

LAW ENFORCEMENT MANAGEMENT INSTITUTE

**THE ROLE OF INTERNAL AFFAIRS
IN PREVENTING POLICE MISCONDUCT**

**A RESEARCH PAPER
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OF THE REQUIREMENTS FOR
MODULE III**

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INTRODUCTION

The purpose of this study is to explore opportunities designed to expand the role of internal affairs in preventing police misconduct in general, and excessive force in particular. Recent events have focused national attention upon the issue of misconduct, especially excessive force, by police. Too often, brutality is seen as an unfortunate but nonetheless necessary adjunct of crime fighting.¹ According to the American Civil Liberties Union:

Certainly, police mistreatment of civilians happens too often and in many cities is commonplace. Police brutality can never be condoned, but it can be explained. In one sense it reflects the heightened sense of violence, real or imagined, that now permeates our inner cities. No group is more aware of that fact than the police themselves. From the chiefs of police to the cop on the beat, the streets they patrol are perceived by them as a combat zone, fraught with thugs and pushers carrying the most lethal of weapons. The political rhetoric about a "war" on drugs and a "war" on crime has helped turn the police into soldiers, not civil servants or guardians of community order, making them sometimes more aggressive and forceful than they have a right to be in the pursuit of criminals and suspects.

When "war" is declared on drugs, the implicit message is "win at all costs." Basic standards of reasonable force and probable cause become mere luxuries. "Wars" are the most extreme exercises in "Us vs Them" and necessarily involve the labelling of entire groups of people as "enemies" whether or not they have individually engaged in any wrongful acts. The result can be tactics and actions that are disturbingly racist. "Wars" inevitably involve "collateral damage" on innocent civilians and must be tolerated for the greater cause. Applying these concepts to domestic policing is not only frightening and dangerous, it is ultimately counter-productive.²

Instead of viewing these recent events as another barrier between the police and the community, it is important these incidents be seized as an opportunity to bring the police and the community together in a common effort. That effort should be to re-examine the mission, values and principles of policing in a free society to ensure those values and principles represent the appropriate foundation upon which the delivery of police services are based. The police have long understood the value of precisely articulated goal and objective statements. Over the last few years, this understanding has expanded to include acknowledgement of the importance of more accurately describing the mission, values and culture of policing. As stated by Spokane Washington Chief of Police Terrence J. Mangan:

Our values announce who we are and what we stand for. Organizational values need to be identified, articulated and related to the every day functions of our agencies. They are the underpinning of our ethical code. All of our rules, regulations, policies, and procedures must reflect these organizational values

Well before the release of the now-famous videotape of the Rodney King beating in Los Angeles (and the nationwide ripple effect), the law enforcement profession had begun developing a more positive, creative approach to the issues of organizational, professional and personal ethics. The FBI has included ethics as a part of its Law Enforcement Executive Development Institute for more than a decade. Courses in organizational and executive ethics have been offered through the Command College system since its inception. In some states, basic academy curricula have been realigned to ensure that a sense of ethics and integrity is presented throughout the technical training and educational subject areas.

The significance of these efforts should not be missed: for law enforcement, more than any other branch of public service, integrity, ethics and

credibility are the "coin of the realm." Law enforcement agencies can have the latest in technology--from high-speed satellite communications to mobile computer systems to the best in DNA genetic fingerprint investigative resources--but if our citizens/clients do not trust us and believe in us, they will not talk to us, and we will be out of business.³

Throughout this evolution in the philosophy of policing, one element has been very conspicuous by its absence - a true partnership with the police evidenced by meaningful community input in the effort to enhance the quality of neighborhood life. Of critical importance in the next step in this evolution relative to the re-examination of the mission, values and principles of policing is inclusion, in a real sense, by the community. The importance of partnership with the community and inclusion in value and policy considerations is pointedly described by the American Civil Liberties Union:

Police policies should be subject to public review and debate instead of being viewed as the sole province of police insiders. Open policy-making not only allows police officials to take advantage of community input, it also provides an opportunity for police officials to publicly explain why certain tactics or procedures may be necessary. Local police departments should have little interest in policies or practices that cannot withstand public scrutiny.⁴

An excellent example of a true partnership between the police and the community in the effort to enhance police operations recently occurred in Portland, Oregon.

The community policing philosophy and police use-of-force issues are dovetailing in Portland, Oregon, where police officials have announced a one-day, public symposium at which force policies will be explained and anti-violence strategies will

be explored.

In keeping with the Police Bureau's commitment to community policing, neighborhood residents are directly involved in the planning of the meeting, working side-by-side with police organizers.

Marsha Palmer, a crime-prevention coordinator for the coalition of Northeast Neighborhoods and one of the symposium's organizers, said the session will aim not only to educate citizens about police deadly force policies, but also to give them the opportunity to comment on those policies.

In small-group discussions, participants will be urged to make suggestions about police use-of-force policies. The response will be included in a report to the Police Bureau, which may draw upon them in the event that policy changes are made. Said Palmer, "The intention is to provide the bureau with suggestions that may be included in some policy or procedural changes."⁵

Once the hurdle of community inclusion has been surpassed by a re-examination of the policing mission, as well as the values and principles of policing in a free society, the next step in the process should be to view the prevention of police misconduct from the prospective of those (re-examined) values and principles. The intent and focus of this report is to explore the role of internal affairs in this prevention process.

