The Bill Blackwood Law Enforcement Management Institute of Texas

Framework for Accountability in

Criminal Investigations

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ABSTRACT

Investigators in criminal investigation units are given great latitude with time management. They are expected to work cases thoroughly. However, it has been found that across the country cases occasionally fall through the cracks and are either worked inadequately or not worked at all. This has led to disciplinary actions including criminal indictments or termination of veteran officers. The public questions the integrity of investigation divisions, sometimes leading to costly lawsuits or not receiving the justice they count on.

Many of these issues could have been avoided by requiring interaction between supervisors anFd investigators to keep abreast of open cases in the unit, setting goals, and identifying overburdened or problem employees. Identifying these issues leads to additional training or resources to help with larger and more demanding cases. Law enforcement agencies can avoid law suits, increase trust with the public, have better relationships with their employees, and have a more productive criminal investigation unit by adopting an accountability framework. Law enforcement should create procedures for accountability in criminal investigations that create communication every month between investigators and supervisors.

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INTRODUCTION

When law enforcement agencies work high profile cases, it often makes the news. Cases such as murder, sex crimes and crimes against children demand a great deal of attention and should not be taken lightly. It would be hard to believe that these cases would fall through the cracks, failed to be assigned. However, in February of 2013, the Phoenix New Times released findings that an internal investigation of the Maricopa County Sheriff's Office failed to work many cases of the crimes against children from 2005 to 2008. The captain's excuse was that the excessive amount of cases overwhelmed the manpower to address them (Stern, 2013).

San Antonio, Texas reported similar problems in 2017. In October of 2017 Channel 12, KSAT San Antonio reported that the special victim's unit failed to investigate over 130 cases properly. The oldest case dated back to 2013. Two sergeants were disciplined for the failure to supervise cases adequately (Shadrock, 2017).

In Lansing, Michigan a detective was personally responsible for failing to investigate sexual assault cases. The detective was assigned to the Special Victims Unit from 2013-2016. The department's investigation found nine cases that needed to be reopened, and some of those led to new charges once reviewed by the district attorney's office. Lansing News quoted Chief Yanjowski saying, "The victims involved entrusted the detective to handle their investigations professionally and swiftly to achieve justice; instead he abused their trust. The lack of actions...were appalling and were not tolerated" (Clark, 2017, p. 2-3).

In Fort Worth, Texas, a detective was fired for mishandling cases involving children, despite spending 14 years in the investigation unit. A task force had to be formed to review all the cases from the detective's time in the investigative unit (Boyd, 2016). In Kansas City, Missouri seven out of the eight detectives in a specialized unit assigned to investigate children crimes related to abuse and sexual crimes, were disciplined when it was discovered 150 cases were mishandled. Due to the delay, evidence was lost, and child molesters stayed free. One child molester found another victim before he was arrested. The police chief stated that they made changes to child crime procedures to ensure they are thoroughly investigated. (Mcguire, Cummings, & Rice, 2016).

These situations can be found all around the country. Many of these could have been prevented if specific procedures had been in place. These cases would not have fallen through the cracks. More importantly, citizens would have received justice and criminals would have been removed from society. Law enforcement should clearly define procedures to promote accountability in criminal investigations.

POSITION

Creating procedures for accountability in criminal investigations ensure that investigations are completed in a timely manner. Failing to supervise cases can lead to a high-profile case dismissal or charging the wrong people. A pertinent scenario occurred in a capital murder investigation in San Antonio, Texas. Two suspects were charged in a murder after a drug deal gone wrong, but two months later the prosecution dismissed the case, stating that they had insufficient evidence. They ruled out the two initial suspects charged due to shooting reconstruction. In the meantime, the real

killer(s) are still free, and the family is suffering from the loss. The investigators have failed to update the victim's family, which has only led to more frustration (Brnger, 2018). In San Diego, internal affairs investigations against police officers in civilian deaths, were not investigated in a timely manner and dismissed (Downs, 2017). There are times that cases issues are known, but there is no framework in place to ensure that the cases get worked in a timely manner.

In Cleveland, Ohio, three officers are being investigated after failing to work 60 sex crimes in over a year. One of these officers was a commander, while two were sergeants. The cases ranged from 2014-2016 and lacked accountability in several areas. One area was the processing of evidence in which numerous sexual assault kits were never sent to the lab for testing. A sexual assault kit can contain DNA (deoxyribonucleic acid) of possible suspect(s). The other issue was a failure to work cases.

