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Accountability in Law Enforcement

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ABSTRACT

Over the last several years, law enforcement has come under increased scrutiny and criticism. This has come from a series of tragic events that have resulted in civil unrest, prosecution of officers and negative coverage of law enforcement by the media. Not only has the main stream media bashed law enforcement, but the scrutiny and criticism has become common on social media. Law enforcement agencies should hold officers accountable.

The public has demanded accountability for law enforcement officers and the agencies that employ them. Accountability in law enforcement is not going to be possible without law enforcement agencies having guidelines in place that operate under best practice principles and hold officers accountable. The introduction of officers to these guidelines should begin as soon as they start training, and new officers should be tested on the guidelines as they progress through training.

First line supervisors will be in the best position in the agency to monitor officers and begin the accountability process. An important part of guidelines established by departments should be review of officer's actions by first line supervisors. These reviews should be conducted on a routine basis as determined by the agencies guidelines. Law enforcement agencies should implement written guidelines based on best practices from such programs such as Texas Police Chief's Association Recognition Program or other similar programs throughout the United States.

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INTRODUCTION

Over the past several years, law enforcement officers have come under increased scrutiny and criticism. The scrutiny and criticism has stemmed from a series of tragic events that have resulted in riots, prosecutions of officers, continued violence, and mass coverage by the media. An alarming result of these incidents has been an outcry for increased accountability of law enforcement agencies. This outcry has come from many areas of society and has been echoed almost daily in the media.

Law enforcement agencies come in all sizes, from one-man departments to departments who employ thousands of officers. Each department is faced with their own operating challenges from shrinking budgets and legislative mandates. With the challenges faced by police departments to operate in a professional manner, there have been programs developed to implement policies and procedures that will assist in holding officers accountable for their actions. One such program in Texas is the Texas Chiefs of Police Association Recognition Program. Programs such as the Texas Chiefs of Police Association Recognition Program have given police departments policies designed to hold officers accountable to city administrations and the citizens of the community. A large portion of law enforcement agencies in Texas and the rest of the United States still do not operate as professional police departments (Stone & Travis, 2011).

Accountability in law enforcement can be defined as internal functions assigned to officers and supervisors that ensure that quality service is being delivered to the public, and supervisory review is required to ensure functions are being completed (Nuriddin, 2018). Law enforcement agencies should hold their officers accountable for

their actions. Officers will be subjected to reviews of their actions that come from citizens contacted by officers as well as from outside sources such as media outlets. Police supervisors will be routinely monitoring videos, reports, and daily activity of officers. Routine monitoring will reveal officers going above and beyond the call of duty to provide outstanding service to the community and allow supervisors to praise their officers for an outstanding job that may not have been reported. During routine monitoring, police supervisors will be able to address any department violations that may have occurred, and supervisors may address these violations with a simple oral counseling, written documentation, or may initiate a formal complaint, which could ultimately end in suspension or termination. This paper will explore the need for accountability in law enforcement and show benefits of holding law enforcement officers accountable.

POSITION

One reason to hold officers accountable is because without guidelines in place, officers will not have direction on how to conduct their day-to-day law enforcement activities. Law enforcement agencies operate under guidelines that may have several different names, such as written directives or general orders. These guidelines will instruct officers how to write a report, impound property, respond to calls for service, or respond to an internal investigation. These guidelines are very important and establish a proper way for officers to complete their task and the ability of supervisors to hold them accountable. Routinely, officers will sign their name to receipts indicating they have received the policy or procedure and that they understand the contents and, if applicable, have received testing over the material. Officers have to be given

appropriate training because they cannot be held accountable for failures if the proper methods for completing the tasks have not been explained and demonstrated (Bieber, 2011).

The accountability of officers begins as soon as they are hired and either sent to an academy or placed directly into a field training program. Officers are assigned to a training officer, and it is the training officer's responsibility to train the new officer in his daily law enforcement functions. Training and testing on policies and procedures is routinely part of a field training program. Upon successful completion of a field training program, the new officer will work alone. Regardless of experience level, officers will encounter situations uncommon to the general public. Officers are expected to make decisions on how to solve these problems on the spot and are given a wide range of authority. Officers are expected to make independent decisions, which carry the possibility of liability, during citizen contacts (Gove, 2007). Independent decisions that can be made by officers can range from whether to give a stranded motorist a ride to the nearest gas station or the immediate decision to use deadly force.

