

**The Bill Blackwood
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**Internal Affairs:
Policy Regulating Romance in the Workplace**

**An Administrative Research Paper
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ABSTRACT

Policy regulating romance in the workplace is relevant to contemporary law enforcement because, as a profession, law enforcement is lagging behind other true professions in researching and addressing the potential liabilities created when persons working in the same department are involved in a romantic or sexual partnership. The purpose of this research is to identify potential liabilities created by these liaisons and to ascertain the opinion of law enforcement officers on the impacts of such pairings. The method of inquiry used by the researcher included reviewing literature contained in books, periodicals, professional journals, articles available on the internet, and a survey distributed to 26 law enforcement personnel who are assigned to leadership positions.

The researcher discovered that liabilities created by romantic or sexual relationships in the law enforcement workplace far outweigh any potential advantage, whether those relationships are hierarchal or lateral in nature. While opinion varied on the nature of the negative impact and who sustained it, there was near unanimous opinion among those surveyed who have experienced working with a co-worker couple that greater liability was created. Survey results indicated the negative impacts of a dissolved co-worker relationship affected nearly all who work around those involved. Research served to show that inconsistencies between policy regarding romantic relationships, or the absence of such policies, and those regulating other interpersonal issues such as nepotism raise serious questions about the purpose and intent of the existing policies. Inconsistent policy is likely to result in uneven or ineffective control of negative behaviors. A consistent, well researched policy regulating romantic or sexual relationships between co-workers should be in place at all police agencies.

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INTRODUCTION

The issue to be examined considers whether or not romantic or sexual relationships between hierarchal (supervisor-subordinate) or lateral (peer-peer) employees in the law enforcement workplace present a liability issue that should be addressed by formal departmental policy. A study of the liability potential created by unregulated romantic or sexual relationships between law enforcement co-workers is relevant to the entire law enforcement community because this practice has been both prevalent and condoned in police ranks, yet sets the stage for a host of negative issues: allegations of sexual harassment resulting in costly lawsuits and unfavorable media coverage, a difficult or hostile workplace environment if or when such relationships dissolve, and the appearance of favoritism or impropriety when a superior is involved romantically or sexually with a subordinate, to name only a few (Spragins, 2004). Law enforcement, as a profession, is far behind other professions in establishing standards of accepted conduct relating to these interactions.

The purpose of this research is to examine which types of co-worker relationships have been determined to have generally negative outcomes in the workplace. A review of current solutions proposed or enacted to control the relationships or outcomes will be studied. The information gathered will be utilized to identify a proper action for proposal to the police administrator tasked with addressing this issue.

The research question to be examined focuses on whether or not romantic or sexual relationships between co-workers produce negative outcomes that should be regulated or prohibited. As it is possible certain types of pairings may produce different

perceptions, both hierarchal and lateral relationships will be reviewed. Other relationship types (same sex, etc) will be included if encountered during research. The intended method of inquiry includes: a review of published journals, selections from books, internet articles, magazine articles, policy manuals, and a written survey distributed to police professionals.

The anticipated findings of the research are that romantic or sexual relationships that take place between law enforcement co-workers present a substantially increased potential for sexual harassment complaints based on claims of offensive contact or hostile work environment, or other negative outcomes, and law enforcement agencies should proactively regulate the behavior to minimize the negative effects of such liaisons. The field of law enforcement will benefit from the research or be influenced by the conclusions because there is little data or inquiry available on this issue that has been directly applied to the law enforcement work environment. If the anticipated outcome is corroborated by research, the findings may be utilized by law enforcement administrators to assist in drafting the most effective policies to protect their workers and agencies from needless negative impacts.

REVIEW OF LITERATURE

In the police context, policies and procedures are drafted with the intent of creating a written standard of accepted behavior. These policies and procedures are intended to ensure fulfillment of the police mission of service to society and to eliminate the possibility of exposure to liability for the police agency and city. As in the business community, it is likely that many police policies are drafted after a negative punitive impact is sustained by the agency and the agency is found to have failed to institute

guidelines to ensure compliance with an established standard of care. Research will be conducted here to identify what standards are expected of employers who utilize a mixed-gender workforce, such as a police department, and what liabilities have been identified by the existence of romantic or sexual relationships between employees in those workplaces, if any.

