

**THE BILL BLACKWOOD
LAW ENFORCEMENT MANAGEMENT INSTITUTE OF TEXAS**

Citizen Complaint Review

A Policy Research Project
Submitted in Partial Fulfillment
of the Requirements for the Professional Designation
Graduate, Management Institute

by
Brian Roach

Nassau Bay Police Department
Nassau Bay, Texas
February 1998

ABSTRACT

The public wants to have confidence in their police department to the extent they can feel secure enough to be able to file a complaint against an officer or the department without fear of retaliation. Law enforcement agencies realize the importance of good community relations and public confidence in the police department. This research explores law enforcement agencies methods and procedures for handling citizen complaints as well as internal surveys of complaints investigated. This research includes the public's view regarding citizen complaints through an independent survey that was performed by way of a questionnaire.

There is a need for law enforcement to gain the confidence of the public when it comes to the citizen complaint procedure. All agencies whether large or small should have a written policy on how citizen complaints should be handled. This research also includes a perspective from smaller police agencies regarding the police departments procedure for handling citizen complaints. There are legal aspects shown in the research that affect law enforcement in their official capacity and performance of duties which also directly affect the complaint procedure. Research further indicates not only the need for a comprehensive policy covering citizen complaints against the police, but also a stringent follow up procedure with the complainant as well once a complaint has been filed. Police agencies must interact with citizens in their jurisdictions to understand how the agency can provide a better service to the citizens when it comes to the complaint procedure.

TABLE OF CONTENTS

Section	Page
Abstract	
Introduction	1
Historical, Legal, or Theoretical Context	2
Review of Literature or Practice	4
Discussion of Relevant Issues	7
Conclusions/Recommendations	10
Bibliography	
Appendix A - Citizen Complaint Review Questionnaire	

Introduction

The Nassau Bay Police Department currently employs eighteen personnel. These personnel include nine patrol officers, two sergeants, one investigator, Chief of Police, and five communications personnel. The City of Nassau Bay has a current population of approximately five thousand persons. Citizen complaints, if administrative are currently handled by the two sergeants. The criminal complaints are currently handled by the investigator for the department. The conclusions are referred to the Chief of Police. There is a general policy covering citizen complaints, however at the present time there is not a specific policy concerning the process or review of citizen complaints in the Nassau Bay Police Department.

The purpose of this research project is to evaluate the procedures for handling public complaints against a police officer or the police department. This research will also focus on public opinion and how complaints by the public against the police are handled and processed by police departments. The problem or issue is the lack of specific procedure relating to citizen complaints and the effect on public image of the police department. The intended audience of this research project is the Chief of Police for the Nassau Bay Police Department and also the City Manager for the City of Nassau Bay. The sources of information to be examined will be that of books, magazine articles, journals and legal documents. The intended outcome of this research project is to demonstrate why there is a need for a concise and comprehensive procedure and specific guidelines for the handling citizen complaints that will also gain the confidence of the public.

Historical, Legal or Theoretical Context

The President's Commission on Law Enforcement and Administration of Justice in 1967 concluded in a task force report concerning police issues that " Since law enforcement is primarily a business which deals with the public and must have its trust, complaints by citizens offer a unique opportunity. How a department treats such complaints is a general index of its concern for community relations" (ACLU 1).

Information about the views of complainants is increasingly significant since the passing of the 1984 Police and Criminal Evidence Act. One purpose of this act was to increase public confidence in the police departments citizen complaint procedure. Another purpose was to also increase the satisfaction of complainants regarding the complaint procedure (Brown 4). Prior to the changes in the complaints procedure by the Police and Criminal Evidence Act of 1984 it has been noted that concern with discipline may have overcome the need to satisfy the complainant. The procedure had features geared more towards the deciding questions of guilt and innocence rather than providing a sensitive response to complainants (Brown 1).

Twenty four years prior to the Rodney King incident which helped the Los Angeles Police Department into the March 3, 1991 controversy, law enforcement experts realized that citizen complaints regarding police misconduct played a crucial role (American Civil Liberties 1). Before the Rodney King incident and until the changes were brought about in 1991, the handling of citizen complaints both in the LAPD and the L. A. County Sheriff's Department was open and tree. There was no external review of complaints (Chevigny 49-50). In the past several decades there has been an increased effort to connect social science to police policy issues (Telemasp Vol. 2 1).