REACTIVE MODEL OF INTERNAL AFFAIRS

As the investigative arm of the Chief of Police, internal affairs units provide substance to a police agency's commitment to provide competent, fair and impartial police services. As stated in Standard 19.3 by the National Advisory Commission on Criminal Justice Standards and Goals, Police:

The chief executive of every police agency immediately should ensure that the investigation of all complaints from the public, and all allegations of criminal conduct and serious internal misconduct, are conducted by a specialized individual or unit of the involved police agency. This person or unit should be responsible directly to the agency's chief executive or the assistant chief executive. Minor internal misconduct may be investigated by the first line supervisors, and these investigations should be subject to internal review.⁶

Reactive investigations conducted by internal affairs units are similar to investigations conducted by traditional mainstream reactive investigators in that the conduct that caused the complaint has already occurred (as opposed to being ongoing) and has been reported to authorities. In this context, there is little operational difference whether the conduct alleged was a robbery committed by a citizen or a theft committed by a police officer. In either instance, the police organization is merely responding to the allegation of a victim or witness by assigning an investigator to gather all relevant evidence and facts pertaining to an incident that has already occurred. The reactive activities of an internal affairs unit have a preventative effect upon the incidence of

misconduct by police not by having direct responsibility for disciplinary decisions, but instead by making visible the facts surrounding such incidents to those who do have such responsibility. To the extent that reactive internal affairs investigations are conducted in a consistently aggressive, no-nonsense style, field officers receive the message that misconduct in general, and excessive force in particular, is not condoned nor tolerated by the chief executive officer or the agency. Specifically, the message received is that misconduct is considered inconsistent with the culture of the organization. The scrutiny caused by these investigations serves to keep field officers diligent by reminding them of their responsibilities and the values, principles and standards they are duty-bound and sworn to uphold. Therefore, it can reasonably be argued that every time an investigation is conducted into allegations of misconduct, other potential misconduct is prevented. The preventative effect of this aggressive style of reactive complaint investigations is pointedly described by Paul Myron in an article concerning corruption problems within the Philadelphia Police Department and it's own subsequent "white paper" on integrity.

As has been observed in past indiscretions within our department, integrity problems start small and grow to whatever heights the system permits.

We must never forget that once an officer steps over the line, at least two things happen to him psychologically: he finds it easier to step over the next time, and the distance he may go is of little concern.⁷

There has been little historical consistency among police

organizations relative to the manner in which complaints alleging police misconduct are received and processed. The implications today of an absence of procedural consistency and focus upon prevention appears in a recent article in Law Enforcement News.

The attorney representing an alleged victim of police brutality in an upcoming civil trial is seeking to call as a witness James D. St.Clair, the principal author of a recent, highly critical report on the Boston Police Department, in an effort to back up assertions that the department's internal affairs unit routinely ignored citizens's complaints against police.

The report, released in January, caused a citywide furor and forced a major shakeup in the upper ranks of the Boston Police Department. It presented a scathing review of what it called a "shoddy and half-hearted" internal affairs process that was "unfairly skewed against those who make a complaint" and characterized by "lengthy delays and inadequate documentation and record keeping." The report also led to the creation of a community appeals board to oversee the Internal Affairs Division and numerous other reforms.⁸

The article goes on to explain the manner in which legal exposure is created due to a disfunctional investigation and discipline process.

Under Federal Law, proof that a police agency has a "defacto" policy of overlooking misconduct makes the city, as well as individual officers, liable for monetary damages. "It's very difficult to establish liability against a municipality," Costello explained. "You can't use a single act to do it. You can't say that the police officer was working for the city and therefore, they were liable. You can't even say that because a particular act involved was so outrageous, the city should have known about it. You have to allege that there was some type of custom or policy, that this has been going on, and the city knew about it and didn't do anything."⁹

Difficulties such as those confronting the Boston Police Department are unfortunate and in large part unnecessary. It is past time for everyone in the police profession to understand that the unique powers of the police are given to them by the people, and are therefore a privilege rather than a right. As such, it is likewise past time for the police to acknowledge the right of the people to insist the exercise of power by police be justified. In an effort to assist police agencies in the development of functional and valid complaint investigation and disciplinary processes, a model policy was adopted by the Police Executive Research Forum in September of 1981. In the area of complaint receipt and processing, this model policy advises:

Complaints shall be accepted from any source, whether made in person, by mail or over the telephone. Individuals are encouraged to submit their complaints in person in order to obtain as complete a report as soon as possible after the incident. In cases in which the complainant cannot file the report in person, agency personnel may visit the individual at his or her home, place of business or hospital in order to complete the report.

Complaints shall be accepted from anonymous sources, juveniles and persons under arrest in police custody so long as the complaint contains sufficient factual information to warrant an investigation. Each complaint shall be investigated to its logical conclusion and the investigation results properly placed into the appropriate category of completed cases.¹⁰

The model policy goes on to describe the minimum elements of a basic investigation into allegations of police misconduct.

