

INTERNAL AFFAIRS

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INTRODUCTION

In the late nineteenth and early part of the twentieth century, most deviant police behavior was either ignored or dealt with informally within the police department (Gibbons, 1984). The gradual public concern and demand for the agency accountability reached a pinnacle during the 1960s. The emergence of Federal Civil Rights Legislation and resultant civil disobedience, pushed to the forefront issues of police brutality and excessive force incidents. Various congressional hearings and reports citing recommendations for improved police community relations were drafted and adopted by the criminal justice system on a national level. These led to the establishment of “Internal Affairs” units to investigate allegations of misconduct and brutality incidents reached a breaking point nationally as a result of the Miami racial disturbances that occurred in the 1980s. These disturbances moved the public into demanding full accountability and review of internal investigations of police misconduct. This led to the creation of various internal investigations of police misconduct and civilian oversight of police organizations (Hopper, 2000).

It should be the policy of all law enforcement agencies, large or small, to investigate every allegation of employee misconduct. Police executives should never ignore such reports and should act in a timely manner in accordance with the seriousness of the allegation.

Peace Officers are generally held to higher standards of behavior than many occupations, and these standards are absolutely necessary due to the nature of the work, and the public interest's that is at stake. Certain behavior has the potential of compromising a department's standing with the public. Therefore, the effectiveness of a department may well depend on the promptness and thoroughness of the investigations of allegations of misconduct.

The American public believes that Internal Affairs is a squad of officers assigned to only "Police the Police", and though this may be the case in large agencies, and should be the case, most police departments are small and don't have the resources available to afford this needed restricted manpower. Eighty seven percent of police departments in the United States consist of 25 or less sworn police officers, as reported by the "International Association of Chiefs of Police Research Center 2002". A small agency that consist of fewer officers, or some larger departments with smaller budgets (or no budget at all for these Internal Affairs positions because the city council or police commission may not see the need) end up without an official Internal Affairs Department. Television today would have the public believe every law enforcement agency has a squad of police officers assigned specifically for Internal Affairs, and that is just not true. They are portrayed as "the elite of the elite" police officers or officers that are out to crucify their fellow officers, but in reality they are few in numbers and are generally first line supervisors assigned to find out the truth about a specific incident.

THE INTERNAL AFFAIRS FUNCTION

Arnold states that “Internal Affairs investigations are an integral part of law enforcement agency and a vital step in policing its own”. Internal Affairs investigations, also known as personnel complaint investigations, are a significant part of any police executive’s job, whether to occasionally investigate minor complaints in a small department, or to conduct internal affairs investigations full-time in a large agency. Simply stated, the job of internal affairs is to determine the facts.

What do internal affairs investigators try to find out? The truth, and sometimes the truth hurts. It is their job to try to learn whether an officer has violated departmental policies or any laws. In some instances, they discover that the officer acted within a certain policy, but that the policy in itself is flawed. In most cases involving the investigation of a violation of law, the investigator has a clearly defined statute, ordinance, or judicial review by which to measure an officer’s conduct. However, this may not be the case with departmental policy violations. Well written, clearly defined policies and procedures represent the foundation of a successful police department.

FUNCTIONS OF THE INTERNAL AFFAIRS

Protection of the public: The public has the right to expect efficient, fair, and impartial law enforcement; therefore, any misconduct by departmental personnel must be detected, investigated, and properly adjudicated to assure the maintenance of these qualities.

Protection of the department: The department often is evaluated and judged by the actions of its individual members. It is imperative that the entire organization not be subjected to the public censure because of the misconduct of one member. When the public know that the department honestly and fairly investigates and adjudicates all allegations against its members, it is less likely that the public will find the need to raise a cry of indignation over alleged incidents of misconduct.

Protection of the employee: Employees must be protected against false allegations of misconduct. Although being the subject of an investigation may be unpleasant or uncomfortable, the best protection for an employee is a complete and thorough investigation conducted in a timely manner that clearly and unequivocally supports the employee's honesty and integrity.

Removal of unfit personnel: Personnel who engage in serious acts of misconduct or who have demonstrated that they are unfit for law enforcement work must be removed for the protection of the public, the department, and fellow employees (Kelly, 2003).

Correction of procedural problems: The department constantly is seeking to improve its efficiency and its personnel. Occasionally, internal affairs investigations disclose faulty procedures that otherwise would have gone unnoticed (Durham, New Hampshire, Police Department, Personnel and Administration Manual, February 2001).