Reasons for increased complaints against the police in more recent years have been the subject of considerable speculation. The Joint Committee on the Office of Ombudsman from New South Wales identified the following factors which may have possibly contributed to the increase:

- ◆ The average age and experience of police officers.
- ◆ Community policing creating greater opportunities for conflict and misunderstanding between the public and the police.
- ◆ More and more publicity regarding police misconduct.
- ◆ Increased awareness of a individual persons rights and misuse of the police complaint procedure (Stubbs 2).

Title 42, U.S.C., section 1983 “Prohibits police officers and managers acting under color of state law from depriving citizens of their constitutional rights once those rights have been clearly established. Suits under section 1983 may seek a judgement from the agency an officer works (official capacity), or may seek judgement from the officer personally (individual capacity)” (Aaron 91). November 5, 1991 the Supreme Court held that “Suits may be maintained under section 1983 against state officials for damages arising from official acts” (Aaron 91).

Information that relates to police officers and complaints made against police officers because of the role they play in the protection and safety of the general public, officials of law enforcement can expect a lesser degree of privacy than that of other public employees. General information about a police officer usually is not excepted from required public disclosure by section 552.108 of the Texas Open Records Act. Information about complaints against the police also generally may not be withheld (names of complainants, names of officers, etc...) (Texas Open Records Act 63-64).

Polygraph examination “(a) A police officer may not be suspended, discharged, or subjected to any other form of employment discrimination by the organization employing or

appointing the peace officer because the peace officer refuses to submit to a polygraph exam as part of an internal investigation regarding the conduct of the peace officer unless:

- ◆ The complainant submits to and passes a polygraph examination.
- ◆ The peace officer is ordered to take an examination (Tx Bill 75RSB 527 1-2).

Texas state law provides that complaints made against a peace officer must be in writing, but not necessarily in the form of a sworn statement according to Article 6252-20 of the Texas Revised Civil Statutes Annotated (TLEA 4).

The law enforcement community may be seen to some persons as a tight-knit fraternity separated by the society it is sworn to protect. Among antagonists often exists a belief of willful harassment of the disadvantaged persons in society (TLEA 2).

Review of Literature or Practice

After the Rodney King incident an independent commission for the Los Angeles Police Department came up with some specific reforms in the way citizen complaints were handled by the LAPD. These reforms included the use of a toll free telephone "HOTLINE" service for incoming complaints as well as a multilingual complaint form that was made widely available. These reforms came about as to deter a citizen who feels they have been abused by the police from having to go to a station house to file a complaint in which the officer involved or involved officers are assigned (American Civil Liberties 1). In order to analyze the effectiveness of the response of the LAPD in the various citizen complaints an ACLU research team reviewed some two hundred and seventy telephone calls about alleged police abuse of citizens in the months since the Rodney King incident. The research team additionally placed telephone calls using four callers

randomly during different days of the week to every LAPD geographic area of command to test the effectiveness of the hotline. Research found that there was hardly any progress, if any progress in the LAPD response to citizen complaints. Research also showed that department personnel and command centers were vastly unaware of the hotline program (American Civil Liberties 2).

The Savannah Police Department's Internal Affairs Division investigated one hundred and eight incidents of complaints in 1989. Of those incidents eighty one were against officers in the uniformed patrol division, twenty one of the incidents involved off duty officers or officers who were employed part time elsewhere. Five complaints were against a tactical unit and only one complaint involved a detective. The four areas in which most of the complaints were filed most frequently were:

- ◆ Procedural Violations (29).
- ◆ Verbal Abuse (18).
- ◆ Neglect of Duty (19).
- ◆ Use of Force (15) (McLaughlin 99).

The Berkeley California Police Department has what some persons might describe as a typical procedure for handling citizen complaints. Through an in house process complaints are received by the department in which the department investigates, hears and disposes of all complaints. However, if the complainant is not satisfied with the procedure and or results, the complainant can appeal the matter to a police review commission (More 103-131).

