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Building Trust Between the Police and the Citizens They Serve

An Internal Affairs Promising Practices Guide for Local Law Enforcement

INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE
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Building Trust Between the Police and the Citizens They Serve:

An Internal Affairs Promising Practices Guide for Local Law Enforcement

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Executive Summary

Building and maintaining community trust is the cornerstone of successful policing and law enforcement. The building and maintenance of trust takes a great deal of continuous effort. Unfortunately, the ethical work of thousands of local law enforcement officers is easily undone by the actions of one unethical officer. Often, the indictment of one seems like an indictment of all. Once misconduct occurs, the Internal Affairs function of the law enforcement agency becomes the primary method of reassuring the community that the police can and will aggressively address and resolve unethical behavior. In short, the integrity of the police will always dictate the level of community trust.

Throughout 2008 and 2009, the International Association of Chiefs of Police (IACP), supported by a grant from the Office of Community Oriented Policing Services (the COPS Office), examined the community trust continuum, with a focus on the pivotal role of Internal Affairs in rebuilding community trust once misconduct occurs. Working with ethics and Internal Affairs experts from across the country, IACP staff studied promising practices in recruitment and hiring, policies and training, rewards and discipline, and, in particular, successful and transparent Internal Affairs investigations.

This guide attempts to place Internal Affairs in its proper context—not as a stand-alone activity, but as one component of a systemic, agency-wide, professional standards effort. After discussion of some of the other components necessary in the community trust continuum—hiring, training, rewarding excellent performance—the guide focuses on building an effective Internal Affairs approach for any size or type of agency. The guidelines for the Internal Affairs function address every aspect, from complaint processing to decision-making, discipline, notification, and community transparency.

Looking at the Internal Affairs process from a citizen's viewpoint, this guide presents information on how local law enforcement agencies can be accountable to their citizens by engaging them in any number of trust-building initiatives, including citizen input for Internal Affairs determinations and discipline. Citizen involvement models range from very informal mechanisms to formalized (sometimes mandated) citizen Internal Affairs review boards. Departments are urged to create connections with their citizens in a proactive fashion to prevent the development of tenuous relationships following high-profile misconduct.

The final section of the guide addresses the critical relationship of the law enforcement leader and the governing body of the jurisdiction in trust-building and effective Internal Affairs practices. The guide suggests that the traditional hands-off approach to police ethics and Internal Affairs by governing body leaders is antithetical to addressing community trust issues successfully. The IACP and the COPS Office recommend that law enforcement leaders engage their governing bodies in the entire trust-building process—seeking their financial and programmatic support in recruitment, training, Internal Affairs, and other trust-building initiatives.

These guidelines for developing a strong Internal Affairs capacity come from experts in the field and represent national promising practices. Most important, law enforcement leaders must view Internal Affairs as part of a continuum of trust-building and not an isolated component of their agency. Once this is accomplished, the potential for community trust-building increases exponentially.

Introduction

Law enforcement executives are constantly striving to preserve a positive, ethical image of their departments to the public they are sworn to serve and protect. A community's perception of its local police department, however, is influenced by many variables.

Every day, tens of thousands of law enforcement personnel throughout the United States perform honorable and conscientious police work, but irreparable damage may be done to the entire profession from even one remote story of police misconduct or corruption. How each community perceives law enforcement depends on each police department. How the department interacts with its citizens, how accessible it is to the community, and how it manages Internal Affairs issues are integral to the profession overall. It is for these reasons that building and maintaining community trust is the hallmark of effective policing.

Building and Sustaining Trust Can Be Difficult

Two patrol officers from a neighboring jurisdiction are alleged to have received free groceries from a local supermarket chain for the past 2 years. The local news stations and the front page of the regional newspaper focused on the story for 3 days. Two weeks later, a lieutenant in a big city police department 2,000 miles away is accused of receiving tens of thousands of dollars in exchange for his assistance in a major drug enterprise. Both the local and national media report the story, adding that police departments across the country are undergoing similar types of corruption. As the police chief that has not had such ethical and behavioral challenges in the past, how should you address these issues of misconduct?

