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A Comparative Analysis of the Proactive and Reactive Internal Affairs Process

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279

TABLE OF CONTENTS

Section	Page
Abstract	
Introduction	1
Historical, Legal or Theoretical Context	2
Review of Literature or Practice	4
Discussion of Relevant Issues	8
Conclusion / Recommendations	10
Bibliography	
Appendices	

ABSTRACT

Since the first internal affairs units were formed in the late 1950's and early 1960's their mission has been to insure departmental integrity by providing unbiased and responsive internal investigations to allegations of misconduct. As the investigative arm of the chief of police, these units were given little direction on how to perform their duties. They were essentially reactive in nature. They responded to and investigated allegations of misconduct after the fact. By the early 1980's the internal affairs function had evolved to incorporate the use of a new concept: early warning systems. These early warning systems were based on the idea that officers activities could be tracked and those with a propensity for misconduct identified. The hope was to identify patterns which may necessitate departmental intervention prior to any escalation so that proper corrective action could be taken by the department in a timely manner. The internal affairs mission had now changed from reactive to proactive, placing emphasis on early identification and intervention. Today, both styles of internal affairs units exist. This paper compares both styles using the results of our survey and the results of independent surveys of others. By taking a proactive approach to internal affairs, police agencies can significantly reduce the number of police misconduct cases.

INTRODUCTION

Every police agency has the obligation to insure unquestioned integrity and the highest ethical standards from its officers. The public has a right to expect such qualities from every member of its force. To meet these high expectations, the application of some properly organized internal affairs process is essential. An internal affairs process that the community and members of the agency recognize as unbiased and responsive. With all of the recent media attention given to police misconduct cases, there is little doubt that such cases are on the rise. Police administrators should be actively trying to find the causes for the noted increase and implementing possible solutions. Given the rapid pace at which the law enforcement field is expanding finding solutions will not be easy.

The historical approach of responding to allegations of misconduct only when they occur now appears obsolete. There is no doubt that the law enforcement agencies of today need to rethink their reactive attitudes in dealing with misconduct. Research indicates that there are common indicators that would help today's police administrators in identifying and tracking officers that display a potential for police misconduct (Berkow and Rothlein 1994). In some departments early warning systems which monitor those indicators are already in place. By taking a proactive approach to the problem police administrators can prevent or reduce the number of police misconduct cases.

The purpose of this research is to provide police administrators with information that may prove beneficial in deciding whether their agency should change to a proactive internal affairs process. The primary intent of the research is to show that a proactive internal affairs process is significantly more effective than a reactive process at reducing or even preventing the number of police misconduct cases.

This research will be conducted primarily for the benefit of the Sugar Land Police Department. However, the results will be useful to other departments. Initially, the results of the research will be presented to the command staff of the Sugar Land Police Department. The command staff may be asked to review the outcome of the research and consider changing the internal affairs process of the Sugar Land Police Department.

The information used in this research will be accumulated from four principal sources. First, books written on the subject matter. Second, information gathered from the independent research of others. The outcome of the research of others will be used to compare and contrast with the results of this research. Third, information gathered from a survey of three different police departments conducted during this research. An attempt will be made to locate police departments that feature each type of internal affairs process to be surveyed and the results cataloged. The information obtained from the survey will ultimately help form the basis of the conclusion in this paper. Fourth, information found in journals.

HISTORICAL or THEORETICAL CONTEXT

The earliest internal affairs units were started in the late 1950's and early 1960's to investigate allegations of corruption in big-city departments. They came about as a result of the social upheavals of the 1960's. The citizens not only demanded corruption investigation, but the day-to-day street activities of police, especially regarding the use of force (Krajick 1980). As a result, police departments were forced to establish many new internal affairs units, and to shift their focus from corruption to citizen complaints. These internal affairs units had three main functions; investigating citizens' complaints, probing alleged violations of internal regulations, and investigating corruption. All of these functions were reactive in nature. Whether the allegations came from an

internal source or external, the unit simply responded and investigated after the fact. Cloaked in secrecy these units usually conducted their investigations hidden from the public and the police alike.

Since no one knew much about the unit or how it operated, it eventually led the rank and file officer to fear and distrust the unit. The widespread fear of these units caused police unions to enter into labor contracts and lobby for state laws that essentially established a police “bill of rights” (Krajick 1980). The basic intent of this “bill of rights” was to protect the officer from some aspects of internal affairs investigations. The police officers “bill of rights” forced the few internal affairs units in existence to redefine their role and reevaluate their methods of operation.