Complaints of repeated harassment, demeanor and serious rule infractions, and complaints of a serious nature shall be handled by the internal

affairs office. An office investigator shall conduct a confidential investigation of the complaint and assemble the necessary materials, such as:

1. Physical evidence
2. Statements or interviews from all witnesses
3. Statements or interviews from all parties of specialized interest such as: doctors, employers, lawyers, teachers, legal advisors, parents, etc.
4. Investigative aids, such as the various reports, activity sheets, complaint cards, and dispatcher's forms.¹¹

Upon completion of the investigation, decisions must be made relative to the culpability, if any, on the part of the officer. At this stage of the process, the value of a thorough and comprehensive investigation cannot be overemphasized. After a complete analysis of the evidence provided by the investigation, the model policy suggests that conclusions of fact be developed from one of five different dispositions.

Proper conduct: The allegation is true, but the action of the agency or the officer was consistent with departmental policy, and the complainant suffered no harm.

Improper conduct: The allegation is true and the action of the agency or the officer was inconsistent with department policy, and the complainant suffered harm.

Policy failure: The allegation is true, and although the action of the agency or the officer was not inconsistent with department policy, the complainant suffered harm.

Insufficient evidence: There is insufficient evidence to prove or refute the allegation.

Unfounded complaint: Either the allegation is demonstrably false or there is no credible evidence to support it.¹²

Adoption of the model policy on police handling of citizen complaints offered by the Police Executive Research Forum provides agencies with a fair, consistent and defensible internal affairs process that will be supportable by officers as well as the community. In addition to its other attributes, the notion of prevention of police misconduct is clearly not overlooked.

It is the policy of this agency to emphasize the prevention of misconduct as the primary means of reducing and controlling it. While disciplinary actions are properly imposed on officers who have engaged in wrongdoing, they are of limited utility if they shield organizational conditions which permit the abuses to occur. Too often inadequate training and lack of supervision are factors that contribute to the officers' improper behavior. This agency shall make every effort to eliminate the organizational conditions which may foster, permit, or encourage improper behavior by its employees.¹³

Conflict between the police and members of the community are inevitable. It is therefore important that a mechanism exist that is acceptable to all and that considers each complaint as a potentially serious matter that merits thorough and comprehensive investigation. Community cooperation and officer compliance is in great part contingent upon the perception of an open, honest and competent investigation process. The critical importance of the existence of a viable complaint investigation process is offered by Gerald W. Lynch, President of John Jay College of Criminal Justice.

No subject is more crucial to the professionalism and credibility of police work than the issue of police integrity. Unless the police effectively police themselves, no citizenry will respect what the police do or say. The police, then, have a

double role in society: first to police the citizenry and second to police themselves. This second obligation is crucial to the first. If police departments do not seek always to maintain police integrity and to identify, expose, and deal appropriately with brutality, corruption, and the misuse of police power, they will have failed as police agencies. In this sense, the police have a double burden: they must do their jobs and they must constantly analyze and scrutinize how their members are doing that job. They do not have the luxury of arguing that they are too busy doing their work to worry about how it is getting done. They cannot hold that the ends justify the means, that "all's well that ends well". This process by which they police a society, then, is as important as the actual policing. To argue otherwise is to unleash the great powers of the police to the capricious, arbitrary, brutal, or corrupt whims of individual police officers, or of whole departments, or of the sovereign state itself.¹⁴

To the extent that this perception of the complaint investigation process is based in reality, two issues relative to misconduct by police clearly become arguable. First, there can exist a reasonable expectation that repeated misconduct on the part of the same officers will be reduced. Second, the potential for misconduct by other officers may be prevented. Assuming the accuracy of these two issues, little debate can exist relative to the affirmative link between reactive complaint investigations and the prevention of police misconduct.

PROACTIVE ROLE OF INTERNAL AFFAIRS

Comprehensive proactive compliance programs are not widespread in the profession, and are invariably controversial in the agencies where they do exist. The absence of management use of these techniques is directly related to the power and influence of some police labor groups as well as certain elements of the communities.

Many of the police administrators interviewed by the Project staff said that they would like to do more than they did about problems of misconduct and corruption, but they felt that any action they took might be interpreted as indicating a major corruption problem instead of a minor one. Chiefs also stated other reasons for not initiating an aggressive anti-corruption policy. Some were concerned about the police union and police morale; others were worried about the reaction of public groups who support the police or who have an interest in perpetuating petty forms of corruption.¹⁵

This reluctance on the part of many police chief executives is understandable but nonetheless sad and unfortunate. Indeed, a strong argument can be made that officers properly carrying out their duties have few, if any, valid reasons not to welcome proactive compliance techniques.

While initially one may view the beginning phase of a corruption control program as a rather primitive attempt at producing behavioral change, the long-range effects of such a beginning should not be underestimated. If one assumes that most police officers are basically honest, hardworking people who wish to do a good job, a pervasive organizational effort to root out serious corruption provides these officers with an opportunity to resist peer group pressure in that direction. A strong proactive internal affairs

initiative provides "an excuse for being honest" that may be acceptable to many of the rank and file. After all, every police officer recognizes the consequences of being caught in a corrupt act. Under intense supervision, reluctance to engage in unethical behavior may be viewed not only as acceptable but also perhaps as prudent. As a result, many officers who are seeking ethical guidance may secretly welcome such efforts if policies are realistic and fair.¹⁶

Compounding the frustration experienced by police executives, line officers and large segments of the community concerning the deployment of proactive compliance is the virtual absence of credible debate as to its necessity. Particularly with the proliferation of illegal narcotics and associated crimes across the country, allegations of officers tempted beyond their ethical limits have surfaced with increasing frequency.

