the leading practice. One analyst independently reviewed the Manual and made the initial determination. A second analyst then verified the decision.

We also obtained and analyzed Board documentation illustrative of its practices, including the 2003 Board report to Congress, minutes of Board meetings held in fiscal years 2014 and 2015, orders issued by the Board in calendar years 2014 and 2015, year-end reports for calendar years

2013 through 2015, and a briefing that provides an overview of the Board. We focused on documentation developed in 2014 and 2015 because the Board adopted the Manual in June 2013. In addition, we interviewed Board officials to understand their practices.

To identify the Congressional stakeholder perspectives on the degree to which the Board is accountable, transparent, and effective in its communication approaches and options that exist to enhance the Board's approaches, we sought stakeholder views from the majority and minority staff of the committees who engage with the Board – Senate Committee on Rules and Administration, Committee on House Administration, and the Senate and House Legislative Branch Appropriations Subcommittees – as well as the majority and minority staff representing the leadership from the Senate and the House, to provide insight into how the Board's practices were meeting their needs for accountability, transparency, and effective communication when interacting with the Board and to solicit feedback on the options to alternative Board structures that we found in our prior work on the Board, options proposed by the Congressional Research Service in 2009, and to identify any other options that may address any concerns they have in interacting with the Board. We also solicited Board and stakeholder input and asked the organizations we had earlier identified as having expertise in law enforcement oversight and governance issues for their perspectives. We then incorporated the information collected from interviews with congressional staff and experts into the alternative structures for the Board we found in our prior work on the Board. In addition, we interviewed a former Chief of the Capitol Police to understand implications that alternative structures may have on the Chief. Further, we solicited the perspectives of the Board on the implications that alternative structures may have on its operations.

We conducted this performance audit from January 2016 to February 2017 in accordance with generally accepted government auditing standards. These standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix II: Statutory and Manual Provisions Related to the Capitol Police Board's Engagement with Congressional Stakeholders

Table 9: Capitol Police Board's Engagement with Congressional Stakeholders

**Appendix II: Statutory and Manual Provisions
Related to the Capitol Police Board's
Engagement with Congressional Stakeholders**

Notes:

^aSenate Committee on Rules and Administration and Committee on House Administration

^bSenate and House Legislative Branch Appropriations Subcommittees

^cThe U.S. Capitol Police Memorial Fund was created by statute in 1998 to provide compensation to the families of Capitol Police officers killed in the line of duty. 2 U.S.C § 1951.

^dThe Senate President *pro tempore* approves in consultation with the Senate Minority Leader.

^eThe House Speaker approves in consultation with the House Minority Leader.

^fThe Manual and statute state that the Board shall communicate the reasons to the Senate and House Committees on Appropriations. The Senate and House Legislative Branch Appropriations Subcommittees under these full committees have jurisdiction over the Capitol Police.

^gThe Manual states that the Board shall deliver the Manual to the listed offices by the preferred means of each office.

^hThe Manual is made available to these offices at the discretion of the Board, according to the Manual.

ⁱEngagement is established in the Manual but not in statute.

^jThe Manual states that the oversight committees will be notified of substantive changes to the Manual as determined by the Board. In practice, the Board has not made any changes to the Manual since its adoption in 2013. In addition, although not in the Manual, the Board told us that new versions or changes to the Manual would be made available to the offices listed in the Manual. As noted in the row above, this list includes congressional leadership offices but not committees.

Appendix III: Comments from the Capitol Police Board



PHONE (202) 225-2456

UNITED STATES CAPITOL POLICE BOARD

H-124 The Capitol
WASHINGTON, DC 20515

PAUL D. IRVING, Chairman
FRANK J. LARKIN, Member
STEPHEN T. AYERS, FAIA, LEED AP, Member
MATTHEW R. VERDEROSA, Ex-Officio Member

December 14, 2016

Honorable Gene L. Dodaro
Comptroller General
Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Mr. Dodaro:

This is in response to the GAO Draft Report, GAO 17-112, "U.S. CAPITOL POLICE BOARD: Fully Incorporating Leading Governance Practices Would Help Enhance Accountability, Transparency, and External Communication". This letter and the attached appendix contain our comments on the Draft Report.