Favorable interaction between co-workers is necessary for any workplace to survive. One change facing the police administrator in the current workplace is the rising number of females in the workforce. The gender changes this has created in many organizational structures has made the workplace one of the most common places for romantic partnerships to begin, regardless of the nature of the relationship or the length of time over which it transpires (Lenzo, 2003). The information regarding the increase of women in the workforce is supported by the United States Department of Labor, Bureau of Labor Statistics (BLS), who stated that, in 1988, the ratio of women to men in the workforce was 45 and 55%, respectively. The BLS also estimated the gap would narrow to 48 and 52%, respectively, by 2008 (Bureau of Labor Statistics, 2000). In a more recent BLS study, the gap of women versus men in the workforce had indeed narrowed to 46 and 54%, respectively. With the total non-institutionalized population of women age 16 and over listed at 119,694,000 and the same listing for men at 112,173,000, it is possible there could eventually be more women in the workforce than men (BLS, 2008). It is certainly common knowledge that women have stepped beyond the jobs formerly considered "female," such as dispatcher or records clerk, and have moved into sworn police positions formerly considered "male only," ranging from patrolman to chief of police. The police workplace also differs from many traditional

workplaces in that it is a 24-hour a day, seven day a week staffing environment. Considering the mixed gender environment of today's workplace, it is not surprising that research has shown nearly ten million consensual co-worker relationships begin annually in the United States between people working for the same company or organization (Spragins, 2004). That being the case, it is very unlikely a police agency of any size will not encounter the development of some type of romantic liaison between co-workers, be it a long-term love affair or an overnight "fling."

With the advent of the Civil Rights Act of 1964 (Civil Rights Act of 1964, P.L. 88-353, 78 Stat. 241, 1964), an obligation was created for any employing entity to enact procedures to assure non-discrimination based on race, sex, religion, or national origin. The act was initially presented under the presidential administration of John Kennedy, prior to his assassination in 1963. It was signed into law by President Lyndon B. Johnson the following year, amidst significant racial tension nationwide. The heavily debated public focus of this legislation was on addressing racial inequality, but the bill addressed inequalities of all natures that were based on race, color, sex, religion, or national origin. The sweeping powers of this bill created governmental bodies of enforcement, as well as authorized the attorney general's office to institute litigation on the behalf of those violated. Although the act made it a breach of law to discriminate based on sex, it would not be until many years and court cases later that the defining behaviors for sexual harassment would be clearly identified. Because the act applies to employment practices and workplace environments, it applies to police departments. Considering the foregoing facts presented on the likelihood of the development of romantic pairings in the workplace, it would also seem prudent that the administrator

considering this legal obligation also become versed on the implications of such relationships in light of the standards created by this Act.

The legal implications of the Civil Rights Act of 1964 have resounded in courtrooms across America. Most early cases related to prejudicial treatment based on race. Eventually, other aspects of the act became points of legal review. One such point was prejudicial treatment based on sex, which came to be commonly referred to as sexual harassment. The commission created by the Civil Rights Act of 1964 to oversee compliance in the workplace is the Equal Employment Opportunity Commission (EEOC). The EEOC (2007) defined sexual harassment as:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes sexual harassment when submission to or rejection of this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance or creates an intimidating, hostile or offensive work environment. p. 1

Prior court findings generally establish the case law on which future allegations of a similar type are decided. The following case will provide insight into the liability that could be placed on a police agency in circumstances likely to be encountered in a typical police workplace. In *Meritor Savings Bank v. Vinson*, Vinson alleged she was subjected to years of unwanted sexual advances from her employer, a vice-president of the bank. The court finding indicated two points in favor of Vinson. The first was that a hostile work environment was created when the supervisor continued to press for sexual favors after Vinson refused the sexual advances of the supervisor on numerous previous occasions. Second was the point that economic disadvantage was not required for Vinson to allege harassment. This reversed a long-held opinion that economic loss was necessary to prove harassment and cemented the hostile work

place environment as sufficient cause for a positive legal finding (*Meritor Savings Bank v. Vinson*, 1986).

