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Lack of Internal Control
Dealing with Internal Investigations

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Abstract

The police in America walk a fine line every day. Regardless of the "official" policing style espoused by a police department, individual officers retain considerable discretion in what they do, how they do it and what outcomes develop from these behaviors. As one author has observed, "police authority can be, at once, highly specific and exceedingly vague" (Cohen, 1987, p. 52).

While the vast majority of law enforcement recruits bring a fresh set of personal values to the profession every day, experience has shown that there are a number of compelling factors that can affect the ways in which law enforcement officials engage the criminal element that can result in the perception of criminal or unethical wrongdoing. Further, police officers are required to abide by strict standards set forth in codes of conduct that are not applicable to the general public, and the genuine criminal element involved has no such "honor among thieves." Obviously, every situation is different, and yet law enforcement agencies across the country have attempted to apply a "one-size-fits-all" solution to these behaviors that many police officers resent, and studies have shown that many engage in a "code of silence" to avoid harming their fellow officers. In this atmosphere, the perception by the public that the police are getting away with criminal or unethical behaviors can undermine both the effectiveness of the law enforcement agency and will serve to adversely affect the morale and performance of the entire agency. It is important, then, that a framework is in place that can resolve complaints against police officers in an effective and fair manner.

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INTRODUCTION

The police in the United States have received a lot of bad press in recent years as a result of highly publicized - but generally isolated - events such as the televised beating of Rodney King. If police departments across the country are to successfully provide to its community "quality police services," then they must incorporate ethical practices across all aspects of its work. The responsibility to act ethically rests with every police officer as he or she goes about their professional duties. However, "ethical" behavior is a highly subjective concept and police officers are in the unique position of placing themselves on the front lines against crime to protect society at large. Dangerous and unpredictable encounters with violent offenders require aggressive and professional tactics if these officers are to even survive. To second-guess how and why an officer acted one way over another, after-the-fact, can seriously undermine police morale and adversely affect how their future initiative in dealing with deadly force encounters. Nevertheless, there is clearly a line that is crossed when police officers engage in certain types of behavior, and it is these types of behaviors that have been the impetus for the creation of internal affairs departments in police departments across

the country. The public has a need, a right, to be assured that the resources they devote to law enforcement are being used appropriately, and internal affairs departments provide a framework in which citizen complaints may be investigated in a timely and subjective fashion.

Developing a Best Practices Code of Conduct for Police Internal Affairs in the United States *the proverbial "line in the sand" must be drawn when it comes to integrity. We must be willing to accept mistakes, but we must expect only the truth. There can be no tolerance for lying or a lack of honesty in our profession.* (Duffy 2002)

The purpose of this paper is to identify the factors law enforcement officials must contend with while they pursue their profession, what the experts say about effective internal affair approaches, and to identify policies and procedures that have been shown to be effective in assuring the integrity of law enforcement agencies in the U.S. A critical review of the relevant literature was the method used in this research project. The field of law enforcement will benefit from this research through the development and implementation of policies and procedures, and by instituting clearly defined policies of conduct and discipline.

REVIEW OF LITERATURE

In his article, "Police Ethics: An Oxymoron?," Jeffrey Story says that "Police departments are a funny kind of bureaucracy. In most organizations, the higher up someone is, the greater their latitude. Not so with the police. It's the officer on the beat who has the most discretion – deciding when to warn and when to cuff. We expect them to use their judgment and to use it well. Americans want and expect good judgment and want it done quickly and professionally. Story says that Americans especially want them to understand the importance of small differences. "For example, knowing the difference between a meal discount for all cops and free meals only for those on the restaurant's beat" (Story, 2002, ss. 2-3).

Bard and Sangrey write, "I never thought it could happen to me," people are fascinated by crime. The newspapers are full of the suffering inflicted by one human being on another -- murder and mayhem cover the front pages like some contagion. No where is the fascination more clear than in the popularity of what the television networks call their 'action-adventure' programs.