We identified several issues that would benefit from clarification or revision. We highlight some of those issues below and provide additional information concerning all of the issues in the attached appendix.

(1) Capitol Police Board (Board) reporting structure. The Board reports to House and Senate Leadership (Congressional Leadership) vice "committees of jurisdiction", and this fact is missing from the Draft Report's charts. However, it is noted that individual Board members and the Chief of the United States Capitol Police (USCP) meet with various Congressional committees on a regular basis and/or as needed. The current reporting relationship has been validated by Congressional Leadership.

(2) Corporate Governance. The Draft Report relies on the corporate governance model set forth in the "G20/OECD Principles of Corporate Governance" guidelines. However, these guidelines are geared towards private publicly-traded corporations and not Congressional entities such as the USCP or the Board.

(3) Alternative Board structures. The nimble Board structure easily permits the respective chambers to voice any unique and/or specific concerns, through the House or Senate Sergeants at Arms, in a manner that permits the Chief to conduct the day-to-day operational duties and fulfill the responsibilities of the USCP in a manner that comports with sound and established security and law enforcement protocols. The longstanding structure serves legislative branch priorities while maintaining consistent campus-wide security protocols so that the USCP can perform their law enforcement mission with minimal hindrance in protecting the elected officials, staff, and visitors from daily threats.

**Appendix III: Comments from the Capitol
Police Board**

(4) Board Manual of Procedures (Manual). The Board's Manual is an internal document that covers general Board procedures and is a reference tool used as guidance for current and future Board members. The Manual primarily sets forth the statutory reporting requirements of the Board and the internal rules of order that the Board has adopted for effective operations.

(5) Board credentials. The career law enforcement professional credentials of the members of the Board (to include the Chief), along with the campus and infrastructure knowledge of the Architect, permit the Chief to successfully manage the USCP and provide the USCP with the guidance needed to secure the entire Capitol complex. Thus, the "uniqueness" of the Board's structure and composition is, in fact, its strength.

The Board has provided further details of the issues raised in this letter in the appendix, which is hereby incorporated as part of this letter.

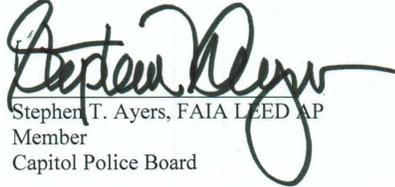
Thank you for the opportunity to comment on the Draft Report.



Paul D. Irving
Chairman
Capitol Police Board



Frank J. Larkin
Member
Capitol Police Board



Stephen T. Ayers, FAIA LEED AP
Member
Capitol Police Board



Matthew R. Verderosa
Chief of Police
U.S. Capitol Police, *Ex Officio*

Cc: The Honorable Paul Ryan, Speaker
The Honorable Mitch McConnell, Majority Leader
The Honorable Nancy Pelosi, Democratic Leader of the House
The Honorable Harry Reid, Minority Leader of the Senate
Gretta L. Goodwin, Acting Director, Homeland Security and Justice

Appendix IV: GAO Contact and Staff Acknowledgments

GAO Contact

Gretta L. Goodwin, (202) 512-8777, goodwing@gao.gov

Staff Acknowledgments

In addition to the contact named above, individuals making key contributions to this report were Joy Booth, Assistant Director; Julia Vieweg, Analyst-in-Charge; Ji Byun; Dina Shorafa; Helen Desaulniers, Patrick Dibattista; Kaitlin Farquharson; Tracey King; Thomas Lombardi, Amanda Miller; Jan Montgomery; and Kate Siggerud. Ben Atwater; Seto Bagdoyan; Katherine Davis; Eric Hauswirth; Nima Patel-Edwards, and Adam Vogt also provided valuable assistance.

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