The emergence of corruption as a criminal justice problem of major proportions is highlighted by exposes and investigations which have appeared in the national press. Many recent books and articles in professional police journals have focused on such problems as they relate to the law enforcement field; however, it is clear that corruption affects almost all agencies of national, state, and municipal government and the private sector as well.

The problem for the police is particularly critical at this time, and if anything, it has become more serious since the middle of the 1970s, with the introduction of narcotics as an important variable in the corruption equation. At the time of this publication, major police corruption investigations have been reported in New York City, Philadelphia, and Boston and throughout many of the municipalities of Dade County, Florida. The Dade County and New York City investigations are directly related to narcotics; in Philadelphia and Boston, the issues are gambling and organized crime.¹⁷

The consequences of failing to prevent corrupt behavior on the part of police before it occurs or failing to forcefully

respond to the behavior in its initial stages have substantial consequences.

These recent revelations once again underscore the seriousness of the problem of corruption in policing. Apart from the obvious economic costs, there are other latent and perhaps more serious consequences. In corrupt departments there is waste and inefficiency. Vital services which should be available to the public are either not provided or provided on a conditional basis. Officers preoccupied with selling crack or making a "score" have little interest in public service.

Probably the most important consequences of a major police corruption scandal are the almost immediate reduction in confidence in city government and a heightened sense of insecurity among the general public. Lack of trust in the police is often generalized to include all governmental operations as the most visible representatives of local government. Law and justice and the lofty sentiments these terms conjure up become the subject of derision upon the realization that many of the community's protectors may also be listed among its criminals.¹⁸

Proactive investigation techniques utilized by internal affairs units do not differ substantially from the methods employed by mainstream law enforcement units to detect and apprehend criminal suspects. Most internal affairs units have, however, developed manuals of procedures and guidelines for their investigators. These manuals are designed to establish a concerted, systematic approach to the respective agency's anti-corruption program. The manuals usually list corruption-prone or hazardous situations which merit careful monitoring, as well as specifying places where officers could easily become involved in corrupt activities. One of the more sophisticated of these manuals was developed by the New York City Police Department. Under each listing of a potential

problem are five major headings:

- Hazards
- Indicators of Problem
- Procedures to Control
- Enforcement Policy
- Accountability for Adherence¹⁹

An excellent example of a problem area selected from the manual is narcotics.

HAZARDS:

--prior to booking, the unlawful release of prisoners in exchange for money, narcotics, or other gifts.

--unwarranted dismissal of court cases after police conspiracy with offenders.

--the withholding of contraband by police for private use, future sale, or the practice commonly known as "flaking" or placing evidence of a crime on a person who does not actually possess it.

INDICATORS OF PROBLEM:

--an arrest pattern by specific officers which indicates a concentration of arrests for loitering and narcotics trafficking by people waiting to buy or sell.

--repeated observations of police at locations frequented by narcotics users, especially when no other police business is occurring at those locations.

--despite the receipt of complaints, narcotic locations flourishing without proper police action being taken.

--a pattern of complaints that charge improper search and seizure.

--a pattern of complaints by prisoners alleging that money, other valuables, and narcotics are missing after the suspects have been searched by police.

--a pattern of allegations of evidence being placed on a supposedly innocent person to justify an arrest.

--an unusual number of court cases being dismissed because of incomplete or faulty court affidavits, poor testimony, or non-appearance of

specific members of the department.

--members of the department spending money presumably in excess of their income.

--possible narcotic use by members indicated, in addition to the usual physical signs, by excessive sick report time (noting type of illness), neglect of personal appearance; constant fatigue; inadequate attention to duty; allegations or rumors of an individual's involvement with usage; unexplained disappearance from station house of property from personal lockers, vouchered property, and office equipment; and observations of a department member's associates.

PROCEDURES TO CONTROL:

Closely supervise subordinates in the field to insure the proper handling of arrests and searches.

Establish strict procedures for searches and the recording of evidence. Immediate search in presence of station house supervisor and recording of evidence should be made. Supervisor should issue a receipt for evidence that the arresting officer can place in his memo book.

Hold frequent conferences with superior officers and community groups to obtain information related to suspected practices in narcotics enforcement.

Initiate frequent independent or parallel observations of narcotic locations and of suspected officers.

Frequently review individual records to determine suspicious trends in arrests, dispositions, and investigative results.

Train members in current departmental procedures and policies.

Hold periodic, unannounced locker inspections to discover the unlawful withholding of evidence or contraband.

Review all narcotic arrests by superior officers, especially cases that are dismissed in court.

ENFORCEMENT POLICY:

Strict enforcement should be made of all laws pertaining to narcotics.