Mission, values, and ethics: An agency must have a clearly stated mission that describes its ultimate goal. An agency's employees should receive a copy of the mission statement, along with periodic training. An example is the Mission Statement of the Arkansas State Police which is the first page of the June 01, 2000, Field Operations Policy and Procedure Manual. It states, "The Mission of the Arkansas State Police is to Protect Human Life and Property in the State of Arkansas by Providing the Highest Quality of Law Enforcement Services to the Citizens of Arkansas" (Arkansas State Police, 2000).

Law Enforcement Code of Ethics: Today's law enforcement agencies and its officers have adopted a Code of Ethics. Most have adopted the most recognized one used by the International Association of Chiefs of Police as the following was taken from: "As a law enforcement officer, my fundamental duty is to serve mankind; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence and disorder; and to respect the constitutional rights of all persons to liberty, equality, and justice. I will keep my private life unsullied as an example to all; maintain courage in the face of danger, scorn, or

ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed in both my personal and official life, I will be exemplary in obeying the laws of the land and the regulations of my department. What I see or hear of a confidential nature or that which is confided in me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty. I will never act officiously or permit personal feelings, prejudices, animosities, or friendships to influence my decision. With no compromise for criminals and with relentless prosecution of criminals, I will enforce the law courageously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence, and never accepting gratuities. I recognize the badge of my office as a symbol of public faith, and I accept it as public trust to be held so long as I am true to the ethics of police service. I will constantly strive to achieve those objectives and ideals, dedicating myself to my chosen profession-law enforcement” (International Association of Chiefs of Police, 2003).

Ethics is simply the choice between right and wrong. When police officers take their oath of office, they hold their right hand up and speak a few sentences that they are giving their word to the public that they give their word that the citizens can trust them with all that they love and hold dear. When officers act unethically, they violate the trust of the public.

An agency cannot instill a values system in an employee; they can only reinforce those preexisting values important to them. A police officer already has an established set of values when they are hired.

The investigation: It remains critical to the integrity of an agency that it accept and fully investigate all complaints. By accepting all types of complaints, regardless of the method of transmission, an agency tells its community that citizens have to say is important, that the agency is dedicated to the quality police service, that it is open to constructive criticism, and that it is committed to continuous improvement.

Once an agency receives a complaint, it should ensure the integrity of the complaint by sending a letter of receipt to any identifiable complainant. Agencies should inform the complainants that they have assigned an investigator and that complainants should contact this person if any member of the department has contacted them in an effort to get them to retract the complaint or, worse, if anyone has threatened them in any way (Kelly, 2003).

Internal investigations, like any other proper investigation, must be thorough and complete. The more thorough and complete the investigation, the better the chance of a conclusive finding. If there is a concurrent criminal investigation, the administrative investigative entity (internal affairs) should be separated from the criminal investigative entity (Kelly, 2003).

Subject notification: Before beginning any internal affairs investigation, an agency should notify the officer involved in writing that it has received a complaint.

Notification should include the nature of the complaint and the name and rank of the officer assigned to the investigation. The only exception to this would occur when such notification would jeopardize the investigation (Kelly, 2003).

Investigator selection: An agency should select the investigator based on the allegations. In all cases, an agency should handle the matter at the lowest possible level. In small agencies, the line supervisor also may fill the position of second in command, limiting the chief's choices. If a minor rule infraction, such as discourtesy or tardiness, is the nature of the complaint, then a line supervisor would prove an appropriate choice. However, if the complaint stems from a serious breach of conduct, such as an alleged crime, excessive force, bias/discrimination, or gross ethics violation, then a command level officer trained to conduct this type of sensitive investigation should undertake, or at least oversee, the matter (Kelly, 2003).

Investigation type: After an agency receives a complaint, it must decide whether the alleged violation rises to the level of a crime or constitutes an administrative infraction of its policies. This decision can have far reaching effects and the agency must not take it lightly.

Before deciding what path to take, the agency needs to ask several questions within and consider the credibility of the complainant. Does the agency know that the person is credible? Has the involved officer arrested the person, a friend, or a family member? Does the complainant have a history of being less than truthful? Does the complainant know the consequences of filing a false report?