The *Meritor Savings Bank* case illustrates two types of harassment allegations, commonly referred to as *quid pro quo* and hostile workplace. *Quid pro quo*, in a legal context translates “something for something” and refers to the exchange of one thing for another. In the case of sexual harassment, it might be sexual favors requested in trade for advancement in the company. Sexual harassment may also be the request of sexual favors to avoid demotion or other negative impacts. Again, it is important to note that the requests be unwanted or unwelcome for the behavior to be considered harassing. Based on that standard, hostile workplace harassment would most likely be alleged when an employee is exposed to situations based on the sex of the employee that make the workplace abusive or detrimental physically, mentally, financially, or in any other way.

In another workplace relationship case, an employer was held liable for damages when a dissolved workplace relationship resulted in the death of an employee while on the job. In this case, the co-workers had a consensual relationship that was dissolved by the female. After some months of conflicts at work, the male eventually forced the female into a workplace restroom and shot her three times before shooting himself. Both died of their injuries. This represents the negative extreme of outcomes but presents the concern of loss and liability beyond litigation alone (*Panpat v. Owens Brockway Glass Container, Inc*, 2002).

In addition to the possibility of sexual harassment, other work place inequities can be created when the appearance of favor or impaired supervisory judgment is

created by the existence of a romantic or sexual relationship between a co-worker and a person in a position of control over evaluation, workload, or advancement. It is important to note here that this may not pertain only to persons holding the titled positions of supervision, but also to persons who may dictate another person's assignments, whether they hold a supervisory position or not. In the police environment, an example of this would be the dispatcher-officer relationship. Though not a supervisor, a dispatcher does assign workload to an officer, and, therefore, has some control over the number and type of calls each officer will receive. Hierarchical relationships are recognized in many policies, including those of major universities. The Duke University Policy on Consensual Relationships states, "Even where the relationship is consensual, there is significant potential for harm when there is an institutional power difference between the parties involved." (Duke University, 2002, p. 1). The University of Colorado issued a similar policy statement in 2005 indicating their opinion to be that, even when the relationship is consensual between an educator and student, the decisions made by that educator relating to academia or employment pertaining to that student or other students can be, or appear to be, compromised (University of Colorado, 2009, p. 1).

All relationships do not end poorly, and even many that do would not result in a sexual harassment complaint. It is unlikely, however, that the two persons involved in a sexual or romantic liaison will be only persons affected by the relationship. It is completely possible that someone uninvolved with the relationship might file a complaint against the agency based on the relationship between two of that person's co-workers. Expanding the scope of attention to the workplace, instead of only the couple involved, reveals a host of circumstances under which such a complaint might be sustained. If an

employee feels they are given more workload because another employee is romantically or sexually involved with a supervisor, this could certainly become a hostile workplace environment based on the sex of the favored employee and would fall under the Civil Rights Act of 1964 definitions. An agency might face the same allegations in the event of the third party being denied promotion and alleging the promotion of an employee involved romantically with a supervisor was based on favoritism rather than merit.

Based on the prior research presented, it can be summarized that most, if not all, police agencies will have romantic or sexual relationships develop in the workplace between co-workers. It is also established that, even in the case of a consensual relationship, appearances of impropriety, favoritism, and compromises of integrity can be assumed by others working with the couple. Further, as in the Panpat case, extreme situations of violence should not be beyond the concerns of an administrator tasked with the duty of defining possible outcomes of romantic or sexual relationships in the workplace.

All relationships that begin in the workplace are not doomed to horrible failure and workplace strife. It is common knowledge that most relationships do not result in the “happily ever after” of fairytales, but there is no reason to assume all workplace relationships fail. This, however, brings out another point to be considered. When a workplace relationship goes right and continues, it is likely that the couple will be married or live in some form of common-law type marital environment. According to the Bureau of National Affairs, 60% of companies have policies against nepotism or the employment of family members (Bureau of National Affairs, 1988, p. 17). When

considering the need for policy creation, including the possibility of not creating a policy at all, all impacts of the behavior being considered should be included. If an agency has a policy on nepotism, that policy should also address relationships that came into existence after employment. If the rationale for having an anti-nepotism policy is to avoid conflicts of interest within the employment structure, a romantic or sexual relationship is likely to cause the same inequity. Once all possible outcomes of a behavior are considered, the framework of a consistent and enforceable policy can be constructed. Accordingly, the wider spectrum of interpersonal relations and employee interactions should be considered by any person researching the creation of a policy regarding workplace romantic relationships.