Law enforcement officers have accepted a position of visible authority within their communities and are held to a tremendously high standard of honesty, integrity, equity, and professionalism. Public trust in law enforcement may be fleeting if police executives do not continually reinforce sound, ethical policies and procedures to agency personnel and to the public. Law enforcement executives, therefore, bear the responsibility for demonstrating proper behavior, informing the community about their department's role in maintaining honor and integrity within the organization, and building and sustaining a trusting working relationship between the public and the police.

Establishing Internal Affairs policies and procedures within an agency is not just important, but essential. If misconduct occurs, the agency should already have measures in place to investigate and address such behavior. Internal Affairs investigations, however, should be but one component of a systemic approach to ethical conduct. If law enforcement executives hire the appropriate staff, deliver ethics training, establish an early intervention system, and properly supervise staff, all of which build trust within their communities, the Internal Affairs process may be necessary only in rare instances.

This guide is for law enforcement executives who strive to do the following:

- Prevent misconduct within their departments
- Properly address misconduct, should it occur
- Build and maintain community trust and confidence
- Create and maintain an ethical work environment
- Develop and sustain trust between their organizations and the communities that they serve.

While many existing publications address the Internal Affairs process, law enforcement integrity, and police/community relations, a hands-on guide to building community trust and ethical policing has not been available. The Office of Community Oriented Policing Services (the COPS Office), U.S. Department of Justice and the International Association of Chiefs of Police (IACP) partnered to create *Building Trust Between the Police and the Citizens They Serve: An Internal Affairs Promising Practices Guide for Local Law Enforcement.* This guide standardizes the practices and procedures for how law enforcement executives address ethical or misconduct problems within their departments. Several tools and resources, including a glossary of relevant terms, are included to help make the information as accessible as possible. The guide is the result of a thorough and detailed assessment of strategies that will best serve law enforcement in its quest for ethical and honest policing.

Whether you are the chief of an agency of 2, 200, or 2,000, this guide should act as an outline of how to organize and operate the Internal Affairs function in your department and build and maintain community trust.