By the early 1970's many police departments began to recognize the need for an internal affairs unit that was well organized, highly efficient, and scrupulously fair and impartial. The unit also had to be trusted and respected by members of the department and the citizens (Smith and Territo 1976). Clear-cut primary objectives were established to help accomplish those goals. Generally, these objectives were protection of the public, protection of the department, protection of the employee, removal of unfit personnel and correction of procedural problems (Swan 1982). The internal affairs unit began to solidify itself as the investigative arm of the chief of police.

Police organizations have long been aware of the fact that a small number of “career criminals” are responsible for a disproportionate percentage of the crimes committed. In the early 1980's a few departments began to make a similar analysis, but using officers as subjects and with the focus directed internally. They found a similar result in that a small number of officers within the department were responsible for a disproportionate share of the complaints, allegations, and problems within that agency (Berkow and Rothlein 1994). This led to the eventual development of a new concept in internal affairs, early warning systems. The purpose of these systems was to

identify personnel who pose a liability to the department or are suffering from stress and demonstrating risk factors such as:

1. A propensity to use unnecessary, unreasonable or excessive force.
2. Citizen contacts which tend to be abusive.
3. Overaggressiveness which causes injuries or equipment damage (Berkow and Rothlein 1994).

Early warning systems also employed the use of other tools such as psychological screening and computer-based tracking to process and blend all of the accumulated data in one place. Complaints and use of force incidents were systematically reviewed by the internal affairs unit. This allowed internal affairs units to begin using all of the information available about individual officers and refocusing their mission with an emphasis on early identification and intervention with officers repeatedly involved in, or alleged to be involved in, improper police conduct (Berkow and Rothlein 1994). For the first time in internal affairs, a proactive method had been developed. Internal affairs units still responded to individual incidents, but began trying to analyze patterns in an attempt to identify those officers causing repeated problems or determine what police activities generated repeated complaints. The identification of these patterns of unacceptable behavior, whether they appeared to be escalating or not, now provided departments with a vehicle to prepare a departmental response. Proper corrective action taken in a timely manner increased the likelihood that future misconduct could be avoided (Metro Dade Police Dept 1991).

REVIEW of LITERATURE or PRACTICE

Professor Herman Goldstein (1990) made a similar analysis in emphasizing identification and intervention in the development of problem-oriented policing:

"The first step in problem oriented policing is to move beyond just handling incidents. It calls

for recognizing that incidents are often merely overt symptoms of problems. This pushes the police in two different directions: 1. It requires that they recognize the relationships between incidents (similarities of behavior, location, persons involved, etc.); and 2. It requires that they take a more in-depth interest in incidents by acquainting themselves with some of the conditions and factors that give rise to them" (Goldstein 1990).

The Independent Commission on the Los Angeles Police Department (I.C.L.A.P.D. 1991) concluded in their report that the vast majority of the 1,800 officers reviewed had only one complaint. "But 183 officers had four or more allegations, 44 had six or more, and one had 16 allegations. The top 10% of officers ranked by number of excessive force or improper tactics allegations accounted for 27.5% of all such allegations" (I.C.L.A.P.D. 1991). Similarly, the Report of the Boston Police Department Management Review Committee (B.P.D.M.R.C. 1992) found that "a small number of officers are involved in extensive amounts of alleged misconduct... When we look at all of the prior complaints against our sample officers, we find that this 10% of our officers are responsible for 45% of all previous complaints" (B.P.D.M.R.C. 1992).

Internal affairs units, such as the Metro Dade Police Department, that had switched to using different types of early warning systems in the early 1980's began to see a sizeable reduction in both the number and type of complaints filed. In the Metro Dade Police Department in Florida, the number of complaints dropped from 80 in 1981 to 26 in 1982 after the implementation of an early warning system. Over the next 10 years through the continued use of an early warning system the Metro Dade Police Department averaged approximately 16.4 complaints per year (Metro Dade Police Department 1991).

Three police departments were surveyed by the author in regard to their internal affairs operations. The Bellaire Police Department, The Mesquite Police Department and The Pasadena

Police Department. They were all asked to provide the following information.

1. The current style of operation of their internal affairs unit, proactive or reactive.
2. The number of sworn personnel in their agency.
3. The total number of complaints filed during the years 1993, 1994, and 1995.
4. The number of officers involved in more than one complaint during the same period.
5. The number of complaints that were sustained.
6. The estimated cost to replace an officer who either resigned or was terminated.

The Bellaire Police Department reported that records showed over the three year period they compiled an average of 16.6 complaints per year from their 40 officers. Thirteen officers were involved in more than one complaint. Six of the thirteen were involved in three or more complaints. Those thirteen officers combined for 21 of the 32 total sustained complaints in the three year period. Three of the subject officers resigned. The approximate cost to replace these officers was \$31,283.00 each. They currently use a reactive style of internal affairs, however it does incorporate the use of many elements of an early warning system. All complaints are taken and investigated. They are documented and stored on a computer database, but the contents are not analyzed for recurring patterns (Caldwell 1996).

The Mesquite Police Department reported that it received an average of 72.6 complaints per year over the three year period from it's 200 officers. Nineteen officers were involved in more than one complaint. All nineteen had more than one sustained complaint (an exact number was unavailable at this time) during the same period. Figures on the number of officers resigning or terminated was also unavailable at this time. The replacement cost of an officer is estimated at around \$40,000.00. A reactive style of internal affairs is used in a manner similar to the Bellaire

Police Department. All complaints are taken and investigated. The information is stored in a computer database, but again the raw data is not analyzed. The information is used primarily to enhance punishment in subsequent investigations (Caldwell 1996).

The Pasadena Police Department reported an average of 34 formal complaints over the three year period from it's 230 officers. No records were available as to a total number of complaints, minor complaints were sometimes not documented. Of the 130 officers receiving formal complaints 25 officers were involved in more than one. Of the 102 formal complaints received 22 were sustained. The Pasadena Police department's internal affairs division is not computerized and a manual search was done to provide the figures listed in this report. The exact number of officers that may have resigned or been terminated over the same periods a result of an investigation is unavailable. The reported replacement cost of an officer is estimated at between \$35,000.00 and \$40,000.00 the first year. A reactive style of internal affairs is currently used (Caldwell 1996).

Though all three agencies surveyed are much smaller in size than the Metro Dade Police Department or the Boston Police Department the research findings showed a similar result. In all three one pattern remained constant, the majority of officers received no complaints. Of those who did, a few officers remained responsible for a disproportionate amount of complaints. None of the agencies surveyed used a proactive style of internal affairs. The results of the survey showed that in the reactive style internal affairs the behavior is usually identified early, but is usually neither properly documented nor analyzed for the discovery of a persistent pattern. Instead it is allowed to continue until a serious allegation is brought forth. The end result shows a variance of preventive effectiveness based on the ability of the personnel assigned to the internal affairs unit and their willingness to recognize, collect and report the pertinent information. In the proactive style pertinent

information would be automatically assembled and analyzed on a regular basis.

DISCUSSION OF RELEVANT ISSUES

Reactive internal affairs units provide little in the way of preventive measures. Since their inception they have relied almost solely on external complaints of misconduct. This oversight led them to only deal with what was the proverbial “tip of the iceberg” (Broadway 1974). The police subculture creates stumbling blocks for any internal identification system to be functional. The internal affairs unit is traditionally viewed by the rank and file officer as a “watchdog” or “headhunting” group far from the original intention of the internal affairs unit (Rothlein 1996). Law enforcement agencies must explore the opportunities to expand the role of internal affairs in preventing police misconduct. A role that has to begin with the department re-examining its mission, departmental values and principles to ensure they represent the foundation upon which the delivery of police services are based (Williams 1992). All personnel must be educated on the mission of the department as well as that of the internal affairs unit .

Currently, a lack of departmental commitment to educate all personnel in the operating procedures and mission of the internal affairs unit exists and has caused a devastating effect (Williams 1992). Officers are far less likely to report any incidents of misconduct because the average internal investigation results in some type of punitive sanction handed down by the department. Thus, the whole process is seen as negative by the subject officer. In the reactive style of internal affairs, when the misconduct is finally identified, it is often too late for corrective action. The departmental response has to almost always be punitive in nature because it literally allowed the misconduct to persist until the point of discovery. The end result is a system focused on retribution which has the effect of treating the symptoms of misconduct rather than the causes (Williams 1992).