The fact there are guidelines in place for law enforcement officers to follow gives the supervisor the ability to hold them accountable. Decisions made by law enforcement officers to effect an arrest or use any level of force will not only have them being held accountable by supervisors, but also prosecuting attorneys, civil attorneys, civilian oversight boards, and the media. Law enforcement officers may see the accountability as unwanted scrutiny, but this scrutiny can present the facts that law enforcement officers acted correctly, as well as incorrectly.

Additionally, having guidelines in place for police officers and their supervisors creates a tool for accountability. Accountability is a great start to bringing professionalism to the law enforcement agency. Over the past couple of decades, law enforcement agencies have resisted accountability; today, the best law enforcement agencies embrace accountability (Stone & Travis, 2011). The shift in law enforcement's view on accountability has been a direct result of the public demands. Law enforcement can build on their level of public trust, but they must be transparent in addressing claims of officer misconduct and openly communicate the results of the investigation to all parties concerned.

Law enforcement officers are expected to go out and make decisions based on their training, experience, and guidelines set by law enforcement agencies. Law enforcement agencies are designed to have a chain of command consisting of first line supervisors to the head of the agency. Smaller departments may have a very limited chain of command whereas larger urban law enforcement agencies may have several levels of supervision before reaching the agency head. The first line supervisor of an officer has the most direct supervision of the officer and should be the first person to address any violations. First line supervisors will see day to day activities of the officer and observe any alarming patterns the officer may be exhibiting. Sharp (2009) stated "Supervisors and trainers need to have clear guidelines on what to look for and how to help an employee who may be struggling" (para. 7).

During a tour of duty, officers may be dispatched to an incident for service or initiate actions on their own. Supervisors may not initially be on scene or even be aware of an incident until a problem has developed. An officer may call a supervisor to

an incident scene or the citizen who was involved in the incident my call police headquarters and ask to speak with a supervisor. The supervisor has direct interaction with the officer and the citizen involved in the incident who has generated a complaint. The supervisor has the ability to obtain the facts of the incident by interviewing both the officer and the citizen as well as reviewing any video evidence.

The first line supervisor has the ability to resolve complaints when possible by determining if any violations occurred. The fact the first line supervisor is able to act quickly and promptly will give accountability to the investigation into the officers' actions as well as the response of the department. The citizen involved in the incident can receive direct communication with the officer's first line supervisor about the results of the investigation. If the citizen has any questions or concerns about the investigation, the first line supervisor can answer any questions and clarify any findings that the citizen may not understand. This direct and transparent approach of holding the officer accountable can quickly address any concerns of citizens that may initiate a complaint.

Consequently, first line supervisors will develop knowledge about the officers they supervise on a daily basis. This knowledge is gained from time spent in briefings, where conversations are usually relaxed and bonding occurs as well as time spent in evaluations sessions, where positive actions as well as shortcomings the officer may have are discussed. During these times, first-line supervisors learn how officers under their span of supervision think and process information and have this opportunity to educate the officer in areas where they may be weak. First line supervisors see how officers interact with their peers and how they react to advice given to them by senior officers who may be the informal leaders of the team. This interaction is important for a

first line supervisor giving them the knowledge of how individual officers make decisions and react to suggestions.

First line supervisors should hold officers accountable for the desired behavior they observe from officers. Desired behavior is often overlooked and officers will feel that it is only when they do something wrong that they are held accountable. Officers often encounter opportunities during their tour of duty to go above and beyond what is expected of them. This may consist of buying groceries for a family who has no food, Christmas gifts for a needy family, or simply changing a tire for a citizen who is not physically capable. First line supervisors who learn of these acts by officers should praise them and document these actions for accountability. When first line supervisors or any member of chain of command recognizes desired behaviors from officers consistently and in ways that officers find reinforcing leaders can increase the probability of their officers continuing these activities in the future (Fitch, 2011).

Consequently, when officers are empowered to make decisions, this will allow them to grow in their decision-making abilities. Law enforcement officers should be held accountable and holding officers accountable implies that we empower them with the ability to make decisions. Officers make decisions every shift that are not covered in books or training they receive. Officers will encounter situations where they have to make a decision to solve a problem they have not previously encountered, and if they have been empowered by their law enforcement agency, the decision can be made by the officer. If the officers are clear on procedural expectations of the incident, or it is not going incur any expense or liability to their department, the decision should be made by that officer because when officers make decisions in situations they learn and grow.

Supervisors of officers must ensure they monitor officers closely and hold officers accountable for decisions they have made. Gove (2007) stated, "Empowerment requires accountability to be meaningful" (p. 4). Officers who are not receptive to empowerment and the ability to make decisions should be monitored very closely. Officers who fail to try and do not complete work to acceptable levels should be met with corrective consequences such as retraining, less freedom and stronger, more invasive supervision (Gove, 2007).

First line supervisors should hold officers accountable for acts that violate policy and procedures. The first line supervisor is in the best position to ensure proper behavior and document violations. If an officer is identified as having too many complaints, or shows a need for additional training, a first line supervisor is in the best position to review the officer's body cam and dash cam videos as well as monitor any programs implemented for remedial training. If a first line supervisor fails to act on repeated policy violations, training deficiencies, or poor decision making, the law enforcement agency is exposed to civil liability from a negligent retention or negligent supervision lawsuit. Supervisor liability will be found if it is shown the supervisor knew or should have known of violations being committed by the subordinate and did nothing to stop or remedy the violations (Mayer, 2016).

COUNTER ARGUMENTS

One argument against accountability is that the implementation of policies and procedures for even mundane tasks encountered daily by police officers is not a workable solution because supervisors are forced to micromanage. Mandated checks and rechecks of police officer's daily activity forces supervisors to document every

encounter either on paper or a video. This discourages officers from searching for and finding dangerous criminals and making good solid arrests. The fear of being micromanaged and being punished for a minor violation takes incentive away from officers who want to work hard. No officer wants to worry if he/she violated a policy on a call and was not even aware a violation occurred.

Officers working under a micro-manager will not benefit their department or the citizens they serve. Officers will do only what is required and not make any effort for proactive policing. Supervisors who micromanage do not expect officers in their command to accomplish tasks without specific direction and feel troubled when officers take the initiative to complete tasks (Bieber, 2011). The micromanager will slow down productivity of officers simply because they must wait on the supervisors' direction to complete task that should require no supervision. According to (Bieber 2011), "Because of this attitude, micromanagement fosters inefficiency the same way empowerment drives efficiency" (para. 10).

The fact that law enforcement officers are given policies and procedures to follow and supervisors are given the task to review certain tasks, such as incidents involving use of force and pursuits, does not mean that officers are being micromanaged. It is not uncommon for supervisors to have five to ten officers under their control. There is not enough time in a supervisor's day to review every incident from every one of their officers. Current policies, such as those set by the Texas Police Chiefs Association will outline what when and how supervisors are to review in-car camera video, body camera video, and reports that are completed by their officers. The standards set out by programs such as the Texas Police Chiefs Association Recognition Program also detail

other duties that supervisors will perform, such as routine vehicle inspections and inspections of property issued to officers. This is not micro-management; this is holding officers accountable for policies and procedures set forth by the head of the agency.

Micro-management can be defined as “to provide oversight with excessive control and attention to details that are best left to the operational personnel” (Gove, 2008, p. 26). The fact that supervisors are reviewing information after the fact and are doing so on a random basis is not micro-management, but instead, it shows that supervisors are holding officers accountable for their actions. The fact that supervisors are reviewing actions by officers shows that officers are being held accountable, and citizens and the media have made it clear accountability is what they want.

