

THE IMPACT OF POLICE MISCONDUCT IN THE FUTURE

Article

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By:

Lieutenant Denver L. Pittman
Riverside County Sheriff's Department
Command College Class XXIX

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Introduction

Throughout the history of American law enforcement, there has been a deep apprehension by the public about the necessary but tremendous authority that is bestowed on police officers. In a democratic society such as ours where freedom is treasured more than life itself, police accountability is of utmost concern. No police or sheriff's department can successfully serve the entire community if any of its residents, no matter the number, fear or do not trust the police with legitimate cause.

The mission of any police agency not only depends on the reality of crime but also on the perception of crime by the public. Every agency's image greatly depends on how it handles crime and responds to calls for service. More importantly however, is the ethical and moral credibility of personnel employed by the agency.

Past Misconduct

In the past, police misconduct usually involved a mutually beneficial arrangement between criminal and police, such as taking bribes for looking the other way.ⁱ What citizens commonly understand as misconduct is any behavior that treats citizens in a less desirable way than they want to be treated. Some of these perceptions are (1) the use of profanity, (2) unlawful commands to stop or go home, (3) unlawful detentions and searches of vehicles, (4) threats, and (5) approaching their location with weapons drawn. In contrast to perceived or past forms of misconduct, modern studies on police misconduct indicate the police are engaging in serious misconduct. This may be (1) conducting unconstitutional

searches and seizures, (2) stealing money or drugs, (3) selling drugs or sex, (4) protecting drug dealers, (5) providing false testimony, (6) planting evidence, and (7) shooting unarmed persons. Corruption, the unjustified use of force, abuse of authority, disrespect, racial bias and violations of civil rights are common failings.ⁱⁱ Each of these factors can tarnish an agency's reputation. The real challenge for law enforcement executives is to formulate and implement a plan to reverse the negative image and restore credibility to the agency. This is a formidable task for even the largest of agencies.

Police Brutality

Police brutality is one of the most serious and divisive allegations, which can shake a community at its very core. Extreme cases of police misconduct can cause heated public debate over the causes of the conduct. Reports of police misconduct and abuse have increased dramatically over the past years.ⁱⁱⁱ The real difficulty arises when police behavior may appear to be abusive; however, may be appropriate conduct under the circumstances. Most people recognize that the vast majority of police officers do not resort to more force than necessary when making an arrest. Excessive force complaints are not soaring in all communities but the allegations of police misconduct seem to increase in frequency on specific segments of the population.^{iv}

Race as a Factor

Race has often played a role in police abuse cases in many cities, with minority residents believing that white officers are overly aggressive and abusive to the minority communities they serve.^v

African-American and Latinos have long complained that when they are stopped for minor infractions, the minority resident is forced to lie face down their arms stretched out.^{vi} Whites stopped for the same infractions are not treated in the same manner.^{vii} Thus the term of “driving while black” was started by minorities to illustrate their feelings about some police tactics.^{viii}

In cities where data is available by, minorities have filed allegations of police misconduct in greater numbers than white residents of the same community. When examining the racial profile of the city to determine a correlation between the numbers of complaints filed and the total population the complaints filed by minorities far exceeded their numeric proportion.^{ix} Minorities perceive that the police have subjected them to apparent racial discrimination including physical and verbal abuse.^x Many minorities have accused the officers of using derogatory racial epithets during everyday encounters.^{xi} Minorities have also accused officers with non-violent activities such as racial profiling in which drivers were detained due to their race or for driving a particular type of vehicle and being in the wrong area.^{xii} Each time an incident of police misconduct occurs and it involves a minority of African, Native American or Hispanic descent, especially an incident that receives mass media attention, the belief by some residents that racial bias exists is reinforced.

Civil Suits, Settlements and Damage Awards

There is no definition of misconduct that automatically escalates the deed to the status of a scandal. Cases of misconduct that rise to level of the “shocks the conscientious of the court” standard, qualify for civil suits, settlements and damage awards.^{xiii} Claims for civil damages against police officers and departments have become a common way for aggressive attorneys to attack the deep pockets of a city. These claims have resulted in large municipalities paying attorneys and their clients tens of millions of dollars.^{xiv}

However, the plaintiff success rate varies dramatically from city to city and area to area. Some cities settle early and others put up a vigorous defense. The City of Atlanta’s 2,300-member police department aggressively litigates all civil cases. In 1995, the city paid \$65,000 in civil awards and \$437,184 in 1996.^{xv} It is estimated that the City of Los Angeles paid 79.2 million dollars in claims between 1991 and 1996 for its 9,500-member police department.^{xvi} The recent Rampart scandal will cost the City of Los Angeles approximately 200 million dollars and its image will be tarnished.^{xvii}

The unfavorable press and large monetary losses brought on by a scandal is not always comparative to the positive accomplishments that a police agency has generated. While some incidents of misconduct have been serious enough to have a police chief fired, many agencies and executives have strong reputations that have survived serious incidents of misconduct.

To be successful at determining the importance of police misconduct in the future, one must look at our community. Law enforcement provides a service

to the entire community. An organization must justify what is done and how it is done to every member of the community. This includes periodically standing back and critically examining each facet of the police operation.

To mitigate the impact of police misconduct in the future, several changes must be considered. New methods in recruiting, selection, training, supervising, tracking and costs associated with these changes must be funded. The following recommendations are a broad course of action for agencies that recognize the potential impact of police misconduct in the future.