An agency has a need to protect itself and the community it serves from alleged rogue employees. An administrative proceeding can prove essential in that effort. However, to sacrifice a criminal investigation for the purpose of conducting an administrative proceeding could create a gross miscarriage of justice. Assigned investigators need to apply basic investigative skills and practices. They must have ample time to complete their investigation. For the betterment of the agency, however, it remains critical to allow investigators to fully develop the case. Investigators will have enough pressure from investigating “one of their own” without additional pressure from the Chief (Kelly, 2003).

Investigation findings: Upon conclusion of an internal investigation, typically, one of four findings occurs for each allegation. Because the investigation may reveal that one or more of the allegations may have different conclusions, the investigator must have the flexibility to make a finding for each individual allegation, rather than for the entire complaint (Kelly, 2003).

One such agency that is large for a police agency in Arkansas, but small for a State Police agency in the United States is the Arkansas State Police. It has over 500 sworn officers and over 300 civilians and as most agencies in the 21st century, its budget has been cut to a bare minimum. As the budget was cut so was the Internal Affairs section. Currently, there is a Lieutenant in charge of the internal affairs section and no one else. However, the same policies and procedures are still in effect. The Arkansas State Police Internal Affairs section is called, “The Special Investigations Unit”. The

Lieutenant is the Commander and reports directly to the Executive Officer and shall keep the Executive Officer informed of all complaints of misconduct and the status and disposition of all investigations (Arkansas State Police Field Operations Policy and Procedure Manual, 2000).

Special Investigations Unit Responsibilities

The Executive Officer is responsible for keeping the Director of the Arkansas State Police apprised of all phases of the investigative activity/complaints assigned to or monitored by the Special Investigations Unit. Also, during the first five business days of every calendar month, or more frequently if requested, the Special Investigations Unit Commander will provide the Executive Officer with a written report summarizing the nature and status of all pending misconduct complaints and investigations.

The Special Investigations Commander shall collect and maintain a record of all complaints against the Arkansas State Police, its officers and its civilian employees that justify formal investigation and disposition. The Commander shall maintain such records in a secure location accessible only to the officers assigned to the Special Investigations Unit, the Executive Officer, and the Director of the Arkansas State Police. Such records and the accompanying case files shall be stored separately from personnel records.

With respect to a complaint against an officer that involves alleged corruption, intentional brutality or misuse of force resulting in serious physical injury or death, breach of civil rights or criminal misconduct, the accused officer's Commander shall immediately notify the Special Investigations Commander, who shall assume primary

responsibility for investigating the complaint and notifying the Director and the Executive Officer. In such cases, the Special Investigations Commander shall immediately inform the Executive Officer of the nature of the complaint and any preliminary information provided by the complaint in support of the allegation. In turn, the Executive Officer shall promptly brief the Director and the Assistant Director. The Special Investigations Commander shall also assume the primary responsibility for investigating misconduct complaints against Captains and officers of higher rank, subject to oversight by the immediate supervisor. In such cases, upon the completion of the investigation, the Commander shall deliver the case file, which will include an investigative summary, to the accused officer's immediate supervisor without recommendation (Arkansas State Police, 2000).

Supervisors' and Commanders' Responsibilities

Most complaints begin with an officer's immediate supervisor or their Commander. Untimely, it is the officer's Commander's primary responsibility for enforcing Arkansas State Police policy, investigating allegations of misconduct and recommending appropriate action in connection with violations of any policy or law.

Upon receipt of an allegation of misconduct, a supervisor shall immediately notify the Commander of the officer who has been accused of misconduct. The accused officer's commander, or the Commander's designee, shall thereafter accept, investigate, and

recommend the appropriate disposition of the complaint in accordance with procedures (Arkansas State Police, 2000).

Informal and Formal Investigations and Disposition of Complaints

If the complaint of misconduct appears on its face to be trivial, the Commander, or the Commander's designee, may investigate the complaint informally and make an appropriate disposition of the complaint without following the formal procedures. When initially reviewing a complaint to determine whether informal investigation and disposition is appropriate, the Commander should consider the nature of the allegations, the reliability of the source, and the motives of the person making the complaint. If the Commander elects to handle the complaint informally, the Commander shall ensure that the complaint and disposition are documented for future reference.

Otherwise, the Commander shall formally accept the complaint and request the complainant to promptly document the complaint by completing a Police/Citizen Complaint Form. It should be noted that a Commander, another supervisor, or any other Arkansas State Police officer should and can initiate a complaint on their own if they have reasonable grounds to believe that another officer has violated an Arkansas State Police policy, or a local, state, or federal law.