ACCOUNTABILITY FOR ADHERENCE:

Superior officers should be responsible for instituting all measures listed under "Procedures to Control."²⁰

As indicated previously and demonstrated in the example

selected from the New York City Police Department Internal Affairs Manual, proactive investigative techniques are not substantially different from those utilized in the investigation of suspected civilian offenders. Nevertheless, these approaches to control police misconduct are not utilized with the same frequency or enthusiasm as they are used to address suspected civilian offenders. Specific proactive investigative techniques commonly employed by internal affairs units include:

- Proactive Situational Testing
 - Turn-about--use of a corrupt officer who, when caught, is allowed to make a deal to assist in identifying others involved in corrupt activities.
 - Field Agents--recently employed officers who agree to report instances of corruption.
 - Stings
 - Decoys
 - Surveillance
 - Integrity Testing or "SIRTS"(Self-Initiated Reliability Tests)
 - Found property, wallets, money, etc.
 - Questionnaires
- Random Spot Audits of:
 - Field activity
 - Case preparation
 - Case dismissals vs. convictions
 - Vehicle towing records
 - Traffic citation records
 - Incident reports
 - Audio or radio tapes
 - MDT and MDI transmissions
- Extra employment records
- Computer logs
- Internal monitoring of:
 - Work product
 - Lifestyle
 - Financial status
 - Complaint history
- Reward System--payments, ranging from cash to promotions for not only remaining personally corruption free, but also initiating action against those offering bribes or officers who have accepted them.

A major factor in maintaining a corruption free culture or in

changing the culture of a police agency to reject corrupt behavior lies in providing police personnel with values based upon the highest ethical, legal and constitutional standards. With prevention of misconduct as the central focus, the negative values of secrecy, isolation and silence must be replaced with those of visibility, openness and sharing of information. Logic and experience indicates that proactive compliance programs can play a major part in the process to change an agency's culture for the better.

EMERGING ROLE OF INTERNAL AFFAIRS

Historically, the work product of internal affairs units has been used primarily to justify punishment. A frequent topic of debate concerning punishment within policing today, however, is the weight retribution should have in the internal affairs function. In particular, traditional police managers have been criticized for giving far too much weight to the retribution aspects of punishment. The argument advanced is that the retrospective orientation of retribution that looks to correcting past wrongs should not take precedence over a prospective orientation that seeks to ensure that what happened will not be repeated.

All too often many police managers act as if a problem is solved once blame has been assigned (which means that the person responsible has been identified and punished), while the organizational environment that prompted the wrongdoing in the first place is not addressed. In simpler terms, a strong argument can be presented that traditional disciplinary systems that focus upon retribution have the effect of treating the symptoms of police misconduct rather than the causes. If this premise is accepted, the exclusive use of punishment to right past wrongs may actually be detrimental to a long term remedy relative to police misconduct.

What are the implications to internal affairs of this evolving

view of the traditional purpose of its work product? Clearly one of the implications is the expansion of the internal affairs role to include that of an information source designed to assist in the prevention of police misconduct. The need for this capability has been acknowledged, if not achieved, for years. For example, the Police Executive Research Forum addressed this issue in its model policy concerning police handling of citizen complaints adopted in 1981.

Monthly reports shall be prepared by the internal affairs office for submission to the agency's chief executive that summarize the nature and disposition of all misconduct complaints received by the agency. Further, notation will be made of age, sex and racial characteristics of the complainants and the officers, as well as the complainants' residential neighborhoods. Terminated complaints shall be recorded and reasons for the termination explained.

Copies of the report shall be distributed to all command and supervisory personnel, as well as to training commanders. Notations shall be made for corrective actions of any developing patterns of abuse of a similar nature in a particular neighborhood.

An annual report, summarizing the types of complaints received and the dispositions of the complaints, shall be prepared and made available to members of the public and the press. The names of complainants and accused officers shall not be published in this report.²¹

There is without question an abundance of information, in the form of raw data or statistics, for the most part sitting idle within the files of internal affairs units. As raw data the usefulness of this information is limited. However, development of that data, along with the experience of internal affairs personnel, can have a significant impact in

the effort to identify types of behavior that lead to citizen dissatisfaction and conflict. According to Dr. Malcolm K. Sparrow of the John F. Kennedy School of Government at Harvard University:

Aggregate categorization of complaints by disposal make up the statistics required of the IAD, either by law or tradition. They are periodically transmitted to the various watchdog agencies-city councils, police complaints authorities, central governments, the mayor's office, police inspectorate, etc. It is partly by these statistics that the level of public dissatisfaction with the police service will be monitored.

But the information gained by investigating officers along the way may tell a very different story from the resulting statistic. The investigator hears, at some length, why it was that a complainant was dissatisfied. This information is important because it gives the investigators a very clear idea of those aspects of police activity or inactivity that cause public concern. The IAD staff are thus in a unique position to build-over time-a remarkably complete picture of the ways in which public and police expectations differ regarding police behavior.

Statistical summaries are the principal form in which information is released from the complaints department. The actual message conveyed by these statistics includes very little, if anything, about what police are currently doing wrong and how they might improve. They focus almost exclusively on the possible formal outcomes, including the number of cases referred to outside investigative or supervisory bodies, as well as the breakdown of case disposals. Overall, such statistics tell more about the routing of complaint files than they do about the successes and failures of the police. They are bland and uninformative.²²

Dr. Sparrow goes on to explain why this combination of personnel experience and information is underused.

