

**The Bill Blackwood
Law Enforcement Management Institute of Texas**

**Policing the Police:
Managing Integrity and Accountability Through Internal Affairs
Investigations**

**A Leadership White Paper
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ABSTRACT

The public holds law enforcement officers to a higher ethical standard, and rightly so. Officers swear to uphold a code of ethics. The public views the internal affairs division as the first line of defense against police corruption. Internally, however, department personnel view the internal affairs division unenthusiastically. Equally as important as upholding the public trust is keeping the trust of department personnel. Proper internal affairs investigations collect and analyze the facts of the allegations of misconduct by law enforcement without compromising the trust within the department.

Law enforcement officers should support internal affairs investigations because it helps maintain integrity and accountability of themselves to the department and the people they serve and because the public demands it. Although there is no one specific model to govern internal affairs investigations, there are guidelines and policies in place to regulate the process. Internal affairs investigations are internal management tools to fortify and preserve professional conduct. They protect the public, the personnel, and the department from themselves and from liability. Establishing well-written policies and values, which are enforced by the department, are fundamental to the foundation of the process and reduces the potential of misunderstanding. The United States Constitution, federal laws, and state laws equally protect officers and citizens from unjust acts. Police subculture does exist and places a stigma on internal affairs investigations. The mindset of the subculture has to change. Agencies must establish organizational socialization from day one of an officer's career. Taking a proactive role in preventing misconduct is essential to a department and starts with the highest rank.

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INTRODUCTION

The majority of law enforcement officers are hardworking leaders in their community who serve the public honorably and to the best of their ability. Likewise, law enforcement officers encounter millions of citizens daily without incident. Unfortunately, their admirable performance is quickly overshadowed by a single adverse incident, which has the tendency to linger in the public's memory. The negative images effect law enforcement officers nationwide, making it increasingly difficult for officers to do their job and earn/keep the public's trust. Throughout time, citizens have held police officers to a high ethical standard, and rightly so. Actions of an officer on or off duty not only effects them as an individual, but their agency and profession as a whole. All sworn law enforcement officers in the United States swear to uphold the Law Enforcement Code of Ethics (International Association of Chiefs of Police (IACP), 1957). The Law Enforcement Code of Ethics states in part, "I will keep my private life unsullied. . . Honest in thought and deed in both my personal and official life, I will be exemplary in obeying the laws of the land and the regulations of my department" (IACP, 1957, para. 2). The public expects and trusts law enforcement officers to be community role models who obey the laws they enforce. Furthermore, officers are bound to "recognize the badge of my office as a symbol of public faith and I accept it as a public trust to be held so long as I am true to the ethics of the police service" (IACP, 1957, para. 4). Policies and procedures provide guidelines to ensure law enforcement officers follow the rules and standards set forth by their agency, uphold the Law Enforcement Code of Ethics, and preserve the public's trust. Internal investigations expose or unfound transgressions to these standards. The mission of the internal affairs division in law

enforcement agencies is to review, collect, and analyze, in an un-bias manner, the facts surrounding an allegation of misconduct committed by law enforcement officers. The public views the internal affairs division as the first line of defense against police corruption. Internally, however, department personnel, view the internal affairs division unenthusiastically. Equally as important as upholding the public trust is keeping the trust of department personnel. A frivolous, unnecessary, or careless investigation can be detrimental, not only to the reputation of the department, but the character of innocent officers. Internal affairs investigators must conduct a thorough investigation without unnecessarily compromising the relationship between the brothers and sisters in blue (Slater, 2010). Law enforcement officers should support internal affairs investigations because it helps maintain integrity and accountability of themselves to the department and the people they serve and because the public demands it.