Night after night in colors that are brighter than life the drama unfolds. Criminals do terrible things and the forces of justice pursue them. We seem transfixed by these violent images" (Bard & Sangrey, 1979, pp. 3-4). According to J. Dombrink's analysis, some of the behaviors that police officers may engage in that would require an internal investigation include:

- Police brutality and abuse of authority.
- Police prejudice and discrimination.
- Police excessive use of deadly force.
- Police misuse of confidential information.
- Police deception and dishonesty.
- Political cover-ups.
- Police crimes (Dombrink, 2002).

Schmallegger takes this analysis a step further, and breaks down police behaviors that may require internal investigations into "high-level corruption" and "low-level corruption":

High-Level Corruption

- Violent crimes (this would be the physical abuse of suspects, including torture and nonjustifiable homicide).

- Denying civil rights (this consists of routinized schemes to circumvent constitutional guarantees.
- Criminal enterprise (such as the resale of confiscated drugs, stolen property, etc.).
- Property crimes (for example, burglary or theft committed by the police).
- Major bribes ("Accepting \$1,000 to 'overlook' contraband shipments, and other law violations").
- Role malfeasance (such as destroying evidence, offering biased testimony, and protecting "crooked" cops).
- Being "above" inconvenient laws (we have all seen police officers speeding, but this includes other activities such as smoking marijuana as well).
- Playing favorites (not ticketing friends or relatives, for example).
- Gratuities (accepting free coffee, meals, etc.).

Low-Level Corruption

Based on the foregoing considerations, police departments across the country have engaged in several approaches to help ensure the integrity and professional

conduct of their law enforcement officers. Some formal methods of internal control include:

- The development of guidelines.
- Training and police education.
- The role of supervision.
- Centralized administration.
- Discipline.
- Early warning systems.
- External controls and influences.
- State liability actions.
- Political influence.
- Citizens = oversight (Dombrink, 2002).

Some of the methods by which ethical police conduct can be facilitated include:

- Police ethical codes of conduct.
- Police ethics at national and international levels.
- Police ethics and human rights.
- Research projects, training programs and exchange of practical experience.

While law enforcement agencies across the country promulgate ethical standards of police conduct in various codes of conduct, there is another code that police officers abide by as well. In his essay, "Internal Affairs

and Trust," Robert J. Duffy says that, "Law Enforcement is a wonderful and honorable profession, and one in which I am extremely proud to claim membership. Words like courage, honor, service, integrity, and compassion describe the profession we love, but there is a "dark side" to policing; we have a dirty little secret called the Code of Silence" (Duffy, 2002, s. 1). There is hypocrisy in our profession, and the time is long overdue for us to confront it. The word hypocrisy, by the way, comes from the Greek "hypokrisis" which means "acting a part or pretending to be what one is not."

Duffy asks "How can we proclaim integrity as a hallmark of our profession but then collectively denigrate those with the responsibility for investigating wrongdoing? I am talking, of course, about Internal Affairs investigators. I dare say that in many police departments across this country, individuals assigned to Internal Affairs are largely disrespected and unappreciated by rank and file officers and command staff alike"(Duffy,2002,ss.2-3). This authority says that just a few of the glaring differences between the way police officers investigate crimes, as compared to the way they handle investigations of police misconduct devolve to this "Code of Silence" that is typified by a strong resistance to cooperate or testify

against a fellow officer. "Police officers routinely demonstrate precise memory of events far in the past, with incredible ability to recognize guns and evidence from great distances on a dark night. But when it comes to internal investigations, they often experience wholesale memory loss extending even to the most basic facts of an incident that may have occurred only hours - if not minutes - before . . . time and time again, officers standing just a few feet away from an event involving alleged misconduct, seem - for some reason - to have heard and seen nothing" (Duffy, 2002, s. 1).

Schmallegger points out that most law enforcement agencies have their own internal affairs divisions that are empowered to investigate charges of wrong-doing brought citizens or their fellow officers. "Where necessary, state police agencies may be called upon to examined reported incidents. Federal agencies, including the FBI and DEA, involve themselves when corruption goes far enough to violate federal statutes" (1995, p. 212).

METHODOLOGY

The purpose of this paper is to identify the factors law enforcement officials must contend with while they pursue their profession, what the experts say about

effective internal affair approaches, and to identify policies and procedures that have been shown to be effective in assuring the integrity of law enforcement agencies in the U.S. Can the implementation of department wide accountability be the most important element in establishing an internal affairs process? Yes, as long as an effective, efficient investigative system is in place and has been utilized, and the decision of the agency administrator should be final. A critical review of the relevant literature was the method used in this research project.