The overall integrity of the Seabrook, Texas Police Department is contingent upon the integrity of each individual employee. A positive public image and reputation will to a large degree be dependent upon the departments responsiveness to and the diligence in the investigation

of all allegations and reports of misconduct. Disposition of such complaints goes as follows:

- ◆ Unfounded - The allegation is false or not factual.
- ◆ Not Involved - The employee was not present at the time the misconduct or incident occurred.
- ◆ Exonerated - The incident complained of did occur, but the actions of the employee were lawful and proper.
- ◆ Not Sustained - There is insufficient evidence to prove or disprove the allegation.
- ◆ Sustained - The allegation is supported by sufficient evidence (Seabrook 7-1 7-4).

The City of Webster, Texas Police Department is dedicated to a standard of excellence in employee service. That standard is best measured through the input of citizens and supervisors of the department. The Webster Police Department will disseminate at the request of any citizen the procedures to be followed in the registering of complaints against the department or of its employees. Definitions of disposition are as follows:

- ◆ Sustained - The allegation is true and the action of the agency or employee was inconsistent with agency policy.
- ◆ Insufficient Evidence - There is insufficient proof to confirm or refute the allegation.
- ◆ Exonerated - The allegation is true but the action of the agency or employee was consistent with agency policy.
- ◆ Unfounded - Either the allegation is demonstrably false or there is no credible evidence to support it (Webster 1-2).

The review of literature or practice shows by comparison of the agencies researched for the most part the agencies are dedicated to providing a high standard of professionalism and commitment of assurance to the public that their complaints against officers and or the department will be handled with a concise and comprehensive procedure. For the most part dispositions for the handling of complaints by comparison are relatively the same.

An independent survey was performed by the way of a questionnaire that was sent out to citizens residing in three different municipalities. The three municipalities are the City of Nassau

Bay, Texas along with the City of Seabrook, Texas and the City of Webster, Texas. All of these municipalities are of similar size in citizen population which is around five thousand. There were thirty questionnaires sent out to these three municipalities and out of the thirty twenty one were completed and returned. Of the twenty one returned most of the respondents had never made a complaint against an officer. Most of these respondents felt if they did have a complaint against an officer the best way to handle the complaint would be to go in person to the police agency and make a formal complaint against the officer in the way of a written statement. It was also discovered that most respondents preferred a follow up be done by the police agency after the complaint was filed by way of a formal letter being sent to the complainant advising the results of the investigation. It was further noted that most respondents believe that all complaints against police officers should be thoroughly investigated. The results from the survey also showed that a majority of the respondents felt that police agencies do a fair job of policing their own officers.

Discussion of Relevant Issues

Everyone has a personal opinion on how their own local police department is handling its job. In many of these communities the satisfaction and dissatisfaction with the police service in the community or the officer performance is expressed directly to the Chief of Police or the City Manager. These issues are generally communicated by way of letter, survey card, phone call or by personal appearance. Police administrations depend on the feedback in order to measure the police departments neighborhood level of acceptance (Berger, Graham 31).

Any organizations way of dealing with complaints against employees of that organization must consider the interests of the complainant, the accused employee and the organization as well

if it is to prove satisfactory. These parties have different aims and priorities and as such there will inevitably be tensions between them. The police complaint procedure is no exception (Brown 1).

The nature of allegations brought against police officers and the nature of charges brought against the complainant if any, are further evidence that complainants generally evolve from police and citizen interactions. The most frequent type of improper behavior allegation includes a broad range of behavior (Landau 26).

The rate of complaints received by a police department may possibly be as much as a product of citizen confidence in the complaint process as any other factor. Attempts to measure the extent in which a police department receives complaints of misconduct has different results that occur depending on the data that was used (Pate 34-35).

When the public complaint procedures of the police department are discussed there are some diverse interests that must be acknowledged. Public complaint procedures that favor the interest of the complainant at the expense of an officer or employee of the department is no more likely to provide satisfaction than a procedure that does the reverse. The interests of the public and the officer as well as the police department are involved and must be given due consideration (RCMP 45).