In the Cleveland case, one detective was assigned to the sex crimes and child abuse unit in 2014. During 2015, he was promoted to sergeant in a different division. When promoted, the sergeant was instructed to take the open cases with him. During the nine months that he was in his new assignment, he failed to work on a single case that he had taken. The 60 unworked cases were brought with him to his new assignment. The commander of the unit received an administrative charge for allowing the detective to take the 60 cases to his new appointment, going against regular practices of the department. The commander also failed to notify the newly promoted sergeant's supervisor that the sergeant took the cases with him. It was not until three

months into the new assignment that the commander wrote an email to retrieve the cases (Dissell, 2018).

Failing to have a criminal investigation accountability framework created a problem in Tucson, Arizona, as well. In August of 2017, the Arizona Daily Star covered a story of an investigator that also failed to work cases properly, leading to suspects remaining at large and possibly reoffending. In the Tucson case, a 19-year veteran officer with 12 years in investigations was assigned to investigate sex crimes. It was discovered that the investigator mishandled 36 cases. During the investigation, it was determined that the investigator should be fired for her actions, but resigned before being terminated. The chief of police stated that oversight is in place to identify issues such as those in this case. Some of the problems found were that the investigator failed to do interviews, or out of the interviews completed, she failed to put them in the case file. In some occasions, collected evidence was not entered in the cases, and another case showed destroyed evidence based on her own opinion that it had no value to the case. Some of the policy found after the investigation was untruthfulness, improper handling of evidence, reporting requirements, accuracy, and timeliness (Schmidt, 2017). An accountability framework with documented procedures could have possibly caught several of these cases at an earlier stage and identified employee issues.

Another reason accountability is essential is to maintain awareness of significant cases that are being handled by the department but also to identify potential problems with employees. These problems may not be due to willful negligence but a lack of ability or training.

Meeting with employees about their job assignments and tasks can help evaluate if they are capable of doing the job that they are assigned. These meetings also allow supervisors to discover if resources are needed or help provide tools to do the job that is required. Research shows that having these interactions with employees also creates an environment where the employees have ownership in their assignment (Bieber, 2011). One of the things that supervisors should monitor is how many cases are being received and if they are capable of being worked in a timely manner without stress or burnout. It is not just the caseload number that matters but also the amount of work that will be needed to accomplish the task (Koeske & Koeske, 1989). Being overwhelmed at work can lead to burnout, medical problems, and absenteeism (Van Steenbergan, Van Der Vin, Peeters, & Taris, 2017). It can also lead to negative attitudes towards work and personal performance. Workload, along with time constraints, have been shown to lead to these problems (Jong, 2018).

Many of the cases listed have been of a sexual assault against children but consider homicide units such as Baltimore. The Baltimore Sun stated, "so many homicide cases are now lost in court that the odds of getting away with murder in Baltimore are stacked decisively in favor of the killer" (Haner, Wilson, & O'Donnell, 2002 p. 2). So far in 2018, there have been 159 homicides, including one weekend where 15 shootings resulting in four deaths and 11 injured occurred. This was not from one incident, but numerous incidents with different suspects, different locations, and evidence associated. In an area that cases are steadily coming in, attempting to match resources to the problem is difficult, the police chief has said the homicide rates are dropping, but not quickly enough (Ritter, 2018).

Making sure that accountability is in place should help manage cases and personnel handling of those criminal investigations. Objectives must be defined, and supervisors must know their role with clearly defined expectations. These roles should be defined and clarified from the chief down to the lower level supervision. If these objectives are not implemented, it can lead to issues within the organization with personnel and the cases that are worked (Kilfeather, 2011).

The use of accountability to ensure timely management of criminal cases is no different than business models that monitor accountability for increased productivity. In weight loss and fitness programs, an accountability partner has led to increased success and productivity in goals (Vasquez-Noone, 2012). Absence of an accountability system can lead to low morale and low productivity; accountability makes the worker feel valued and leads to timely management of projects and increased productivity (Pomeroy, 2015).