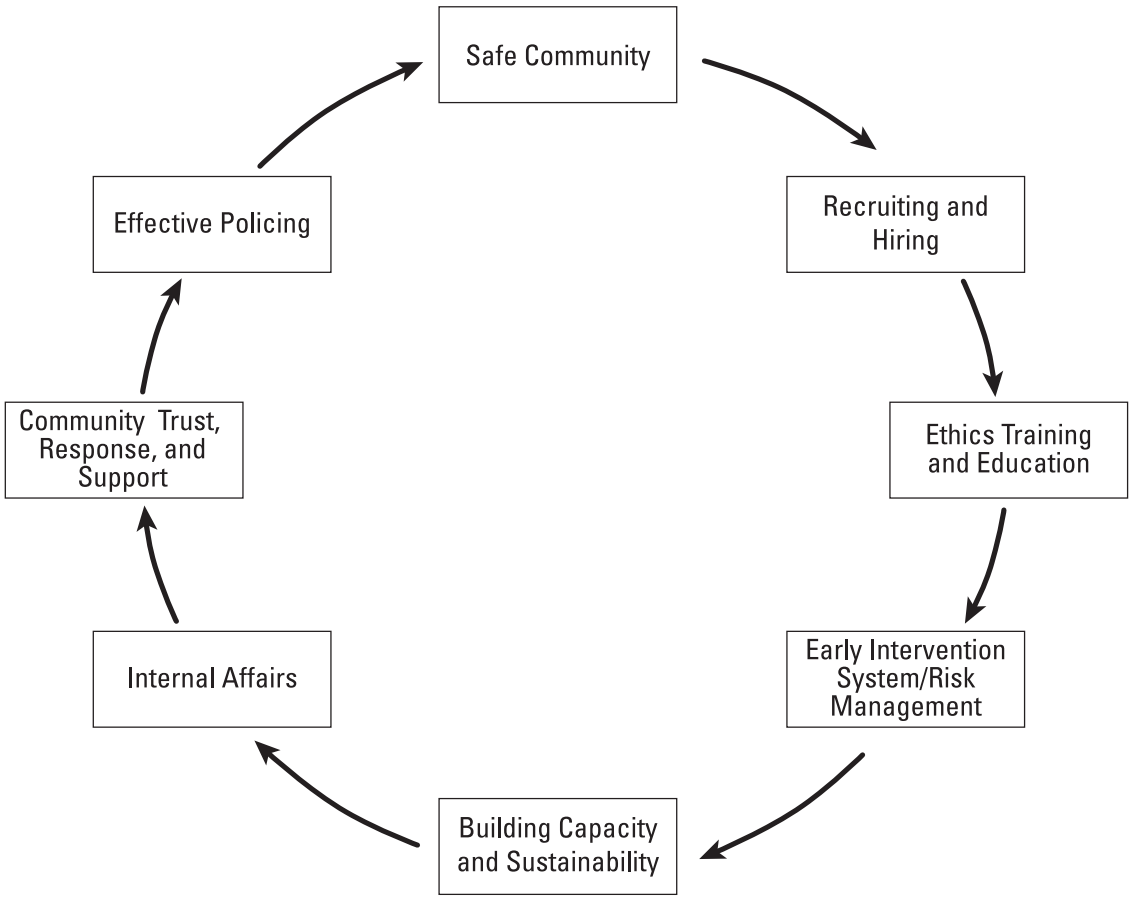
Community Trust and Police Integrity

Community trust is an established and highly honored relationship between an agency and the citizens it has been entrusted to serve. It is the key to effective policing, and law enforcement executives bear the primary responsibility for their departments' honesty, integrity, legitimacy, and competence (*Police Integrity,* 1997). To build community trust, it is incumbent on the chiefs of police and managing supervisors to foster an environment within their departments in which ethical behavior is expected and each individual is responsible for meeting those expectations (*Police Accountability and Citizen Review,* 2002). Police chiefs who are transparent (i.e., clear, concise, and open about their department's Internal Affairs process) with their constituencies, acknowledge misconduct, appropriately deal with misconduct when it occurs, and include the public in the response to misconduct will not only obtain, but also sustain, the respect and confidence of the citizens in their jurisdictions.

Police departments must adhere to the principles of integrity and professionalism as cornerstones of community trust-building. Because officers occupy a position of trust and confidence in their communities and are afforded awesome authority to carry out their duties, any excessive use of that authority, abuse of power, or failure to fulfill their duties can erode public trust and reduce or destroy their credibility within the communities they serve. Every member of a police department must understand that he or she represents the entire agency, that personal conduct is his or her own responsibility, and that he or she will be held accountable for all conduct, whether positive or negative.

Transparent Internal Affairs processes, although critically important to any agency, are only one building block in maintaining community trust. A department's Internal Affairs practices should always be part of a larger culture of integrity and ethical conduct. If command staff properly supervise officers, the necessity to use the Internal Affairs function should be rare. Culture-changing policies, programs, and training are meaningful and effective not only in preventing misconduct and corruption in the department but also in demonstrating the agency's values and principles. Moreover, the police executive must ensure that the agency's core "values and principles are expressed, communicated, and reinforced throughout all aspects of the department's operations, administration, and service" (*Police Integrity,* 1997, 47). This can be achieved by adopting a clear, precise mission statement that directs the actions of the department. Departmental policies and procedures must support the agency's mission, and must be written, clearly defined, and enforced. These ethical standards and guiding principles should be set forth in a manual for all personnel and should not only define acceptable standards of conduct, but identify conduct that is unacceptable. These values and principles must be understood and embraced by all executives, supervisors, officers, and civilian employees within the department (*Police Integrity,* 1997).