While some characteristics which may of been identified typify the citizen who makes complaints against police officers, the same cannot be said regarding officers against whom the complaints have been filed. Many of the implications that need more research are going to require more openness on behalf of police departments (Wagner 373).

The police department is one of many government agencies that are subject to review and the high visibility of the police department causes the focus of more intense scrutiny of the police.

Policies for handling citizen complaints varies significantly from department to department.

Typically the policies are specific regarding complaint review and will describe who is responsible for the different stages of the process. Due to the wide variety of complaint procedures and the number and types of complaints generalization of information is limited. Complaint procedures not only vary from department to department, but from state to state as well. The number of complaints does not exactly reflect the quality of the relationship between officers and citizens. Complaints can vary due to the type of procedures used to handle complaints and the public's awareness of the complaint procedure. The more difficult the procedure is to follow, the more likely the only complaints that are filed are those of more serious nature. Police departments with more sensitivity regarding the quality of citizen interaction often have statistically higher complaint rates (Telemasp Vol. 1 1).

There is no greater discord and or alienation on the issue of how citizens allegation of police misconduct are resolved. There is widespread misunderstanding and distrust regarding the handling of complaints and the procedure process as well as the outcome of the complaint investigation. Larger police departments have a greater specialization and division of responsibilities than a smaller sized department. In larger departments there is usually a well staffed internal affairs division which devotes all of its time to the complaint processing system. In a medium sized department there may be possibly one or two officers assigned either full time or quite possibly part time to work internal affairs investigations. In a small department the Chief

of Police or a Sheriff of a small county may handle all internal affairs matters. There are generally five primary functions which have application to most police agency structures which are:

- ◆ Intake Procedures.
- ◆ Case Processing and Dispositions.
- ◆ Disciplinary Measures.
- ◆ Information Access and public education.

Policies and procedures that deal with the complaint process should be in writing even if the department is relatively small. Efficient methods do contribute to a police departments credibility within the community. Attitudes displayed in the early contact stages with a complainant should reflect a commitment to do a thorough investigation and correct misconduct if necessary. Citizens should be able to feel confident that there will be no adverse effect or consequences for having filed a complaint (TLEA 1, 3-5).

The monetary cost of having or implementing a specific written policy for citizen complaints would be little if any, however there would be a great benefit in having such a policy as it could affect the public image of the police department.

Conclusion/ Recommendations

The purpose of this research is to evaluate procedures for handling citizen complaints against police officers within a police department. Most police departments appear to have some sort of protocol or procedure when it comes to handling complaints against their officers whether formal or informal. Research suggest a need for such a procedure and all law enforcement agencies whether large or small are effected by citizen complaints against their officers.

The problem or issue is the lack of specific procedure in the way complaints against the police are handled. Citizen complaints against the police not only affect the police department and the department's image, but also affect of course the citizen filing the complaint as well. In the long run the affect of citizen complaints will also not only have a bearing on the individual citizen who filed the complaint, but the public as a whole and could cause severe damage to the public's image of the police department.

Law enforcement agencies at the present time realize the importance of the complaint procedure and how it affects themselves as well as the citizen. Methods of how complaints are handled in a efficient and timely manner will lend to the credibility of the department. Follow up with complainants regarding an investigation of a complaint is as equally important as the complaint itself. All complaints of misconduct alleged by a citizen should be taken seriously and investigated accordingly whether the complaint is major or minor and also whether the complaint is to be handled administratively or criminally.

Recommendations relating to citizen complaints against the police would be to have a comprehensive policy for the police department covering procedures on how citizen complaints are to be handled. Another recommendation would be to assure that follow ups are also a part of policy and once a complaint has been filed the investigation is done in a timely manner, so that by doing this the complainant is assured that something is being done by the police department regarding their complaint which could also affect the citizens confidence in the police department's procedure for handling complaints. Another recommendation would be to have the police department do periodical follow ups and interact with the citizens within its jurisdiction about the complaint process and make sure citizens are aware there is a process for handling complaints by

the department. Finally, an effective citizen complaint policy should include the following elements:

- 1) Statement on how complaints are handled.
- 2) Follow - up process.
- 3) Timeliness.
- 4) Specific guidelines.