While the reactive style of internal affairs does have some preventive effect, it is minimal at best. Proactive styles of internal affairs are more oriented toward identification and intervention. The early identification of patterns of misconduct helps to prevent any escalation or continued participation of the misconduct identified. The sanctions administered are more of a corrective nature by virtue of the fact that the misconduct is minor at that point. The information used to identify these patterns has been routinely assembled and readily available for use since the first law enforcement agencies were formed. The main difference between the reactive style of internal affairs and the proactive style is that all of the information collected is analyzed to determine patterns of misconduct in the proactive style. In the proactive style every complaint is investigated, even anonymous complaints which are often not investigated in the reactive style. The idea is to prevent ethical transgressions from ever occurring, rather than to punish officers after the fact (Huddleston and Sands 1995).

The reactive style does not allow for the sharing of information and frequently what information that is gathered is used only to bolster punishment in subsequent investigations. The opportunity for the use of corrective measures is sometimes lost forever (Willaims 1992). Law enforcement administrators must take full advantage of the benefits of a proactive process. An officer's career may be salvaged which saves the department money by not having to replace a veteran officer with a recruit who has to be trained. Money can be saved by the department from the reduction in cases litigated and judgements that may be rendered against the department.

The proactive process can also help to maintain favorable morale within the department identifying the misconduct early, the department may be able to respond in a manner seen as corrective rather than punitive. Additional training may be an alternative to punitive measures or

even a change in policy if a procedural problem is identified. When officers understand the process and observe it operating in a fair manner it leaves no reason to distrust the internal affairs unit. Other benefits may be realized as well, such as the restoration and even enhancement of the public confidence in the department. However, it can not be overemphasized that proactive internal investigations are a double-edged sword that can destroy a department's morale if conducted in a reckless and unethical manner (Berkow and Rothlein 1994). The shift to a proactive process can be achieved at a moderate cost. Computer software can be purchased to track, correlate, and analyze the tremendous amount of data collected.

There are some software packages already on the market, created for the sole purpose of internal affairs case management. One such package is the IA - TRAK 2, marketed by The Institute of Police Technology and Management at the University of North Florida. This software sells for \$2,400.00. Another package is the IA FILE 2000, marketed by USA Software, Inc. The price of this system varies with the number of users. The base price is \$995.00 for up to four users and \$1,295.00 for up to eight users. While this sounds expensive, consider the benefit of saving just one officers career and remember the reported replacement costs to the departments for just one officer ranged from \$30,000.00 to \$40,000.00 each.

Depending on the size and budgetary constraints agencies may also choose to custom build their own software packages at a less expensive price. In the Bellaire Police Department a software package named Q & A was used to custom build a program for internal affairs case management. This was done at a minimal cost to the department. Personnel in the internal affairs units using any of these computerized systems will have to be trained to conduct a proper and in-depth analysis of the data collected.

CONCLUSION / RECOMMENDATIONS

Both styles of the internal affairs process have been examined in an effort to provide police administrators with useful information in deciding whether their agency should change to a proactive internal affairs process. While the reactive process does have some merit, it is an antiquated approach that deals with misconduct after the fact. The proactive process, conversely applies modern techniques and places emphasis on early identification and intervention. All of the recent media attention given to misconduct cases gives the general public the impression they are on the rise. The public demand for the accountability of law enforcement to police themselves has never been greater than today (Berkow 1996). In order to fulfill the inherent obligation to insure unquestioned integrity and the highest ethical standards, law enforcement agencies of today are being forced to abandon their reactive attitudes in dealing with police misconduct. The proactive approach is the only ethical choice, since to ignore misconduct is to condone it (Rothlein 1996).

The information presented in this paper shows that a proactive process is more effective. Thus, the author's recommendation is to switch to a proactive process. By assembling a staff of highly skilled investigators using proactive compliance techniques, law enforcement agencies can significantly reduce misconduct by its officers. They may reap other benefits as well; savings of monies spent in litigation, salvation of an officer's career and the enhancement of public confidence in the agency. The future of law enforcement rests squarely on its ability to thrive in a symbiotic relationship with the community it serves. Three things are necessary to achieve that relationship; mutual respect, understanding and the law enforcement officers commitment to achieving one of law enforcement's most important goals: upholding the public trust.

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