Another issue is that the steps being taken by police departments today to hold officers accountable are unsustainable due to cost. The standards that have been put into place require many hours spent by supervisors and officers documenting countless encounters that will never be questioned. Every use of force incident has to be documented, statistics must be reported on every citation written, and in-car videos and dash cam videos must be reviewed. This all takes supervisors and clerical staff to review and enter these items and costs the department money that has to be allocated in their fiscal budgets. The videos from officer’s body cams can produce 10,000 hours of video a week (Sanburn, 2016; Joh, 2016). This amount of data is often beyond the capacity of most conventional police departments to store (Joh, 2016).

The cost of data storage from recordings and the need to hire additional personnel is a large burden for police departments and city councils. The cost of storing the recordings and additional personnel is an operating cost that can be budgeted and

may cause cost cutting measures elsewhere. However, the cost the city will pay for not holding their officers accountable is much more staggering and is capable of bankrupting cities that cannot afford a multimillion dollar judgement from a lawsuit. Police departments can reduce legal costs several ways, and the most obvious is holding officers to higher standards and giving them the proper training to deal with common and uncommon situations (“How Much Do Taxpayers,” n.d.).

Reducing legal costs will positively affect a city’s budget if they are not having to utilize a legal team on a regular basis. An example of some outrageous legal expenses incurred by cities around the nation have been reported since 2011; the City of Dallas has spent six million dollars for legal fees, the City of Minneapolis has paid 21 million dollars since 2003, and the City of Denver has paid 13 million dollars since 2007 (“How Much Do Taxpayers,” n.d.). Reports are made to police departments alleging excessive force or other abuses at the hands of police officers, and that is clearly a valid reason to budget the cost of in-car videos and body cameras (Balko, 2014). Clearly a budgeted cost for additional storage for recordings and personnel for data entry of reports is much more beneficial to a city compared to a devastating judgement from a civil verdict.

RECOMMENDATION

To benefit law enforcement agencies and the public that they serve, it is crucial that law enforcement agencies hold their officers accountable. Law enforcement is an honorable and noble profession that is staffed with brave men and women around the country and the world. The fact that a small number of law enforcement officers are discredited through acts while on duty should drive the law enforcement agencies to protect their officers by holding them accountable. The public wants to see this happen

and is demanding that action be taken to make accountability transparent and meaningful.

Policies and procedures are put into place to guide officers in making daily decisions and are given to officers at the start of their training. First line supervisors must take an active role in holding officers accountable. The first line supervisor must take the time and manage the activities of the officers assigned to him. The first line supervisor who does his job by conducting random reviews of his officers' videos and reports helps hold those officers accountable and provides exactly what the public is requesting.

Accountability cannot only take place in holding officers accountable for infractions of policy or procedure, but first line supervisors must also recognize officers when they do outstanding work. When first line supervisors or any member of the chain of command recognizes desired behaviors from officers consistently and in ways that officers find reinforcing, leaders can increase the probability of their officers continuing these activities in the future (Fitch, 2011). Holding officers accountable for positive behavior shows the positive side to law enforcement and everyone benefits.

Micro-management by supervisors is a common complaint from officers. Officers believe that when supervisors start reviewing in-car video, body camera video and reports they are micromanaging. Law enforcement agencies do not want to micromanage officers. A result of micromanaging is a decrease in productivity and that is contrary to what agencies desire. The fact is that holding an officer accountable by supervisors conducting random reviews is not micromanagement by definition. Micro-management can be defined as "to provide oversight with excessive control and

attention to details that are best left to the operational personnel” (Gove, 2008, p. 1, para. 3).

There is a concern that keeping law enforcement officers accountable has an unsustainable cost for the agencies. Cities often cite the cost of storage for recordings from in-car and body worn cameras as well as adding additional personnel for data entry (Balko, 2014). This is not a solid argument given the amount of civil judgements that have been levied against cities for unlawful actions of law enforcement officers.

A plan of action that would aide in keeping law enforcement officers held accountable would start with a policy and procedure manual that was based off best practices in the industry. This would give everyone in the law enforcement agency from the chief of police to the line level officers direction on how to complete daily task. The policy and procedures would outline the responsibilities of supervisors for holding officers accountable for violations as well as actions they take that will bring public favor to the department. The policy and procedure manual can also give direction for the department on how they provide feedback to the community and build the relationship that the community desires.

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