BIBLIOGRAPHY

Aaron, Titus. "Police Officials can be held Personally Liable for their Official Actions." Law & Order. August 1992: 91.

American Civil Liberties Union of Southern California. Los Angeles Police Department Citizen Complaint Procedure - The Call for Change Goes Unanswered. March 1992: 1-2.

Berger, William. and Graham, Alan. "Community Leaders United Behind Law & Order in North Miami Beach." Law & Order. December 1995: 31.

Brown, David. The Police Complaints Procedure - A Survey of Complainants Views. London: HMSO Books, 1987.

Chevigny, Paul. Edge of the Knife: Police Violence in the Americas. 1995.

Landau, Tammy. Public Complaints Against the Police: A View from Complainants. Toronto: Centre of Criminology University of Toronto, 1994.

McLaughlin, Vance. Police and the Use of Force: The Savannah Study. 1989.

More, Harry W. Jr. Critical Issues in Law Enforcement. Cincinnati: Anderson Publishing Company, 1984.

Pate, Anthony. Police Use of Force: Official Reports, Citizen Complaints, Legal Consequences. 1993.

Royal Canadian Mounted Police (RCMP) Commission of Inquiry Report. "Current Methods of Handling Public Complaints by the Royal Canadian Mounted Police." 1976: 45.

Seabrook, Texas Police Department. "Complaints and Internal Investigations, 7.01.01, 7.04.01." Seabrook Police Department Policy Manual. 1997: 7-1, 7-4.

Stubbs, Julie. "Complaints Against Police in New South Wales." New South Wales Bureau of Crime Statistics and Research. September 1992: 2.

Telemasp Bulletin Vol. 1, No 5. "Written Policy Directives: Citizen Complaints." August 1994: 1.

Telemasp Bulletin Vol. 2, No 8. "Surveys of Citizen Attitudes." November 1995: 1.

Texas Bill. #75 RSB 527. 1997: 1-2.

Texas Law Enforcement Agencies (TLEA) and Citizen Complaints. Guide to Process, Procedure and Practice. [United States]: n.p., n.d.

Texas Open Records Act. "Information to Police Officers and Complaints Against Police Officers." Section 552.108. 1995: 63-64.

Wagner, Allen E. "Citizen Complaints Against the Police: The Accused Officer." Journal of Police Science and Administration. December 1980: 373.

Webster, Texas Police Department. "General Order #00020." Webster Police Department Policy Manual. 1997: 1-2.

APPENDIX A
CITIZEN COMPLAINT REVIEW
QUESTIONNAIRE

Please complete the following questionnaire. Your answers are to be used for the sole purpose of completing a Policy Research Project requirement for the Bill Blackwood Law Enforcement Management Institute of Texas by Investigator Brian Roach of the Nassau Bay Police Department. Names and addresses of the individual respondents will be handled as confidential and are requested only as a means of identifying individual respondents for source listings. Your cooperation and assistance in this project is very much appreciated.

Name:

Address:

(1) Have you ever made a formal complaint to a police agency regarding an officer of that agency?

- ☐ Yes
- ☐ No

(2) If you have made a complaint, were you satisfied with that agencies procedure of handling the complaint?

- ☐ Yes
- ☐ No

(3) If you were not satisfied, why were you not satisfied?

(4) What do you think would be an adequate way to make a complaint against an officer?

- ☐ Phone call to the officers supervisor.
- ☐ Phone call to the agencies administration.
- ☐ Go in person to the agency and make a formal complaint against the officer in the way of a written statement.
- ☐ Other? Explain:

(5) What if any follow up with the complainant do you believe a representative from the police agency should perform?

- ☐ Investigating officer should call complainant with results of investigation.
- ☐ A formal letter should be sent to complainant advising results of investigation.
- ☐ Complainant go in person to agency and discuss results with investigating officer.
- ☐ Other Explain:

(6) In your opinion do you believe all complaints against police officers should be thoroughly investigated?

- ☐ Yes
- ☐ No, If no explain:

(7) In your opinion do police agencies overall do a fair job of policing their own officers?

- ☐ Yes
- ☐ No