Upon the receipt or initiation of a complaint, the Commander, or the Commander's designee, shall contact the special Investigations Unit, obtain a Special Investigations Unit Control Number, and record the Control Number on the Police/Citizen Complaint Form. If the person making the complaint refuses to complete a

Police/Citizen Complaint Form in connection with a complaint which the Commander has determined should be handled formally, the Commander shall complete the form using whatever information has been received in support of the complaint, noting the source of the information, the manner in which the information was received, the date and time of the initial complaint. The Commander should note the reason the complainant refused to sign the Police/Citizen Complaint Form.

Upon the receipt of a complaint of serious misconduct, the accused officer's Commander shall have the discretion to immediately relieve the officer from duty, with pay and benefits, pending further review of that decision through the chain of command to the Director of the Arkansas State Police. Commanders shall have the same discretion and authority when they reasonably believe that an officer under their command is physically or psychologically unfit for duty. In all cases when an officer is relieved of duty for any reason, the Commander shall promptly document the administrative action in writing and deliver a copy to the accused officer and the appropriate Division Commander (Arkansas State Police, 2000).

Discipline

When discipline is deemed appropriate, the decision concerning the level and amount of discipline shall be determined by the following factors:

- The nature of the violation of policy or law.
- Whether the violation was intentional, reckless, or inadvertent.
- Whether the officer was candid and forthcoming concerning the violation.

- The extent to which the violation reflects adversely on the Arkansas State Police's reputation for honesty, integrity, and professionalism.
- Whether, and to what extent, the officer has a prior disciplinary record.
- The officer's length of service with the Arkansas State Police.

Supervisors in the Arkansas State Police use a progressive step discipline procedure to address unacceptable behavior or conduct. While it is recognized that special circumstances may require specifically tailored disciplinary action, generally the following progressive steps are followed, subject to further conditions and exceptions as set forth:

- Additional training and or counseling
- Verbal warning
- Written warning.
- Letter of reprimand.
- Suspension.
- Transfer.
- Demotion.
- Termination.

Accelerated progression in the disciplinary procedure, including termination, may be taken if multiple infractions or infractions of a critical or severe nature have occurred.

Supervisors are not required to follow the above order of progression, and are not limited

to the above steps, when the circumstances surrounding the behavior or conduct dictate otherwise (Arkansas State Police, 2000).

Corrective Action Plan

A Corrective Action Plan shall be prepared by the officer's supervisor and issued at each of the progressive disciplinary steps (excluding counseling and termination) as a warning of unacceptable behavior or conduct and as means of addressing the behavior or conduct.

The Corrective Action Plan shall identify:

- The unacceptable behavior, conduct and/or incident, including any behavior, conduct or incident which is a contributing factor;
- The date of occurrence;
- Specific goals for improvement, including additional training for the officer; and
- Actions to be taken by the officer to address the behavior or conduct and to avoid further progression in the disciplinary procedure.

It should be noted that the Arkansas State Police policy is further described in terms to protect the Director which states: Nothing contained in the Arkansas State Police policy shall preclude the Director of the Arkansas State Police from making transfers, assignments or reassignments (Arkansas State Police, 2000).

The Arkansas State Police, as far as complaints on officers and civilians, has a goal of investigating all complaints to resolve the agency and its employees. According to Major J.R. Howard, "We are not "Head Hunters", we do an objective investigation which is

honest and non biased”. “Our agency works our internal affairs investigations the same way we do criminal investigations, we just want the facts”, Howard stated and continued, “the only difference is, we have to give a Garrity Warning in stead of a Miranda Warning”. Howard also said that most of the investigations are done by the first line supervisor. The Arkansas State Police believes in, and uses the Progressive Discipline Procedure in all internal affairs investigations. He said in other words the discipline is weighted toward the severity of the offense. If the offense shocks the conscience, then the Arkansas State Police Director will terminate the employee. Major Howard said in 2003, most of the complaints received were for Improper Conduct. The second most complaint came from supervisors making complaints of officers committing insubornation. Approximately 65% of the total complaints reported were founded and some type of discipline was enforced on the employee (Howard, 2004).

In conclusion, the need for all law enforcement agencies to hold members accountable for their actions and to impose high standards of conduct for their employees to consistently achieve constitutes one of the most important aspects of the profession.

REFERENCES

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