Figure 1: Internal Affairs in the Context of Community Trust-Building



Creating a culture of integrity within a department is crucial to building and sustaining community trust, effective policing, and safe communities. A clearly defined standard that guides all actions of every member of a department lays the groundwork for a trusting relationship with the community. The chief must model the values and behaviors inherent in a culture of integrity, both internally (through hiring, training, and evaluation) and externally (through community outreach and dialog), as demonstrated in Figure 1.

Internal Strategies for Building Community Trust

Community trust must be built on the foundation of a strong police culture that values integrity and holds individuals accountable for their behavior and actions. This culture must be modeled by the administration and reinforced by supervisors to be effective. Several components must work together to establish and reinforce that organizational culture. When all elements are in place for a culture of integrity, a department can be more transparent with its community, and this will help to build a trusting relationship between the two.

Office of Professional Standards

To establish and maintain an ethical, accountable culture within a police department that reflects the core values and guiding principles of the organization, it is critical for the Internal Affairs function to be distinct, yet aligned with, and supported by, the agency's chief executive. In smaller agencies, this may mean that the police chief alone reviews misconduct allegations and complaints. Regardless of staffing resources, the Internal Affairs function should be established in every agency as an Office of Professional Standards (OPS). It can be managed by one person or several, depending on agency personnel resources, but must be distinct because it is an essential unit ensuring behavior accountability to the agency leadership and the community. Midsize and large agencies may be able to establish and maintain an OPS with dedicated and trained staff who are responsible for building and maintaining a culture of integrity at all levels of the organization through coordination of training and mentoring and through managing Internal Affairs matters. To creatively address personnel allocation and budgetary challenges, smaller agencies should explore the possibility of partnering with other agencies to create a regional OPS that reviews and maintains multiagency ethical standards through an Internal Affairs function. This practice could enhance the professional development of involved staff while sustaining a robust and consistent expectation of professional behavior and ethical conduct within all participating agencies.

Recruiting and Hiring

It is imperative to recruit and hire individuals who have a service orientation and the character necessary to uphold high standards of integrity, as well as the ability to withstand the temptation to deviate from these standards (*Police Integrity,* 1997). The selection process first must screen out candidates who are not right for the profession, and then it must screen in those who exhibit the most favorable characteristics for the profession and who fit the needs and culture of the local department (*Police Integrity,* 1997). It is important for agency leadership to determine the core competencies that they want their officers to possess, such as compassion and service orientation.

Identifying people who will likely excel in a law enforcement career can be accomplished through a combination of medical and psychiatric testing, personal interviews, and background investigations (Delattre, 2006). Researchers have identified five personality characteristics that enable a police officer to perform well: extrovert, emotional stability, agreeable, conscientious, and open to experience. Other variables, such as fitting into an agency's organizational culture and situational factors such as willingness to work in a high-crime area, are equally important when selecting and hiring potential officers (Hughes and Andre, 2007). If a candidate possesses all five personality traits but will not be able to handle the stress of the job, he or she is not a good fit for this type of position.

It is important to have a comprehensive recruiting plan in place, not only to enable an agency to recruit from traditional sources, such as the military, but from other sources such as local colleges and universities. The recruiting plan should also include nontraditional methods of reaching recruits through local news and print media; having officers attend and speak at church activities, school career days, and athletic events; and involving officers in youth programs at the local YMCA/YWCA, police athletic leagues, and the Boy/Girl Scouts[1] (Delattre, 2006). An example of a comprehensive recruitment plan, courtesy of the Pennsylvania State Police, is in Appendix A.