Multi-Faceted Training

Inadequate training, particularly ethical behavior training in police academies and continuing professional training were identified as factors in police misconduct.^{xviii} A creative and innovative basic academy staff will develop a successful and challenging curriculum that supplements realistic scenario training programs. Trainers must be visionary and develop proactive training models that will provide meaningful instruction. Well thought out instruction must address both the positive and negative physical and mental aspects of being a police officer. Police officers are not infallible machines. Therefore, trainers should include in the first weeks of the basic academy instruction, a section on the frailties of being a human being. Merely providing the required number of hours of training in the academy and then forgetting about any other training for the officer can be an irreversible error that has been committed by many agencies.^{xix} This type of mistake is amplified if the basic academy training consists of the veiled message “its alright to do this, just don’t get caught or you’ll

be in trouble.”^{xx} This method of instruction conveys a message that a department does not consider ethical behavior a serious matter.^{xxi}

Recognizing Cultural Differences

Training on cultural diversity as it exists, hopefully how it should exist, within the agency is a necessity. This training allows an understanding of what communities within the county expect. With this very limited experience to multi-cultural areas, an officer is assigned to perform law enforcement duties in a culturally diverse area. The result is that a patrol officer generates criticism by the public due to misunderstandings. Meaningful training may allow the officer to recognize an attitude, misunderstanding or an issue of disrespect in his own behavior when dealing with a minority member of the community. Contrary to the thinking of many officers, being aware of cultural diversity and sensitivity does not make the officer a weak social worker. What it does is make the job easier by allowing them to understand another’s style of life. Just because one’s lifestyle is different than the officer’s does not make either lifestyle wrong. Enhanced innovative training should be given in the areas that generate the likelihood of abuse. Officers should likewise receive additional training in methods of handling mentally ill people and post pursuit apprehensions.^{xxii}

Meaningful training must demonstrate the importance of attitude, understanding, respect and integrity, as well as the importance of words, inflection and body language.^{xxiii} This is especially true in dealing with a multicultural community with beliefs different than one’s own. This insight allows one to see another’s cultural perspective and how to civilly talk with all people.

Strong First Line Supervisors

Sergeants will usually be a department's first line of defense in spotting a potential problem employee. A vast array of potential problems including job burnout, stress, drinking, drugs, financial problems, marital problems and heavy-handed responses must be recognized and dealt with promptly. Sergeants should be in tune with the vision of the department and what is expected of all employees. Each sergeant must be well versed on community policing, cultural diversity, interpersonal communications and technology of the future.^{xxiv}

Administrative Investigation Units

Administrative Investigation Units should be given resources such as personnel, technology, support staff and funding necessary to aggressively investigate and track all complaints. This will help ensure greater accountability of law enforcement action as to complaints from the public. There must be a strong internal oversight unit within the department to monitor the potential for unethical behavior. Administrative Investigation Units should begin to use scientific methods of tracking misconduct.

Risk Managers have long been using a risk analysis method of measuring data to provide an insight to training and in mitigating exposure to liability. Database tracking of misconduct will provide the frequency, type, location, closure and the persons involved. Using this data, executives can minimize undesired conduct and identify areas of training that need to be changed or re-emphasized during the academy or in service training. Administrative Investigation Units should be used to educate academy cadets about the risks of

misconduct. Education should include ways misconduct may impact the cadet socially and monetarily.

Administrative Investigation Units should be attentive to changes in trends of disorderly conduct of officers. Officers that frequently use Contempt of Cop charges without strong additional charges are heading for criminal or civil liability situations. Many civil attorneys that routinely sue police departments look for the above charges as a method of filing lawsuits.^{xxv}

Administrative Review Data Base

Develop an Administrative Review Database to identify officers who have developed problems in dealing with the public.^{xxvi} Criteria for the system could be developed and tailored to meet the agency's needs but should include: complaints, law suits, unsatisfactory or needs improvement evaluation reports, and an inordinate number of use of force allegations. This would alert executives when an officer may be involved in a pattern of misconduct. The commander could choose to talk with the officer about the circumstances involved in the complaint and what could have been done to avoid the complaint. The officer could be scheduled for additional or remedial training depending upon the circumstances involved in the complaint. The goal is to keep small problems from growing and to help officers beware of career-ending behavior.

Citizen Complaints

Law enforcement executives should look at the process as a quality assurance program much like any other service provider. Make it as easy as possible for any citizen to make a complaint. The citizen complaint forms should

be placed in all contract city halls and community centers of contracting agencies.^{xxvii}

Conclusions

Though the mission of law enforcement is different from years past, progress has clearly been made in mitigating police misconduct. Law enforcement executives as well as rank and file officers understand police misconduct jeopardizes good law enforcement service.

The current administrative and legal procedures used to mitigate police misconduct are flawed and resisted organizationally. Problems that are highlighted in this report are not new and are recurring daily events in law enforcement agencies nationwide.

These failings usually fall within several basic categories: lack of proper recruiting, incomplete or poor background investigations, inadequate recruit or in-service training programs, under funded internal affairs units, lack of supervision, and the failure of police management to promote ethical behavior.

Police agencies with little or no incidents of police misconduct demonstrate appropriate ethical behavior, positive attitudes by employees toward one another, and a definite loyalty and pride in their organization and profession.

Each agency must maintain realistic expectations and consider a cadre of remedies in mitigating police misconduct. Law enforcement executive must realistically evaluate the limitations of the agency and work within those identified parameters. Law enforcement leaders must understand that even with new

strategies in recruitment, selection, training and improved funding there is no magical solution for every case of police misconduct.

Importantly, Leaders must realize the substantial benefit to the organization, community and the governmental entity if funds are allocated and personnel are trained to mitigate police misconduct in the future.

Without this commitment to meaningful change, impacts include civil litigation, adverse publicity for the officers and their families, friends and coworkers, and the deterioration of trust and co-operation between the community and police.

ENDNOTES

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