COUNTER ARGUMENTS

One of the issues with implementing any change is that people can be resistant. A significant portion of implementation fails because of failure to handle this resistance. Many times, it is because it is not addressed at the mid-management level, such as a sergeant overseeing criminal investigations (Jones, 2017). Employees may resist the accountability, claiming that the supervisor is micromanaging. Accountability is often thought of with a negative connotation, and people will say they do not want to be micromanaged despite being unable to define it.

In an article by Robert Wright, micromanaging is defined as managing a small portion of a project under scrutiny. He explains that it is being told what to do instead of

allowing an employee to make decisions for themselves. Micromanaging can frustrate veteran employees that feel they cannot use their knowledge and have to follow what they have been told on how to perform a task (Wright, 2000).

Sometimes micromanaging can be referred to as bad management. Although supervisors have a role in the management of the team, micromanaging is when they do not allow the team to work without dictating every move. In an article written by Alvesson and Sveningsson in 2003, scientists were micromanaged, it was brought to the attention that the scientists would not make any new progress if they were not allowed to think for themselves and try new things. This is similar to investigations when a detective is not allowed to think outside of the box; therefore, new techniques for solving crimes would not be discovered (Alvesson & Sveningsson, 2003).

Although most people do not want to be micromanaged because it takes away their input, they do want to have guidance, direction and clear expectations from their supervisors. When employees were asked, they wanted their goals defined and wanted to know what they were expected to do in their role. They also wanted to know what acceptable versus above average work was. In other words, they wanted to know how much work were they expected to do in any given day (Sramcik, 2018).

As the organization is trying to move in a particular direction, employees need to understand their role in the plan. As well as how to obtain the goals intended. It not only requires telling them what is expected but also how their work will be evaluated.

Supervisors must check in to see how they are doing and to develop them as a better employee. Evaluations should be a developing opportunity for the employee and to make sure they have the resources and the ability for the job assigned (Oien, 2012).

In the research article "Effective Performance Management System for Enhancing Growth", a performance management cycle is identified and divided into the following parts which can be translated into setting expectations for employees. It is essential to set clear, measurable goals, monitor the goals, coach and supervise throughout the year, and adjust the goals when necessary (Kumari & Malhotra, 2012). Employees wanting to have expectations explained is multi-generational. Regardless of how many years in their career, or by comparing millennials or traditionalists, all want to know what is expected. A Gallup Poll found that 72% of Millennials are better engaged if the manager helps establish goals and all other generations are eight times more engaged in their jobs (Rigoni & Nelson, 2016).

Aside from the need to set expectations, and avoid micromanaging, there is also an issue of time. As agencies are bogged down with cases, attempting to implement a new management tool or procedure will add additional duties to supervisors that take the time they do not have. In the case of Maricopa County Sheriff's office where the sex cases of children were not handled, Captain Brian Beamish's excuse was that at the time of the cases, the sex crimes unit was too busy to work them. Adding supervision to the team would have taken even more time away from investigations. It should be noted that these cases were part of a multi-million-dollar contract with another city, in which the county had entered into to perform these duties. Captain Brian Beamish acknowledged that those assigned to the cases were sent to Honduras, even while they were shorthanded. Any additional supervisor duties would have created more work for an already depleted unit. (Stern, 2013).

Although case management may require extra time on mid-manager resources, it is not worth the real cost of lawsuits and public integrity to continue to ignore it. Lawsuits against police have steadily climbed. According to The Huffington Post, ten United States cities with large police departments paid \$248.7 million in settlements in 2014 compared to \$168.3 paid out in 2010. Over the five-year period, the reviewed police agencies spent \$1.02 billion in settlements related to law enforcement (Largest Legal Settlements Against Police, 2016). In 2017, the L.A.Times also reported an increase in civil settlements by law enforcement, stating that the Los Angeles Police paid close to \$81 million the previous year. Many cases related to wrongful death and other botched cases from evidence or investigations lead to wrongful convictions (Winton, 2017).

When proper procedures are not in place or followed, it can lead to lawsuits and loss of trust in the police, such as the situation at the University of San Diego. University officers failed to follow procedures of notifying local police after the sexual assault of a student. Failing to make notification led to a delay in working the case and loss of evidence. One of the university officers that responded to the accusation of the sexual assault entered the victim's dorm room to find the suspect naked in the bed. The officer allowed the person to grab underwear and items before giving the suspect a ride home, never collecting evidence or taking a statement from the suspect. These actions led to a lawsuit filed against the university as well as damage to the university's image. The hospital treating the victim called the local police agency but the university, even though they have said they called local authorities, was unable to show documentation that they did (Morrissey, 2016).