POSITION

Law enforcement officer and public trust are synonymous. The charge of law enforcement officers is to enforce the laws; as such, the public holds them to a higher standard. The public believes it is fair to demand law enforcement officers be held to a high standard because law enforcement officers are granted the power to arrest and remove the civil liberties of the public. Due to this demand, a process must be in place to ensure the public can trust law enforcement. When an individual accepts the position as a law enforcement officer, they take on new obligations. The public feels individuals should decline the job if they are not ready to live up to the standards set by the public (Delattre, 1989). Law enforcement officers are not immune from feelings of mistrust, especially by the public. How officers handles their response to an incident involving

minority communities, various religious and cultural groups, and even peaceful protests carries a heavy weight on public perception of the entire law enforcement profession. The public only sees a uniform, not a person, and views all officers as the same; a police officer is a police officer, no separation. It is critical for all law enforcement to uphold the Code of Ethics to maintain credibility to fellow officers and the public (Roufa, 2017).

Not only are police officers held accountable through internal investigations, they are also accountable for violations of the law. Police officers are human and subject to making mistakes. However, their misconduct is intensely scrutinized and may possibly be featured on the national news. Conversely, the endeavors of good police work is fleeting. Technology, specifically the way information is disseminated via social media, influences the public's perception of police officers. The public continuously observes the national media headlining a story of a police officer's indiscretions but seldom remembers the thousands of officers going above and beyond the call of duty. Along with the media, even with an unbiased investigation, the community, political leaders and civilian organizations all influence the perception of the function of internal affairs (Hein, 2012).

On August 19, 2014, Officer Darren Wilson shot and killed Michael Brown in Ferguson, Missouri. The death of Brown prompted news media and social media to explode, causing mayhem between law enforcement and the public and encouraging a high level of distrust. When the Grand Jury did not indict Wilson, protests continued, people were setting buildings on fire and looting, resulting in the National Guard responding to help regain order (Buchanan et al., 2015). Federal investigators reviewed

the circumstances surrounding the incident and the aftermath and determined the city utilized the police and courts for profit and they violated constitutional rights (Buchanan et al., 2015). This incident sparked a national movement against police and contributed to current issues of public mistrust. Reilly (2015) documented his interaction with law enforcement and the process of filing a complaint with the St. Louis County Police Department, following his arrest on August 13, 2014. Reilly (2015) reports departments are not transparent in their internal affairs process resulting in citizen's unwillingness to come forward with complaints. Internal investigations are in place to protect the officers not the public and there are "no national or state standards for governing internal affairs" (Reilly, 2015, para.6). This specific incident confirms the public's view of a need for transparency in our internal investigation process to assist in upholding the public trust.

This is partially true. Internal affairs investigations are in place to find the facts of a complaint and to hold officers accountable, when necessary, for their actions. Understanding the process fosters a collaboration between the public and the agency. Internal affairs investigations are critical in determining if violations against policy or criminal acts have occurred, which helps with maintaining and promoting transparency to the public. Internal affairs investigations are also subject to public record, even if the officer is cleared of any wrongdoing. Citizens will complain on officers for simply being big and intimidating, which, in most departments, is not a policy violation. Regardless, in most agencies, this type of complaint would result in some type of review by the department, and the allegation would be not sustained or unfounded. On the other hand, based on the department's policy, an internal affairs investigation would be

initiated, and therefore, in police culture, placing a “black mark” on the officer’s reputation and questioning their integrity.

The International Association of Chiefs of Police (IACP) developed a best practices guide for internal affairs divisions to assist in ensuring agency policies and procedures are followed (Thurnauer, n.d.). Effective internal affairs divisions allow complaints to be addressed appropriately and in a timely manner (Thurnauer, n.d.). This guide is utilized by agencies across the nation. Internal affairs investigations analyze administrative violations (policy and procedure) and criminal allegations and must determine if the allegation warrants an investigation. In the past, officer misconduct was addressed by re-assigning officers to a different job assignment, but today, law enforcement officials understand the importance of upholding a department’s integrity and the public trust (Carignan, 2013).

Although law enforcement administrators are aware of the legal consequences of an inadequate internal investigations; many line level officers are not. Law enforcement officers are expected to establish relationships within the community, respond quickly to incidents, stop criminal activity, utilize the least amount of force necessary to take control of a situation, put their life on the line, and ultimately do whatever it takes to help people who are in trouble. Given the job expectations of law enforcement officers by the public, the reality is the risk is higher for being exposed to situations when their personal integrity and ethics are compromised. Officers must always remember, whether in the uniform or not, they are a representation of their family, their department, and all law enforcement officers across the nation. All conduct, positive and negative, has a result (Roufa, 2017).