METHODOLOGY

The question to be answered by this research is whether unregulated romantic or sexual relationships in the police workplace create an increased liability that should be controlled by policy. Case law clearly indicates that any employer is required to provide a work place free of discrimination. As an employer of male and female workers, the police profession is subject to the possibility that such discrimination could also be based on gender. Consideration should be given to any interaction that involves economic or non-economic benefit or disadvantage, as well as the creation of an environment that is non-hostile in nature.

Another consideration to be made is maintaining the perception that all employees are considered equally for opportunity or advancement. If inequity exists in this area, the agency may also be subject to allegation of favoritism and litigation based on unfair economic disadvantage of an employee overlooked for advancement due to

considerations other than job performance. In the interest of ascertaining opinion from the police workplace, an anonymous, 10-question survey was distributed to a group of 26 police professionals requesting their views on relationships between co-workers. All 26 surveys were completed and are included in the research.

FINDINGS

In a survey of police professionals, 54% of respondents stated their department had some form of policy regulating relationships, most relating to hierarchal relationships. Of those who did not have policies in place, less than 34% percent felt they were not needed. Ninety-six percent of respondents had worked with a couple involved in a romantic relationship on the job, with 35% of those relationships being hierarchal and 65% of the relationships lateral. Opinion was essentially split on whether the respondent felt differently if the relationship was hierarchal or lateral, at approximately 46 and 54%, respectively. Ninety-six percent felt that an unregulated co-worker relationship presented an increased liability risk to the agency. Ninety-six percent also felt that there would be negative impacts to the workplace should the relationship dissolve. When asked if a policy regulating hierarchal workplace relationships were violated, 52% felt the punishment for such violation should be equal to all parties involved, while 48% felt the supervisor should bear the greater responsibility. Eighty percent felt any past relationships between accuser and accused should be considered whenever an allegation of sexual harassment is made.

Taking the above figures into consideration, it is significant that in recapping the survey responses, there were three questions pertaining directly to co-worker relationships and negative impacts which were answered with exactly the same

percentage result. Ninety-six percent of persons surveyed have worked with a co-worker involved in a romantic or sexual workplace relationship. Ninety-six percent of persons surveyed stated a romantic or sexual workplace relationship between co-workers creates a liability for the department. Finally, 96% of persons surveyed stated that a dissolved workplace romantic or sexual relationship adversely impacts persons on the job, including both the parties involved and those with whom they work. This indicates that a large sampling of the survey group have personal experience with a workplace relationship, felt such a relationship created a liability by its very existence, and expected negative impacts far beyond the two persons involved in the relationship itself.

DISCUSSIONS/CONCLUSIONS

The issue examined by the researcher considered whether or not romantic or sexual relationships between co-workers present an increased liability or likelihood of negative outcomes. The purpose of the research was to determine if there is a need to regulate these relationships in the police workplace. The research question that was examined focused on a study of known outcomes of such relationships, along with an effort to ascertain opinion of police professionals who have or may experience such liaisons. In order to have to most complete survey, all relationship types encountered during research were considered, regardless of their social or moral implication.

The researcher hypothesized that unregulated romantic relationships do set the stage for a host of negative outcomes. Among these were hostility and discord in the workplace, as well as heightening the probability of complaints and lawsuits sustained by the agency. The researcher felt policy regulating such behaviors should be in place.

The researcher concluded from the findings that when careful and objective attention is given to the potential liability issues that arise from unregulated romantic or sexual relationships in the police work place, there can be little question that a standard of behavior must be in place. Research into case law and federal regulations indicate clearly that an employer is responsible for ensuring that discrimination of any sort is not condoned in the workplace. Ample evidence has been presented to show that romantic or sexual relationships between co-workers create an increased potential for liability. This liability may come in the form of legal issues created by inequity or environment degradation in the work place or through loss of confidence and the appearance of impropriety when advantage is granted to an employee under questionable circumstances. In either circumstance, the employer is subject to litigation that can be both costly and time consuming. This did support the researcher's original hypothesis. The researcher found that a written policy does not, in itself, insulate an agency from litigation. It can, however, be both an effective first step in defining roles and obligations in the police mission, as well as being a documented indicator that the agency intends full compliance with the federal standard.