In practice, the disposal of the complaint is carefully recorded, and will be disseminated to all of the relevant external agencies as a contributing statistic. But the information regarding public

dissatisfaction will, on the whole, go nowhere.

But if the IAD is really in such a good position to understand the current forms of public dissatisfaction, why are their insights not put to better use? Without doubt, these investigators can identify both the types of officers and the types of behavior that provoke complaints; they become aware of the variety of motivations behind public complaints; and they know the identities of those officers who repeatedly cause problems.

They learn these things, though, by accident rather than by design. They are not required to analyze cases in order to generate any coherent and reliable picture of the shifting pattern of complaints, the way in which public perceptions of police duty change from year to year, the possible causes of dissatisfaction or the behavior of any "rotten apples" within their department.

If such analysis is not expected or required, it will not get done; if it does not get done, its results cannot be effectively routed to management and troops. The analysis does not get communicated because it is not requested.²³

There are a number of functional units or entities, both internal and external to police agencies, that could benefit substantially from the development and analysis of raw data found in internal affairs units' files. Internally, these units or entities include the police chief executive, the training unit and the personnel concerns unit. Externally, members of civilian review boards as well as the community itself can benefit greatly from access to this material. Indeed, just as the list of potential users of this information is varied, the context in which the material may be considered is likewise multi-faceted.

CHIEF

Information developed through detailed review and analysis of raw data contained in internal affairs files can be of critical importance to the police chief executive in assessing a variety of areas such as policy development, deployment strategies, community support, etc.. Moreover, proper preparation and analysis of such information can assist the police chief, administrators and area commanders in assessing, for example, the complaint ratios between one and two officer units; risk factors in different geographic areas of the jurisdiction; policy compliance variances between shifts, geographic areas, groups of officers (new vs. veteran, male vs. female, etc.), as well as a myriad of other factors that would enhance their ability to lead their organization more effectively. The information developed from the raw data contained in internal affairs unit files can assist the police chief executive in assessing the needs and expectations of various segments of the community while at the same time preventing conflict. Moreover, the importance of avoiding unnecessary conflict and satisfying the legitimate expectations of the community cannot be overemphasized.

There is no reason why those objectives cannot be attained by the person who serves as police chief. They are, in fact, part and parcel of the chief's responsibilities as an agency head. If the chief is not responsive and not accountable, and does not administer the agency in a manner consonant with the reasonable expectations of the people whose taxes support it, it is difficult to see why he or she continues on the police payroll. If the chief does not run the department satisfactorily, and is not committed to achieving those objectives, he or she should be fired and replaced by someone whose views are more congruent with those of the community.²⁴

TRAINING

In this report, the issue of training is not presented in the context of training internal affairs personnel, but instead how internal affairs personnel and the information they possess can be utilized to expose field personnel to high risk situations and behaviors that contribute to or cause conflict and citizen dissatisfaction. Indeed, most police administrators depend upon the efforts of their internal affairs or inspections units to identify areas of corruption or misconduct. Unfortunately, however, it apparently never occurred to many of those same administrators in the past to consider training a viable alternative in the effort to control or prevent police misconduct. In fact, only recently has a concerted effort been made to establish training courses to examine corruption problems.²⁵ The cost of failing to consider training as a means to control or prevent police misconduct has been great.

By its decision in *Monell vs Department of Social Services* in 1979,¹ The U.S. Supreme Court held that municipalities could be sued for civil rights violations if they maintained an unconstitutional custom, policy or practice that caused the constitutional deprivation. This was a major departure from existing federal laws.² Subsequent cases have wrestled further with what evidence is necessary to prove the existence of a custom, policy or practice.

In the training area--an important corollary to policies and practices--the same Supreme Court has held that a failure to train constitutes a municipal policy for purposes of *Monell* liability if the failure reflects a deliberate indifference to the constitutional rights of its inhabitants.³

Where the need for training is obvious, but the training doesn't occur, or it occurs in such a fashion

that rights violations are likely to result, liability will be imposed.⁴ Too often, we overlook the fact that the failure to train consistently and in accordance with our own policies is likely to result in constitutional deprivations and therefore liability on the entity and its policy maker (that is, the chief or sheriff).²⁶

It is apparent that even the courts recognize the importance of training in the effort to develop a culture within the law enforcement community that focuses upon service rather than conflict. It must be acknowledged, however, that not only is training police officers necessary, the type of training is equally important if misconduct is to be prevented. In addition to various forms of ethics and anti-corruption training that has been available for some time, more realistic and practical training is likewise beneficial.

Perhaps the most popular form of training is known as "ethical awareness," a practical, realistic program designed to address corruption as a form of socialization in police work. Officers are confronted with simulated situations involving a decision making process. The program is viewed by many police administrators as more effective than a series of lectures warning the officers of the evils and dangers of corruption.

Ideally, the curriculum will include practical exercises which require students to make decisions in a variety of situations. The exercises work well with recruits, in-service personnel, and supervisors.²⁷

Law enforcement officers must be well trained so they do not perform as an occupying army who view citizens as aliens or enemies, but rather that they act as a community resource working in conjunction with other social resources to enhance the quality of community life for all.