Section one of the 14th Amendment of the United States Constitution states, “No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law.” Subsequently, many officers are unaware they are protected by the US Government Code in which, government entities cannot subject, or cause a United States citizen to be subjected “...to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law...” (Civil Action for Deprivation Rights, 1983).

All employees are allowed due process. Departments cannot violate the liberty interest and the property interest for any employee. Liberty interest refers to the right to engage in any common occupation and the right to due process when one’s name, honor or reputation is at stake because of something the government has done. It is a constitutional guarantee regardless of employment status. Property interest exists when there is an interruption in the right to the continuing flow of benefits provided by the property right guaranteed in the job. The Public Safety Employer-Employee Cooperation Act of 2009 was a bill passed to provide collective bargaining rights to public safety officers employed by states or their political subdivisions (Shimabukuro & Mayer, 2010). In Texas, Texas Government code Section 614 outlines the procedures in place to ensure property interest is not violated (Peace Officers and Firefighters, 1993). Law enforcement officers who are unaware of these rights and process may have an inaccurate view of why proper internal investigations are a necessary for their protection, as well as the department’s.

COUNTER ARGUMENTS

As of 2007, there were no studies evaluating internal affairs investigations, and therefore, no research to indicate if one approach was more effective than others (Walker, 2007). Research conducted by Courtmache (2009) concluded there is no one specific model for internal affairs investigations. This is due to the differences in state and local law, collective bargaining, and police culture. In 2018, there is still little research on evaluating internal affairs.

Although there is no defined error proof method to internal affairs investigations, having well-written and detailed internal affairs policies in place, which are enforced, will benefit law enforcement agencies and law enforcement officers by keeping the public informed and minimizing misperceptions (Fortenbery, 2015; Courtney, 1996). This also includes implementing the agency mission statement and core values. Inadvertently, a police department is like a small town, and even when there are policies in place, there is no control over the gossip (Davis, 2003). Corruption will always exist. It is a matter of what is put in place in order to deter it. Substantial authority is given to officers to deprive a person's freedom in arrests, search, and seizure, and it is the department's responsibility to set parameters to reduce the potential for abuse of power (Barker & Carter, 1994). Failure to develop clear policy sends an adverse message to both the community and the agency. It says to the community the agency has no problem solving strategies; it says to the agency that cutting corners is acceptable (Kelling, 1999). The IACP has developed a guide to best practices for internal affairs. It is through these guidelines agencies develop policy to hold their personnel accountable to themselves and the public (Thurnauer, n.d.).

The main obstacle facing internal affairs investigations is police subculture, also known as the blue code of silence, and it does exist (Quinn, 2005). It is argued the subculture has a negative influence on internal affairs and accountability. To many law enforcement officers, internal affairs division is also referred to as the rat squad, headhunters, the secret police, and lastly, snitches (Quinn, 2005). With the code in effect and police investigating police, the code will be victorious (Quinn, 2005). Stoddard (1968) noted in his research that when it comes to questionable practices by seasoned officers and in order to enter the code, rookie officers must pass a loyalty test which can involve protecting an unethical officer who violated the law. The code operates under secrecy, and those who participate in it are bound by secrecy as well (Stoddard, 1968). This code establishes an ideation of mistrust among the personnel. Between February 1999 and June 2000, the National Institute of Ethics (NIE) conducted a research project on the code of silence (Trautman, 2000). Neal Trautman (2000), director of the NIE, reported the study concluded “the police code of silence exists” and “it breeds, supports, and nourishes other forms of unethical behavior” (p. 2). The overall conclusion of the research is disturbing, as the consensus was hypocrisy and fear often dominate the culture. Behind closed doors, administrators and supervisors overlook and encourage the code, which in turn, leaders do not do more to improve ethical problems with the code because bringing attention could hurt them personally (Trautman, 2000). The personal agendas of ranking officers, which conflict with the best interest of the department, can negatively impact the perception of internal affairs and causes a mistrust between the actual process and those it serves. Depending on

leadership, a fair and unbiased investigation can be perceived as suspicious and unprofessional (Hein, 2012).