Research has clearly shown that regulation of romantic or sexual relationships between supervisors and subordinates intended to provide protection from hostile workplace complaint is far short of sufficient in needed scope. In certain employee structures or job descriptions, a person may exercise control of workload even though their title might not indicate such discretionary power. For this reason, the prudent administrator will give consideration to regulation based on the working interactions of

all positions, especially those that dictate workload, evaluation, or advancement, and not only those specifically titled as supervision.

Negative impacts beyond litigation should also be considered. Research did encounter incidents where the physical safety of employees was compromised by the mishandling of dissolved workplace romances. One case even resulted in the death of both parties. The long-term negative impacts to co-workers, supervisors, and families cannot be underestimated in such cases.

The research was limited in scope and may benefit from a wider distribution of the survey instrument. Inclusion of direct communication and interview with a large sample of persons involved in past or present workplace liaisons might also prove beneficial to widening the scope of encountered outcomes. Although data encountered was fairly consistent in the sample utilized, relationship survey samples were limited only to law enforcement supervisory personnel in management positions. This may or may not reflect the attitudes of the non-management contingent.

This research is vital to law enforcement because the profession relies on highly trained personnel to command the respect of the public that they are assigned to protect. Policies that reflect that high standard of care serve to ensure continued public support, while assuring the agency does not lose the efficient operation of its greatest asset: the employee. The combination of protection from employment impacts for the employee and protection from negative public or media impacts for the agency is the highest goal of this research. No research of this type was encountered that was specific to the law enforcement workplace, further indicating a need to provide research that is relevant to the profession.

All members of a police agency will benefit when attention is given to making policy relating to romantic or sexual relationships in the workplace consistent in purpose and scope with existing policies. A focus on all interpersonal relationships and job interactions will ensure that a policy regulating one type relationship does not conflict with existing policy regulating other interactions. Extending the relationship type under consideration to any logical end will address regulatory needs into the future as well. A policy developed under these considerations will prove to be an effective component in ensuring a workplace remains harmonious and in legal compliance with the standard of care required of all employers.

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APPENDIX

SURVEY

Please check or circle the selection that best suits your personal experience or department situation. If your department works out of more than one facility, answer for workers operating from the same facility. Return this form to **Rick Park** when completed. Thank you.

1. Does your department have a policy regulating romantic or sexual relationships between:

- Hierarchal Employees (Supervisors – Subordinates)
 Lateral Employees (Peer – Peer, such as Officer/Officer or Supervisor/Supervisor)
 Sworn – Non-sworn
 Other _____
 None
 I don't know

2. If a policy exists, do you personally agree with the policy? If you do not have one or don't know, do you feel one is needed?

[Yes] [No]

3. Have you worked with others who were involved in a romantic or sexual relationship with a co-worker (other than yourself)?

[Yes] [No]

4. If yes, was that working relationship hierarchal (supervisor-subordinate) or lateral (peer to peer)?

[Hierarchal] [Lateral]

5. Do you feel differently about a romantic or sexual relationship if it is hierarchal than you do if it is lateral?

[Yes] [No]

6. If [No] to Question 5, go to 7. If [Yes] to Question 5, why? (Check all that apply)

- Conflict of Interest
 Liability to Department
 Appearance of Impropriety
 Other _____

7. In your opinion, does allowing an unregulated romantic relationship within a department present a potential for liability?

[Yes] [No]

8. If a person were to dissolve his/her workplace romance, do you feel anyone would be negatively impacted **on the job**? If so, who? (Check any that apply)

[Yes] [No]

- The former couple (one or both)
 The person supervising the former couple
 Employees who work with the former couple
 All of the above
 None of the above

9. If your department had a policy forbidding romantic or sexual relationships between hierarchal (supervisor-subordinate) relationships, and it were to be violated, punishment should be:

- Equal to all parties involved
 More severe on the supervisor
 More severe on the subordinate

10. If a person filed a sexual harassment claim against a co-worker with whom they were formerly involved romantically or sexually, should that involvement be considered when deciding the validity of the complaint?

[Yes] [No]

Comments welcome: