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**THE BILL BLACKWOOD
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Whistleblower Lawsuits and Their Impact on Supervision in Policing

**A Policy Research Project
Submitted in Partial Fulfillment
of the Requirements for the Professional Designation
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by
Lt. David Head

San Antonio Police Department
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ABSTRACT

In Texas law, the Texas Whistleblower Act is designed to allow for an employee's reporting of unlawful acts committed by a governmental agency without the fear-of retaliation against the employee. Police departments certainly qualify as a governmental agency and therefore are held to the standards as outlined in this statute.

The following research project is intended to examine the Whistleblower Act's impact upon the management and supervision of police departments. Police departments represent themselves as professional organizations and the public has expectations that those organizations will be operated according to that status. If the number of lawsuits being filed against police organizations in Texas would tend to indicate that perhaps not everything is being done to address management and supervisory issues, then those principles which should be properly addressed will be outlined herein.

The project will contain a brief examination of some of those cases which are shaping the law through court decisions and a discussion with police administrators and court officers to determine whether the law is being applied according to the intent of the original statute.

In the final analysis, the project will suggest that police agencies throughout the State should examine internal policies and procedures to ensure that their organizations are being professionally administrated. Through proper administration and management, the concerns of the Whistleblower Act will be addressed without the need for additional concern on the part of police officials. Police administrators should be cognizant, though, that not all of the lawsuits being filed have the best interest of the agency as the basis of the legal action.

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Introduction

The purpose of this policy research project (PRP) is to research whistleblower lawsuits and their impact upon supervision in policing. I intend to examine this subject in an effort to determine whether the supervisory practices in policing are properly addressing the concerns of this law. I will explore the issue by reviewing cases which have helped shape and change the law through court reviews. Additionally, I will interview individuals to include police department policy makers and attorneys to determine individual viewpoints.

The project will address the issue of identifying inconsistencies with established policies and supervisory practices within police departments which have led to successful lawsuits. These mistakes generally manifest themselves in improper supervisory responses to personnel situations. The audience will be policy makers who will examine current policies and practices within their departments to determine whether they are establishing the groundwork for a successful whistleblower suit, or whether they have taken the proper steps to ensure that these events do not occur in their departments, especially in the area of proper training for new and established supervisors.

The intended outcome of this project is that supervisors and managers within policing will review current policies and procedures as they relate to supervision and determine whether changes will be necessary to remain current with recent court decisions. The intent is that supervision will grow in professionalism and uniformity to ensure that practices are fair and equitable in regards to how personnel issues are handled, and how supervisors deal with reports of actual or suspected wrong-doing by officers within their departments.

Historical, Legal and Theoretical Context

What is a whistleblower? It is the employee who asserts that his/her employer has violated certain legal duties or obligations, or is asked to perform an illegal act and complains about it (Cordella 1). In Texas, the law which protects public employees who report violations is known as the Texas Government Code Annotated, 554.001-010, or the Texas Whistleblower Act. This law was passed in Texas in 1983. The current version was adopted by the Texas legislature and became effective on June 15, 1995. It is designed to enhance openness in government and to compel the government's compliance with the law by protecting public employees. A second purpose is to secure in consequences lawful conduct on the part of those who direct and conduct the affairs of public bodies (TDCJ v. Terrell 11). The law is as follows:

"A State or local governmental entity may not suspend or terminate the employment of, or take adverse personnel action against, a public employee who in good faith reports a violation of law by the employing governmental entity or other public employee to an appropriate law enforcement authority" (Texas Government Code Annotated, 554.002).

Adverse personnel actions include demotions, reassignments, loss of pay and, of course, termination (Cordella 2). The Act prohibits any form of discrimination, so prohibits retaliation in job assignments, pay, benefits, denial of promotions, and the like (Durst R-3).

Reported violations of law include disclosure of information regarding a public servant's employer tending to directly or circumstantially prove the substance of a violation of criminal law or civil law, the State or Federal Constitution, statutes, or administrative rules or regulations (Castaneda v. Dept. of Agriculture). The reported violation must be made in good faith on the

part of the employee. The test for good faith is: (1) that the employee undertook to report the activities in the workplace in good faith rather than as a result of some less admirable motive such as malice, spite, jealousy, or personal gain; and (2) the employee had reasonable cause to believe that the activities would have a probable adverse effect on the public (TDCJ v. Terrell 14).

The appropriate law enforcement authority has been defined as someone who has supervisory powers over the employer, the authority or responsibility to order that the employer alter his conduct, or to discipline for misconduct (City of Dallas v. Moreau).

Traditionally, the Whistleblower Act has been applied to public employees who are fired in retaliation for reporting their employer's violations of law that are detrimental to the public good or society in general (TDCJ v. Terrell 12). It is often difficult for employees of governmental units to bring forward claims of wrong-doing on the part of their employers. Many organizations compound the problem by creating a culture and procedures which deter employees from raising concerns (Borrie 144).

Lawsuits which are filed by injured parties generally focus on the reported acts of retaliation. To evaluate the validity of some claims, the courts frequently probe employment decisions that were made behind closed doors, using circumstantial evidence to assess undocumented processes (Sauls 19).

Discussions of whistleblowing and employee loyalty assume either that the concept of loyalty is irrelevant to the issue, or more commonly, that whistleblowing involves a moral choice in which the loyalty that an employee owes an employer comes to be pitted against the employee's responsibility to serve the public interest (Larmer 125). The argument can be made that the employee who blows the whistle may be demonstrating greater loyalty than the

employee who simply ignores the immoral conduct, inasmuch as he/she is attempting to prevent the employer from engaging in self-destructive behavior (Larmer 127).

Many attorneys and law enforcement officials feel that the essence of the whistleblower law is founded in reason and solid moral principles. The question remains whether those who are availing themselves of the protection are doing so in good faith, or for personal gain. In a review of several law enforcement policy makers and legal officers, most felt that the majority of recent and current cases involve employees who have experienced problems in their work sometime in the past, or have had difficulties with supervisors (See Appendices). In many of these cases it is felt that the claimants are pursuing their cases in an effort to gain profit from their employer and to seek the protection from harm that the law offers. This harm has come in the form of undesirable work assignments, very close supervision, or in some cases an atmosphere where the employee's peers shy away from the individual who has drawn the attention of management, and the close scrutiny of their performance.

When it is at least partially accepted that many of these cases, if not a majority, are based upon reported violations from disgruntled employees, then the concentration clearly must be on the methods that supervisors and managers utilize in dealing with these reports and those making the claims. It should be a matter of practice that all claims are received and addressed as legitimate. The focus then, is less the validity of the claim, and more on how management responds to the employee.

Review of Literature or Practice

There can be no doubt that corruption in a police department is an issue of public concern ("Court Rules On....15). Cities must be cautious when taking an arguably adverse personnel action against a whistleblower, or an employee who has "spoken out" concerning matters of public concern (Springer 2). It is recommended that some policy be in place to encourage the employee to come forward and discuss their legal problems with the employer without going to an outside agency. This means that managers must be trained how to handle employees in a positive manner (Cordella 2). As previously stated, many legal officers and managers in law enforcement feel that the majority of whistle blowers are "disgruntled" employees who are "out for the cash". With that understanding, it becomes vital that managers and supervisors in policing exercise sound judgment and reason when handling subordinates and disciplinary issues. A failure to do so usually ends with large rewards going to the "whistleblower".

In August 1989, George Green, working as a safety officer for the Department of Human Services, reported what he believed to be patterns of fraud and corruption to his superiors. They later investigated him, fired him and indicted him on felony charges (which were later dropped). Mr. Green filed an action in early 1990 against the State of Texas under the Whistleblower Act. In September 1991, a jury awarded him \$13.6 million ("Claims Against the State: Man v. Mountain").

On November 15, 1991, Officer Michael Heim of the San Antonio Police Department arrested an off-duty police officer for the offense of Driving While Intoxicated (DWI). Following the arrest incident, Heim was the object of nine administrative complaints of which he was suspended six times. The officer had been disciplined only once in the preceding eleven years on

the job. Heim sued the City of San Antonio in August 1992 under the Whistleblower Act. He was awarded punitive damages of \$500,000, and an additional \$500,000 for past and future mental anguish (City of San Antonio v. Heim).

On August 6th, 1996, the Fifth Circuit Court of Appeals in New Orleans upheld a jury verdict of \$1.3 million for two former veteran undercover officers in the Dallas Police Department (*Forsyth v. City of Dallas*, 1996 U.S. Lexis 20698. No. 95-10360, (5th Cir 1996). These two officers were transferred with no pay reduction to night uniformed patrol duty, where they had begun their careers thirteen and nineteen years earlier. The jury found that the officers were subjected to adverse employment actions (transfer) because they complained internally and then to the press about illegal wiretaps (Springer 1).

Clearly, the price of wrong-doing and poor supervision is high. In some cases, officials place the problem on "a poorly prepared defense to the allegations as well as mistakes made in supervision" (Kasonovich). Court defenses are concerns for the legal community; whereas supervisory issues should be the concern of police administrators.

Some of the supervisory mistakes manifest themselves in either a failure to address a problem or a failure to document the issue. In either case, the presentation in disciplinary hearings or in court gives the impression that, as supervisors, policies and procedures were not followed. The law enforcement community would benefit both financially and in terms of morale and professionalism by preparing policies which fairly address reported violations, and by training managers and supervisors to properly respond to employee concerns.

Informed law enforcement managers can prevent discrimination from occurring in the first place by ensuring that the department implements fair policies and procedures that are followed consistently (Fogle 44). A policy is not a statement of what must be done in a

particular situation. It is a statement of guiding principles which should be followed in order to attain some departmental goal or objective. Policies should always be thought of as the framework for drafting procedures, rules and regulations (Barker 56). The prevailing wisdom in modern police administration is that policies and rules are needed to govern every contingency and every substantial aspect of operations and management. On the other hand, the trend in business management, or at least in popular writings about business management, seems to be in exactly the opposite direction (Cordner 17).

Police departments are paramilitary organizations; a hierarchy of managers, supervisors and line officers separated by rank. Many modern police agencies are pursuing accreditation, or just looking to the program for guidance. They are clearly and strongly influenced in the direction of more extensive policies and procedures. More and more, disciplinary action against police employees must follow an orderly process and must demonstrate violations of specific written rules (Cordner 18). However, sometimes rules create an illusion of control, yet not genuine control. The simple solution (that of creating rules and regulations which guide behavior and performance) often ignores the purpose of policy development and the effects of training, education and good supervision (Barker 58).

Discussion of Relevant Issues

We, as a free society, will not tolerate a law enforcement agency staffed with Dirty Harrys, who use illegal and unethical means to accomplish what they perceive as legitimate ends (Barker 12). When courts are confronted with allegations of police misconduct that extend

beyond an isolated incident, they are likely to find liability based on a custom of inadequate training and supervision (Callaghan 28). Supervisors have a duty to train and discipline their officers. Those who fail to discipline or dismiss officers who develop a “track record” could be subjected to legal actions holding the supervisor liable for a failure to act to correct behaviors and actions (Callaghan 30). Supervisors must also be aware that a problem employee may try to hide behind a whistleblower action as protection from future disciplinary actions. If the employee mentions any type of “regulation” or “ethical “ issue regarding a company policy, this should flag the employer that this may be a whistleblower situation (Cordella 1).

Under the National Labor Relations Act, employees have a right to (1) join together in complaint to the employer; (2) promote a union; and (3) complain about conditions of employment in which employees have rights (Adello 2). A public employee’s speech revealing improper conduct by fellow employees can be protected under the First Amendment, however, only speech that relates to matters of public concern, not speech relating to matters of merely personal interest, is constitutionally protected (“Court Rules On....15).

During the course of handling legal actions involving a whistleblower, one option available to the employer, especially when there appears to be merit with the complaint, is to settle with the employee in an effort to end the matter and correct the reported violation. While settling complaints may or may not encourage serial litigation or cause abuses of the system, it does, however, impact the psyche of the accused management official, because implicit with settling a case is an admission that someone did something discriminatory (illegal) and wrong (Fogle 40). “To settle a case is to under cut management prerogative” (Sanders). Governmental officials exercising their official discretion in the discharge of their duties cannot live in fear of lawsuit, with the concomitant costs to public servant and society. Such fear will stymie the work

of government and will “dampen the ardor of all but the most resolute, or the most irresponsible (public officials) in the unflinching discharge of their duties” (“Court Rules On...14).

Department supervisors responsible for making disciplinary decisions should ensure that all decisions are written and fully documented (Callaghan 30). Policies (should be) well written, consistent with department philosophy and values and disseminated to all staff (McDonald 34). In addition, law enforcement managers should have clear and concise written policies, and should follow those policies without exception. Any variance in the application of the policies adds to the impression of unfairness and provides substance to a complaint. Managers also should ensure consistency in documentation with all employees (Fogle 44).

The three sins of poor disciplinary action are insufficient demonstrable reason, poor timing and inadequate documentation. Discharging an employee because of that person’s ‘bad attitude’ falls into the category of insufficient demonstrable reason (Lob 2). Some ideas that may help change a difficult supervisory situation are: (1) Identify exact behaviors when correcting the employee; (2) document; and (3) be consistent (Lob 3). Open, honest communication will stop most problems before they start. Many complaints arise not out of glaring problems with discrimination, but out of personality conflicts and resulting breakdowns in communication. Law enforcement managers should recognize these problems and aggressively resolve them at the outset (Fogle 43).

Although criminal justice management courses and administrative textbooks discuss the science of management, becoming a successful law enforcement executive is a process that involves an on-going education (Sewell 8). Supervision is a coaching-style- adequate, consistent, holding employees accountable while allowing them sufficient autonomy to solve problems and enhance their jobs (McDonald 34).

A failure to follow good supervisory and management principles will exact a high price when employees feel that it is necessary to follow the course of initiating a whistleblower action against the agency. In the three examples listed in this text, the costs exceeded \$15.9 million dollars in awards to the four individuals. All awards were made by juries who believed that the employees had been discriminated against for voicing a complaint. Sound supervisory principles may have saved the cost of the award in one or more of these cases. When one compares the cost of training with the cost of jury awards, it is easy to see that it is less expensive to train supervisors and managers in the appropriate methods of dealing with employees and accepting complaints. The additional cost to the agency is the loss of professional status in dealing with future actions. When an agency has been shown to have engaged in discriminatory actions against its employees in the past, then the organization may find itself defending against that reputation in future actions.

The goal of all police management should be to ensure that the public is properly protected and to ensure that all police employees perform in the public's best interest in a professional manner. It may be that the Whistleblower law will force police management to perform an evaluation of management and supervisory practices within the organization. Managers and supervisors should receive quality training in proper supervisory techniques when dealing with employees, especially those who demand close attention. Time should also be spent in training managers and supervisors in recognizing the signs of an employee who may contemplate filing a whistleblower action.

Conclusion

The purpose of this project has been to examine the Whistleblower law and its impact upon supervision in policing. A number of cases were examined to show that the law is relevant to police agencies in the State of Texas and that a failure to heed the warnings contained within the law may have severe consequences in terms of financial losses to the agency as well as an impact upon the agency's professional reputation.

Professional organizations, both in and out of policing, have realized that in order to operate professionally, it is necessary to set standards which represent the goals of the organization, that they are clearly defined and written and are disseminated to all employees, they are understood by everyone in the organization, and are incorporated into the company's policies and procedures.

Police employees must have the benefit of training and education in order to understand the goals and to receive the tools necessary to achieve those goals. They should also have an outlet to air complaints and to bring to management's attention the agency's failure to adhere to those guidelines. The Whistleblower law was designed as an outlet for those employees who bring forward complaint's of improprieties within an organization and are then retaliated against.

Once a report is received under the Whistleblower law, management must ensure that the employee making the report is not retaliated against for coming forward. Managers must be cognizant of the requirements under this law and should be able to recognize an employee who is acting under the color of the statute. Managers must also realize that not all employees act with the intention to benefit the organization and may be acting for personal gain. If personnel

management is conducted professionally, then an employee's motivation for coming forward is irrelevant.

It is incumbent upon those who enforce the laws and direct the efforts of others in the organization to ensure that (1) there is an atmosphere whereby violations may be reported internally to the organization to be acted upon in an appropriate manner; (2) that those who report are not retaliated against for voicing their concerns; (3) that disciplinary action taken against an employee, especially one who has made an outcry, is well documented and fairly applied throughout the organization; and (4) that accepted management practices are taught and followed throughout the organization.

The Whistleblower law in Texas was enacted to ensure that employees of governmental agencies may report unlawful acts of the employing agency without fear of retaliation on the job. The law has had that effect and will serve to ensure that police departments are operating in a professional manner. If the ultimate result is that law enforcement agencies serve the public better than they have in the past, then the law has achieved the intended results.

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Texas Government Code Annotated. 554.001-010.

APPENDIX 1

Police Administrators were interviewed and polled to provide answers to the questions listed. Their answers provide insight from a management perspective. The answers are listed anonymously to provide each individual the ability to answer honestly without the fear of having to legally defend the answer.

QUESTIONNAIRE- WHISTLEBLOWER LAWSUITS

1. Who are Whistleblowers?

- (-) They are disgruntled employees. The incident which sparked the lawsuit can almost always be traced back to some form of discipline imposed on the complainant prior to the lawsuit.
- (-) People who disguise themselves under the whistleblower label are sub par performers who use the law to hide behind. Problem employees who have found a way to "make someone pay" for their perceived persecution.
- (-) Whistleblowers are tenured police officers. The majority are line level officers accompanied by a minority of first line field supervisors. Without exception, these officers are disciplinary problems. They have difficulty following rules, regulations and procedures, and are adverse to direct supervision.
- (-) An individual who reports violations of the law regarding illegal acts of their employer and anyone within the parent organization.

2. Are whistleblowers legitimately trying to help or just disgruntled employees looking to make money for their trouble?

- (-) Whistleblowers are primarily disgruntled employees who are filing lawsuits as offensive and defensive tactics to convolute the disciplinary process. Their outcries are often centered on procedural deficiencies on the part of supervisors.
- (-) For the most part the retribution in these cases is the monetary gain to be had by the whistleblower. Due to successful whistleblower cases it has become apparent that "there's gold in them thar hills" and as long as there is money to be made, these types of litigations will continue.
- (-) Many whistleblowers report legitimate violations, however, in recent years individuals have begun to use the whistleblower statutes for their own self-interest, i. e. money, as well as to take attention away from their own disciplinary actions.

Administrator questionnaire- continued

(-) There are other avenues to address problems. No one has been so mistreated that they need to recover compensation for damages.

3. What have been the underlying causes for past lawsuits filed against the SAPD?

(-) Disgruntled people who have a history of problems and a disposition of "it's not my fault" whenever they are dealt with.

(-) Disagreements over disciplinary actions as well as the opportunity to bring discredit to the department, and management in particular. Some officers have taken improper enforcement actions against citizens and when management attempts to discipline them or restrain their enforcement, they are using the whistleblower statute to allege that management is prohibiting them from doing their job or enforcing the laws.

(-) They can usually be classified into two categories: First, they were instigated due to an overzealous supervisor plunging headlong into a situation that the whistleblower took advantage of, or set up to begin with. Second, the officers themselves ostracized the whistleblower for some previous indiscretion and management neglected to correct the aberrant behavior

(-) Transfers from what is perceived as a good assignment to one not as prestigious; that and suspensions have been the catalyst for these causes of action. Once an employee perceives disparate treatment, they search their memory for any instance where they have reported a discrepancy on the part of another member of the organization which they can construe as being an outcry.

4. How does the Department address the issue of whistleblower lawsuits for the future?

(-) Discussions have been centered on establishing a process which would require an employee, regardless of position, to formally document and report all allegations of violations of law involving another member. Debate continues as to the benefit as there is no legal requirement to make the outcry to your own organization.

(-) Intense training, new policy directions an individual who reports an alleged violation to an appropriate law enforcement agency or law enforcement officer, to also report it to the department. Early identification of a possible whistleblower claim is the key. Also, ensuring that all claims are taken seriously and investigated and documented thoroughly.

Administrator questionnaire- continued

(-) Vaguely; we have not received clear advice on how to deal with these issues.

(-) Through prevention and education. It will only be through the education of supervisors and management that early detection of these types of lawsuits can be prevented.

5. How do the issues of Training and Supervision interrelate with the whistleblower lawsuits?

(-) The education and training of officers and supervisors as to the mitigating circumstances surrounding whistleblower lawsuits is the key to prevention.

(-) At a time when corporate America is relaxing policies and permitting flexibility in managing the human resources of their organizations, public entities must stress adherence to policies and procedures. Coaching and counseling techniques must be stressed in training our supervisors and managers. Personalities must be removed from the process and only in those instances where an employee substantially deviates from established practices should the formal disciplinary system be employed.

(-) They are critical to early identification, investigation and documentation.

(-) Although training is available, supervisors are left to deal with the problem on his own. There is no consistency in how one unit or division deals with the problems. It seems that more and more, politics must be considered when making decisions dealing with this issue, a fact that adds to the frustration of management and first line supervisors.

6. How have whistleblower lawsuits affected the ability of management to deal with internal problems of the SAPD.

(-) They have hurt the morale of supervisors, and managers who feel they are targets of employees who disagree with them on daily administrative decisions. They have hindered management's ability to deal aggressively with a problem employee who, by virtue of his lawsuit, cannot be further disciplined or transferred until the issue is resolved. This gives enormous power to that employee who's goal is to disrupt the work environment for their own self-interest.

Administrator questionnaire- continued

(-) Managers are left to deal with the issue the way they see fit. The manager or supervisor may be accused of mishandling the problem and then everyone is a "Monday morning quarterback." This ends up being "Management by not rocking the boat." When an employee is dealt with, it is the manager / supervisor who is questioned and talked about, not the problem employee.

(-) Management must remain cognizant of pending litigation, instances which the employee may construe as an outcry, pending or past arbitration rulings in all transfer and disciplinary cases. It seems that the "best interest of the employee" takes precedence over the "best interest of the department."

(-) Many decisions made in law enforcement are made instantly and on gut feeling alone. Currently, decisions have slowed to a crawl and we must analyze and dissect each decision as if we will have to defend it in court (which often occurs). It makes us all a little gun shy.

Respondents to the Survey:

Chief Al A. Philippus, San Antonio Police Department. 12 May 1998.

Capt. Steven Baum, Executive Officer to the Chief of Police, San Antonio Police Department. 04 May 1998.

Capt. Tyrone Powers, Personnel Director for San Antonio Police Department. 06 May 1998.

Capt. Tom Polonis, Traffic Section Commander. San Antonio Police Department, 12 May 1998.