FINDINGS

According to Frank Schmallegger, "Officers make discretionary decisions due to the influence of numerous factors" (1995)

Some of these factors include:

- *Background of the officer.* Law enforcement officers carry with them all of life's previous experiences. Schmallegger says that "If the officer has learned prejudice against certain ethnic groups, it is likely that such prejudices will manifest themselves in

- enforcement decisions. Officers who place a high value on the nuclear family may handle spouse abuse, child abuse, and other forms of domestic disputes in Department policy predetermined ways" (1995, p. 204).
- *Characteristics of the suspect.* Some police officers may treat men and women differently, for instance, belligerent suspects may be viewed as "deserving of police use of force".
 - *Department policy.* Police discretion, although not entirely subject to departmental control, is certainly influenced by it. For example, if a department has targeted certain types of offenses, a police officer will be much less likely to engage in a discretionary release of a suspect.
 - *Community interest.* Public attitudes about certain types of crime will also increase the likelihood of arrest for suspected offenders. "Contemporary attitudes toward crime involving children, including sex abuse, the sale of drugs to minors, domestic violence involving children and child pornography" have all led to increased and stricter enforcement (Schmallegger, 1995, p. 205).
 - *Pressures from victims themselves.* "Victims who refuse to file a complaint are commonly associated

with certain crimes such as spouse abuse, the 'robbery of drug merchants, and assault on customers of prostitutes" (Schmallegger, 1995, p. 205).

Indeed, the shock involved with becoming a victim of crime in America involves a media-generated perception that the bad guys will get caught and justice will prevail. When they are actually confronted with the crime, together with the reality of the American judicial system as it grinds out justice in a slow-but-sure manner is guaranteed to produce disappointments to victims, people are indeed shocked. The actual news reports which are covered help to reinforce the perception to the American public that justice is being served, when in reality victimization occurs all of the time with no corresponding societal punishment whatsoever. "News coverage ignores hundreds of purse snatchings, burglaries, and other 'minor' crimes in favor of the relatively few murders. Television has become a *circus maximus* where police officers, criminals, sheriffs, outlaws, gangsters, and other professional combatants spend their hour wreaking havoc on each other and a variety of innocents. Crime is practically defined in the media as a sensational, physically violent, external event -- an event whose effects are obvious and bloody" (Bard & Sangrey, 1979,p.6).

However, the reality of the criminal justice system in the United States is that the victims of a crime stand little chance of seeing the person who committed the crime being arrested. If the person responsible is actually arrested, getting that person punished is another matter entirely.

While all of the media efforts to entertain us by portraying the bad guys getting caught and punished may be deceptive for adults in America, the effects of all of this violence in the media is particularly troublesome for young people and minority members. This is especially so, when the police officers involved are accused of unethical or unprofessional behavior - if they cannot trust the police, who can they trust? However, to the extent that victims' perceptions of how police handled one situation or another are all clearly influenced by the foregoing factors to one degree or another, but when charges are made by citizens concerning inappropriate behaviors by police, the fact remains that the entire integrity of the law enforcement community is placed on the line. Substantive and timely investigation of the charges is the only sure way to make certain that renegade cops are not abusing their authority.

DISCUSSION/CONCLUSIONS

Law enforcement agencies across the nation are entrusted to carry out their duties in a professional and ethical manner without regard to many considerations that ordinary citizens would likely rely upon to make an informed decision about how to behave in one situation or another. In many instances, it would seem that police officers' hands are tied by departmental regulations and the civil liberties guaranteed by the U.S. Constitution; nevertheless, high moral standards, embedded into the principles of law enforcement, and effectively communicated to individual officers through formal training and peer group socialization, would undoubtedly be the most effective way to combat corruption in police work. There are, certainly, many officers of great personal integrity who hold to the highest of professional standards in the pursuit of the bad guys, and there is evidence that law enforcement training programs are becoming increasingly concerned with instructions that are designed to reinforce the high ideals many of these recruits bring to the profession.

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