PERSONNEL CONCERNS PROGRAM

An excellent example of a positive effort on the part of many law enforcement agencies to prevent police misconduct is the Personnel Concerns Program. This program, adopted in various forms by a variety of police agencies across the country, is designed to identify errant officers and intervene in their negative behaviors before serious misconduct occurs. Personnel Concerns Programs are positive in nature and are almost always formally separated from an agency's disciplinary system. The driving philosophy of these programs is that employees with negative behavioral patterns can be identified and a strategy for reversing these patterns can be devised and implemented.²⁸ The positive impact of this type of prevention strategy is further explained by Chief William A. Liquori:

We also need to institute a system to identify the older employee who shows characteristics of unacceptable behaviors in order to address them early on. It is better--and sometimes less expensive--to turn around an older employee than to let the situation degenerate to the point where he is ultimately fired and a new employee is hired.²⁹

Qualifying criteria varies to an extent from program to program, but the criteria considered in the Houston Police Department is typical:

Those employees who will be assigned to the Personnel Concerns Program will be identified by either of four means:

a. Data scanning by the Personnel Concerns Unit--under this process, the computer will flag those employees who experience five or more IAD and/or Administrative complaints, which are either sustained or not-sustained, or two or more excessive force complaints,

criminal activity complaints, or discharge of firearms with injury incidents within a 12 month period.

b. Any supervisor of an employee who identifies negative behavioral patterns and requests a review by the PCU, via his chain of command.

c. Upon recommendation from either the Administrative Disciplinary Committee (ADC) or the Administrative Personnel Committee (APC).

d. Chief of Police--At the direction of the Chief of Police an employee will be reviewed by the Personnel Concerns Unit.³⁰

The decision to have an officer participate in a Personnel Concerns Program is usually based upon a recommendation from a program committee, with the final decision made by the Chief of Police. Much of the information utilized to consider whether or not the officer should become a participant in the program comes from the agency's internal affairs unit. Upon an officer being entered into the program, a "plan of action" is usually developed. Once again, the mechanism utilized by the Houston Police Department is fairly typical:

Upon receipt of the PCC recommendation that the subject employee be mandated to participate in the program, the PCU will schedule a meeting with the employee's Chain of Command to discuss the deficiencies addressed by the PCC, and develop a strategy to address those concerns. Attendance at this meeting will be mandatory of the following individuals:

- a. The employee
- b. The employee's immediate supervisor
- c. The employee's shift commander
- d. The employee's division commander
- e. The PCU representative
- f. The Deputy Chief/Administrator of the bureau involved (optional)³¹

The intent of the "plan of action" is to correct or reverse negative behavior through a customized strategy involving

structured activity on the part of the officer and close supervision by the Personnel Concerns Unit and the officer's supervisors. At the end of the plan period (usually one year), the officer is either released to full duty or referred for additional corrective action (if the officer fails to achieve the goals of the program). The Personnel Concerns Program represents an outstanding example of positive intervention to prevent police misconduct.

COMMUNITY ACCESS

In terms of preventing police misconduct, it is important that law enforcement practitioners begin to think differently about many issues. One issue that merits considerable attention is the degree to which the complaint investigation and disciplinary process is open to public scrutiny. Historically, these elements of the profession have been cloaked in secrecy. The almost humorous (if not so tragic) result of this secrecy in many instances has been police bewilderment relative to community suspicion of the equity and validity of the processes. After all, police administrators "knew" that complaints were thoroughly investigated and carefully reviewed--why didn't the community "know" it as well? It took many years for the law enforcement community to realize the answer to that dilemma was that their confidence was based in a thorough knowledge of the complaint and disciplinary systems in place, whereas the suspicion of the citizenry was the result of their systematic exclusion from

that knowledge. The importance of opening these systems to public review is considered to be of critical importance by the American Civil Liberties Union:

The common strain underlying all of these areas is the need for greater openness on issues of local police misconduct. Too often walls of secrecy hide not only incidents of brutality but also inadequate responses to these incidents. The public has a right to be shown how thoroughly allegations of misconduct are investigated.³²

The manner in which police agencies view citizen dissatisfaction with their services reveals the true extent of any police-citizen partnership:

Another important way to demonstrate the integrity of a complaint mechanism is to encourage citizens to complain when they feel they have been wronged. How easy is it for a citizen to complain about a police officer? If a citizen feels he has been abused by a police officer, it takes a lot of nerve for him to go into that officer's station (or any other police facility) to complain. What can he expect when he goes in and tells a desk officer that he wants to initiate an investigation directed at showing that one of the officer's colleagues acted wrongly?³³

Logic would seem to support the premise that to the extent a police agency opens its complaint and disciplinary process to public view, police misconduct will be reduced or prevented. If officers are aware that the citizenry is knowledgeable concerning these procedures, clearly they will be more circumspect concerning their official behavior. Examples of how an agency can reach out, through their internal affairs unit, to the community in an attempt to remove the cloak of secrecy concerning the complaint investigation and disciplinary processes include:

- *Establishment of remote site complaint intake centers
- *Presentations at community meetings
- *Sponsoring public workshops and seminars
- *Creation of brochures and pamphlets describing the complaint investigation and disciplinary process

CIVILIAN REVIEW BOARDS

The issue of civilian oversight of police misconduct investigations represents one of the most, if not the most, controversial subjects separating the police from the community.

There is probably no subject that so predictably raises the hackles of police as civilian investigation and review of citizens' complaints against officers.¹ Conversely, among those who most ardently challenge the efficacy of police exercise of their authority, probably the most frequently sought after curative is civilian review: if the large number of requests to the Police Foundation for information are any indicator, civilian review boards are a matter of increasing concern in American cities.³⁴

Justification for civilian oversight of police misconduct cases is provided by the American Civil Liberties Union:

Civilian cooperation will remain elusive if the public does not have confidence in the police department's process for investigating misconduct complaints. There are two factors that are crucial to the credibility of any investigative system: the degree of openness in the system and the presence or absence of an independent civilian review mechanism.

Only a small percentage of police misconduct cases are sustained. It is important to be able to show to the complainant and the public that all cases are fully and fairly investigated and that the evidence supports the conclusion that no misconduct occurred. Such information enhances public confidence in both the department and its complaint system. As for the sustained cases, secrecy about the investigation and results prevents other officers in the department from determining whether or not their fellow officer is

being "scapegoated" and prevents the public from evaluating whether or not the discipline is appropriate for the offense.

There is increasing recognition that since we give police officers unique powers to make arrests and use force, civilian oversight of how they exercise those powers is particularly important. Just as systems of independent checks and balances serve to curb abuses of power in other government institutions, civilian review serves this same function with local police departments.³⁵

The intensity of resistance by police notwithstanding, it should be apparent that civilian oversight of police activities will continue to exist in some form. Of the various forms of civilian review in existence, three types are most common:

The three levels of external review of complaints are civilian review, civilian input and civilian monitor. Of these, the strongest in a descriptive sense is pure civilian review, under which the authority to investigate, adjudicate and recommend punishment to the police chief is placed in the external agency. Civilian input, not such a strong mechanism, places the authority only for complaints reception and investigation in the external agency, whilst adjudication and discipline functions are discharged internally within the police department. Finally, in the weakest system, civilian monitor, the investigation, adjudication and discipline functions are all discharged internally within the police department but the procedures are subject to some form of external review regarding their adequacy and impartiality.³⁶

The notion of civilian oversight of police activities has lost little, if any, of the intensity of resistance by law enforcement practitioners over the years. There is little empirical evidence, however, that civilian oversight has had any substantial negative impact upon the legitimate concerns of field officers.

When discussing the issue of civilian oversight, I usually tell this story:

One early spring afternoon, a farmer went out to look at his fields to see how long it would be before he could begin to plow and plant. As he walked along a hedgerow, he began to hear the frantic cries of a young bird which he discovers in the tall grass; it had fallen or been pushed from a tree. After picking up the injured bird, he decides to take it home, out of the cool night air, and nurse it back to health. But, as he heads back home, he realizes that his wife would never permit him to bring it into the house. In the midst of fretting over what to do, the farmer steps into a pile of cow manure. Then, an idea strikes him. He bends down and places the bird in the middle of the warm manure, hoping it will help the bird survive the cool night air. He heads home. A half an hour later, a red fox enters the field in search of a meal and soon finds the bird. In one swallow, it devours the bird. The moral of this story is: The motives of the person who places us in what appears to be a stinking situation may be more in our interest than the one who wants to get us out.

This story is told so as to caution police officers not to assume that persons who serve as members of civilian oversight agencies are Machiavellian antagonists and their decisions will have catastrophic effects upon police authority and morale. Although there is meager research into this opinion, what is available indicates that civilian oversight has not caused such consequences.³⁷

CONCLUSION

There are three primary means in which the internal affairs function can assist in the prevention of police misconduct. Those means are reactive investigations, proactive compliance techniques and as an information source to those individuals, internal units and external entities that are responsible for preventing or controlling such behavior. The benefits of linking this potential with the re-examination of the mission, values and principles of policing cannot be overemphasized, especially at this time in our nation's history. As a result of recent events, an opportunity exists to develop something good from something bad. It is of critical importance to the future of the country that advantage be taken of that opportunity. All people share a common interest and a common goal in creating more responsive and humanistic police organizations at all levels. The citizenry places heavy demands on the police, and the citizenry therefore owes it to them to continue to press for a cooperative effort designed to maximize the resources of both in the effort to enhance the quality of life for all. Communities across America must demand that local law enforcement agencies adopt anti-corruption strategies and then support those strategies when implemented.

Although no single organizational structure would appear to be completely effective in curtailing misconduct or corruption, observations by the Project's staff of numerous police departments indicate several criteria which must be present if a

department is to be successful in its anti-corruption efforts. These criteria include:

--positive leadership and a strong commitment by the chief administrator to the elimination of corruption.

--a department relatively free from pervasive political influence.

--authority and responsibility for anti-corruption efforts placed appropriately and clearly defined, for each level within the organization.

--clearly defined policies and procedures.

--an effective internal affairs unit.³⁸

If true progress is to be made, it should be considered axiomatic that preventing the occurrence of police misconduct is at the least as important as the manner in which an agency reacts to it after it occurs. To the extent the personnel of an agency acknowledge, understand and indeed live the values and principles of their organization, the incidence of police misconduct will be reduced or outright prevented. The internal affairs function is an integral component of the effort to bring life and substance to the values and principles of a police organization, and is therefore integral to the prevention of police misconduct.

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