RECOMMENDATION

The many cases that have been described as not being appropriately worked and sometimes not at all, from sexual assaults of children all the way to murder, require a solution. An accountability framework for criminal cases can solve these problems. The framework not only holds investigators accountable for their cases, but it allows supervisors and administrators to remain aware of problem employees or high-profile cases. Additionally, it can help identify employees that need direction before it affects their work at a level that creates a liability for the department or possibly ends their career.

While implementing the framework, resistant employees may view the procedures as micromanaging. However, this may be due to a lack of supervision before accountability. If the supervision does not take away the ability of the investigator to make decisions or be involved in the decision process of case details than it is supervision, not micromanaging. Time spent with employees is more beneficial to the direction of the employee and the cases; research shows that employees like to know what is expected of them and want guidance from their supervision. Investigators just like other employees, desire to have direct goals and expectations as well as projected time frame. Scheduling time to meet with employees will add extra duties to the supervisors if it is not currently part of their workflow. The time that supervisors are investing in the investigators far outweighs the time that it adds to their duties and what it may take them away from what the supervisor usually would be doing. During the meetings, besides offering direction in cases, the framework helps identify problem employees or employees that need training or additional resources.

The Criminal Investigation Division Policy by the Montgomery County Sheriff's Office in Texas can serve as a guiding framework for accountability. The policy was created in 2014 and addresses many of the discussed issues. The policy outlines the duties of the detective, sergeant, and lieutenant. The summary of some of the detective's responsibilities outlined is to contact the complainant in a case within three days and document the contact in the report in a supplement. It covers the interviewing of witnesses, suspects, and complainants and explains the processing of crimes scenes and evidence. The policy also addresses working with other agencies such as the District Attorney's office. Besides covering proper documentation of cases, it also requires that detectives make supervisors aware of crime trends, high profile cases or cases going to court.

After defining investigator expectations, it specifies the responsibilities of the supervisor responsible for their accountability. Sergeants are required to have a monthly meeting with investigators to review that all cases have been updated in a timely manner, discuss all open cases and their status and determine what else needs to occur before closing the case. It is also at this time that educational goals, additional resources or high-profile cases and crime trends are discussed. Any issues with other agencies, divisions or any problems in the investigation division are discussed at this time. Any cases that have been inactivated or closed during the month are reviewed to make sure all leads were followed, and they agree it should be closed. Sergeants then meet with the lieutenants to relay any problems, crime trends or major cases. This information is prepared in a report for the captain with solutions on how issues will be handled (Appendix A) (Montgomery County Sheriff's Office, 2014).

In auditing, the goal can be accomplished using something as simple as an excel spreadsheet to document cases and their status. Formulas in an excel spreadsheet can calculate new cases versus cleared cases. Newer report management systems, such as Spillman, allow for the tracking and auditing of cases in reports that can be sent automated and sent daily, weekly or monthly to supervisors.

Implementing these monthly procedures would help cases from being missed, failing to be worked, or inadequately worked. It improves relations with the complainants and the investigators as their would-be communication on the status of the complainant's case. It allows for supervisors to be knowledgeable of both the cases and the employees under their command. This framework would increase public relations and integrity while lowering chances of lawsuits.

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APPENDIX

Appendix A

Montgomery County Sheriff's Office Criminal Investigation Policy 2014

Pages 9-11

3.00 Duties/Responsibilities - Detectives

- 1. Detectives will remain available by phone or by radio communication when out of the office on field investigation(s).
- 2. Detectives are responsible for investigating, initiating and developing leads on cases assigned to them or initiated by the detective. This is to include but not limited to:
 - (a). Making contact with case complainants within three (3) business days of receiving a case for investigation and noting this contact in a supplement with 7 days of contact.
 - (b). Interviewing victims, witnesses and suspects and obtaining proper and detailed statements from them in accordance to state and federal law.
 - (c). While on crime scenes, overseeing, processing and assisting in the processing of crime scenes and gathering of evidence to include, but not limited to; DNA/Buccal Swabs, fingerprints, photographs, measurements and any other items of evidentiary value.
 - (d). Reviewing previously collected evidence and determining if additional crime scene work or gathering of evidence is needed.
 - (e). Identifying and dealing with criminal offenders in accordance with state and federal law.
 - (f). Presenting photo lineups or conducting physical lineups.
 - (g). Consult with prosecuting attorneys regarding arrest/search warrants and any other legal matters of concern.
 - (h). Update crime victims when needed or upon request from a case complainant.
 - (i). Prepare and submit cases to the District Attorney's Office in accordance with accepted and agreed practices regarding case submittal. This is to include obtaining a warrant and ensuring all avenues of arrest including the use of SWAT if necessary.