Internal affairs is unavoidable and the code is an obstacle to integrity. Departments would be subject to more oversight by the state and federal government without an internal affairs division (Griffith, 2003). Good officers will struggle with the code and the pressure placed on them by other officers; however, when given the choice to tell the truth or face charges themselves, a good officer will tell the truth (Quinn, 2005). Changes in organizational culture are instrumental in protecting officers, and the department and changes in the culture is part of the solution. Changing the mindset and the negative stigma behind an internal affairs investigation starts at the top and flows downward. It is the responsibility of the highest point of authority to explain the importance and value of the internal affairs process. Conversely, high-level officials must be held accountable for the actions of their employees, as well as their own (Courtemanche, 2011). Holding rank is subject to more scrutiny and “with command come the burdens of command, not privileges” (Davis, 2003, p. 41). Failure to hold higher authority to a higher standard suggests the code and unethical behavior is acceptable.

RECOMMENDATION

The public demands law enforcement officers be held accountable for their actions, and law enforcement officers should support internal affairs investigations because it provides the foundation for maintaining integrity among themselves and the department. The vast majority of law enforcement officers are hardworking, ethical, have integrity, and live by the Law Enforcement Code of Ethics (IACP, 1957).

Unfortunately, the few who engage in misconduct brand the entire profession and decrease the public's trust in the police. Often in the public's opinion, hardworking and innocent officers involved in a critical incident are guilty until proven innocent, where a civilian is innocent until proven guilty (Delattre, 1989). There are several factors which cause the public to lose trust in law enforcement; however, the misconduct of one officer can tarnish the reputation of the entire profession.

The purpose of internal affairs investigations is often misconstrued. The attitudes, past experiences, and personal agendas of officers creates negative misperceptions of the internal affairs process. Internal affairs investigations are not witch hunts, but more importantly, they are internal management tools to fortify and preserve professional conduct. Internal affairs investigations protect the public, the personnel, and the department from themselves and from liability. Establishing well-written policies, mission statements, and core values, which are enforced by the department, are fundamental to the foundation of the internal investigation process and reduces the potential of misunderstanding. Without training and understanding of a policy, the policy is useless. Periodic training in the process, legality, and how it protects the officers will assist in discounting rumors (Courtney, 1996).

The blue code of silence exists among law enforcement and creates challenges in internal affairs investigations. There is a cycle that must be broken: the blue wall of silence undercuts the efficacy of internal investigations which in turn reinforces the blue wall of silence (Miller, 2010). Efforts to stop the code of silence would be futile because the code is a natural manifestation; however, "a culture must be established in which an allegiance to principles is a higher priority than loyalty to people" (Trautman, 2000, p. 5).

The efforts begin on the first day of the job. Organizational socialization assists in getting new officers settled into their new role in the department by providing training, teaching policy and procedure, and by teaching them about the culture of the department. Supervisors and field training officers have an obligation to model behavior and attitudes consistent with the mission and values of the department. They are responsible for building the trust among the personnel and all those affected by the process.

In his book, Sam Souryal discusses abuse of authority and egoism as factors in creating toxic administrations. He states, "There is no other government system, perhaps, in which so much power is held by so few who are so vulnerable to so much temptation" (Souryal, 2003, p. 280). Law enforcement officers are placed in compromising situations on a consistent basis. Taking a proactive role in preventing misconduct is essential to a department, and it starts with the highest rank. Detailed written policies which mandate reporting of misconduct and are enforced by the rank, will create an environment which admonishes officer misconduct and endorses proper internal affairs investigations. The Aggie Code of Honor states, "An Aggie does not lie, cheat or steal or tolerate those who do" (Texas A& M University, 2003, para. 1). The most detrimental mechanism in law enforcement is to tolerate those who dishonor and tarnish the integrity of the law enforcement profession.

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