APPENDIX 2

Attorneys were interviewed and polled to provide answers to the questions listed. Their answers provide insight from the perspective of legal professionals. The answers are listed anonymously to provide each individual the ability to answer without the fear of having to legally defend the answer.

QUESTIONNAIRE- WHISTLEBLOWER LAWSUITS

1. Who are Whistleblowers?

(-) Disgruntled employees who did not have a course of action, inevitably they get into trouble because of their bad attitude. Because of this law, they feel empowered, especially because of prior wins.

(-) Those who experience personal conflicts with supervisors and become disgruntled.

(-) Employees who have witnessed, or under the directions of a supervisor, have been part of an unethical, illegal or discriminatory act; or who after questioning a supervisor's acts or reporting their actions, have been subjected to punitive measures of discipline or discrimination.

2. Are whistleblowers legitimately trying to help or just disgruntled employees looking to make money for their trouble?

(-) They are disgruntled employees looking for money. Proof of their legitimacy is gained through the relief that they receive.

(-) I would estimate that 85% of whistleblowers are legitimately trying to help. Most of them simply want to be left alone to do their job. When they are not allowed to work in peace, they do become disgruntled.

(-) Those who are genuinely trying to help are in the minority. Most are looking to make money from the system that they hold a grudge against.

Attorney questionnaire- continued

3. What have been the underlying causes for past lawsuits filed against the Department?

(-) Punitive transfers; that is a transfer done on an arbitrary basis of a "problem" officer for no apparent or legitimate reason other than punishment. A failure to use procedures authorized by the General Manual when disciplining officers. Establishing precedence when it suits a situation and then in subsequent situations, refusing to apply the same standard. Also, allowing other officers to discriminate, harass or intimidate an officer.

(-) Personality conflicts with supervisors.

(-) Personality conflicts with supervisors. The employee holds a grudge against the agency and this is the outlet to air their discontentment.

4. How does the Department address the issue of whistleblower lawsuits for the future?

(-) Through training and encouraging those with outcries to come forward.

(-) Develop procedural processes within the General Manual which clearly delineates how issues are to be addressed with regards to disciplinary actions. Apply those procedures uniformly without question and if you decide not to apply them, have reasons and documentation to support those reasons.

Involve employment consultants and labor lawyers to develop your procedural process and retain an attorney who is experienced in whistleblower lawsuits as a consultant who is available as issues arise to anticipate and alleviate issues developing into actual litigation.

(-) Train managers and supervisors. Also, do not settle the cases. Make all cases go through the system to discourage those who are looking for the fast buck. To settle undercuts management prerogative.

5. How do the issues of Training and Supervision interrelate with the whistleblower lawsuits?

(-) Our supervisors are not trained to deal with whistleblowers.

(-) We need to devote more energy in training our supervisors.

Attorney questionnaire- continued

(-) Ensure that supervisors at all levels have the ability to immediately consult if they are unsure how to handle a situation. There has been a complete lack of training and supervision, along with the arbitrary application of rules. You need to strengthen your training and educate your supervisors in the uniform application of rules instead of using your manual as a weapon.

6. How have whistleblower lawsuits affected the ability of management to deal with internal problems of the SAPD.

(-) This question is best answered by police administrators.

(-) Supervisors are required to expend more time and thought in dealing with subordinates.

(-) It is crucial that management must exercise extreme caution in varying from procedure on an individual, case-by-case basis. This is not to say that they cannot do this, but they must be able to justify and document the justification why a certain individual is being treated differently from another individual, and how that not only benefits the individual but also the department.

Respondents to the Survey:

Mark Kasonovich, City Attorney, City of San Antonio, Tx. 04 May 1998.

Robin Sanders, City Attorney, City of Austin, Tx. 05 May 1998

Private Attorney (Who represents whistleblowers) who has requested anonymity in this survey, 17 May 1998.