- (j). Detectives are responsible for their cases from start to finish and are responsible for ensuring case receipts are obtained and stamped accordingly; as well as, those receipts placed in the Records Division with other documents associated with the case file.
- 3. Detective will complete all fields in the computer reporting system on cases assigned to them to include but not limited to; correct offense codes, UCR Codes, changing case status to reflect proper status or clearance, additional witness or persons involved information; all of which, will be added in the proper computer reporting field and not just in a supplemental report. Reports will be updated weekly with case progression.
- 4. Detectives will make proper disposition of seized property, monies, contraband and/or any evidence associated to their assigned cases in a timely manner and in accordance with office policy and state law.
- 5. Detectives will keep CID Supervisors informed on any potential high profile or difficult cases that could result in office/media attention or be problematic in nature.
- 6. Detectives will maintain contact with the District Attorney's office on all cases in which it appears charges will be filed.
- 7. Detectives will keep track of crime trends and report them to their Sergeant
- 8. Detectives will notify supervisors of pending court dates and subpoenas for testimony.
- 9. Detectives will not store evidence in their offices for longer than twenty-four (24) hours without supervisor permission.
- 10. Detectives will keep their offices locked when unoccupied and case files secure at all times.
- 11. Detectives will keep all equipment assigned to them, in clean, well-organized and available for immediate use.
- 12. Detectives will keep their workstations neat and orderly. This is to include all kitchen areas to be kept clean and no dishes left in the sink. Food is to be removed from the refrigerator on a weekly basis.

Duties/Responsibilities – Senior Sergeants

- 1. The CID Sr. Sergeants (Supervisor) will be responsible for the daily oversight of the personnel of their assigned Section and will be responsible for the oversight of case management ensuring cases are being managed and updated in a timely manner.
- 2. The Supervisor will complete an audit of monthlies turned in by Detectives. An Audit will be done to ensure that supplements are up to date and complainants have been contacted.

The supplements will be read to ensure that investigative follow ups have been completed and that the supplements are detailed and complete. The supervisor will check that cases that are cleared on the monthly have been cleared in Ableterm with the same clearance code. The supervisor will check the monthly for typographical errors and that the proper case numbers correspond to case numbers assigned to that Detective in Ableterm. Prior to closing a case inactive due to unknown suspects location, the supervisor will review the case to ensure a crime analyst was used to locate suspects. Inactive cases will be checked to ensure that all leads have been followed. Any cases that are open, the Detective should list on their monthly why the case is open and what action is needed to continue or close the investigation.

- 3. The Supervisor will meet with Detectives individually to review the audit of their monthly for corrections, improvements or to provide resources or assistance in cases.
- 4. The Supervisor will be responsible for providing the Lieutenant with continuous updates on cases deemed necessary and important. The Supervisor will communicate assessment of the audit to the Lieutenant as well as any crime trends or issues to be addressed that were found during the meetings with Detectives.
- 5. The Supervisor will be responsible for periodic inspection of equipment assigned to the detectives to ensure the equipment is properly maintained and operational.

Duties/Responsibilities – Lieutenants

The Division Lieutenants (Manager) primary responsibility is to have direct control over their assigned section and to properly manage the operations of the section effectively and professionally with the goal of accomplishing the division's mission.

- 1. Lieutenants will assist with auditing of Detective monthlies and prepare a report for the CID Captain. This report will include: monthly case statistics, major cases statuses, crime trends and proactive actions taken, deficiencies in the unit and how they are being addressed, and issues that need to be addressed with other divisions of the Sheriff's Office.
- 2. Lieutenants are responsible for review of CID policy every September and submit revisions to the CID Captain for review.
- 3. Lieutenants are to ensure all Detectives and Sergeants assigned to them are accomplishing their duties.
- 4. Lieutenants are responsible for monthly schedule and responsible for time management of subordinates comp, vacation, holiday and personal time.