One way to recruit competent, ethical, and service-oriented police personnel is through the Discover Policing web site. The Discover Policing web site is the cornerstone of a broad recruitment initiative sponsored by the IACP and the Bureau of Justice Assistance and aimed at enhancing the image of policing. Discover Policing markets the benefits of careers in law enforcement to a broad and diverse audience, from new applicants to those seeking a career change. This resource allows job seekers to look up contact information for nearby agencies and access links to state-specific resources and also provides hiring agencies and prospective applicants with a platform to connect online. Also, hiring agencies can advertise their vacancies at no cost, and candidates are able to post their resumes. For more information, visit www.discoverpolicing.org.

Some new hires will come to an agency from another law enforcement department. While it may seem advantageous to hire an officer with field experience, agencies should obtain a thorough reference from the officer's previous employer. An experienced officer seeking to move to a new department may have left his or her previous agency prior to being disciplined or terminated because of misconduct. Unfortunately, departments will often provide a neutral reference for officers with whom they experienced behavioral problems or would have disciplined or terminated had he or she not agreed to resign. This enables problem officers to move from one agency to another without facing the consequences of their inappropriate or poor behavior. The situation could be avoided if police departments required all new officers to sign an agreement stating that the agency has permission to obtain a copy of the prospective employee's complete employment files from all prior jobs.

Training and Education

The chief of police must establish, model, and support a culture that "promotes openness, ensures internal and external fairness, promotes and rewards ethical behavior, and establishes a foundation that calls for mandating the highest quality service to the public" (*Police Integrity,* 1997, 48). By doing so, the chief will reinforce desirable behavior throughout the department, consistent with core values and guiding principles. This effort by the chief is sustained through initial and ongoing training and education at all levels of the organization. Police leaders across the United States have indicated that, in addition to police skills training, it is important to include moral and ethical decision making throughout an officer's career (*Police Integrity,* 1997).

1. For additional ways to recruit and hire officers, see *Protecting Civil Rights: A Leadership Guide for State, Local, and Tribal Law Enforcement* or visit www.discoverpolicing.org.

Training in ethics, integrity, and discretion should begin in the police academy and continue on a regular basis until the officer retires. Continued ethics training should include "exercises for the formation and maintenance of good habits and character, as well as exercises in value choices, ethical dilemmas, and discretion in police work" (Delattre, 2006, 52). Moreover, ethical considerations should be woven into every aspect of training, policies and procedures, and the department's mission. From the most junior recruit to the chief of police, all employees should receive such education and strive to uphold these high ethical standards. The IACP's Code of Ethics can be used in every law enforcement agency to reinforce this standard (*Standards of Conduct*, 1997). Administrative and supervisory training is essential, particularly for new supervisors who are responsible for personnel evaluations.

As an adjunct to academy training, the IACP and other police associations provide in-service officer and supervisory training. Local police departments should commit to ongoing training on ethics, supervision, and other related topics from regional police chiefs organizations, state associations of chiefs of police, the National Internal Affairs Investigators Association, and other related organizations. Admittedly, follow-through on such a commitment is based on the agency's training budget, so it is incumbent on police leaders to educate city officials regarding the essential nature of ongoing police training. The COPS Office and other Department of Justice agencies provide free training videos, CDs, and other resources that can augment any training effort. Local colleges and universities are excellent resources for police training because many now offer criminal justice programs. Larger police agencies are often willing to provide seats in their training sessions at little or no cost to help augment a smaller agency's personnel training. All avenues should be considered as chief executives commit to ongoing training for themselves and their officers.

Evaluations and Early Intervention Systems

Consistent, periodic employee reviews and follow-up will address problem behavior and reduce the need for a law enforcement agency to investigate misconduct or corruption through Internal Affairs. Evaluations enable supervisors to meet with an employee, discuss his or her performance, and formally record strengths, weaknesses, and expectations. Evaluations provide supervisors with an opportunity to encourage and praise desired behavior and to notify employees when unacceptable behavior has been reported. Early in the process of recognizing inappropriate attitude or behavior, the supervisor must communicate his or her concern with the officer, offer assistance, and explain that the agency will expect positive change from the officer (Kelly, 2003). The emphasis is to identify a problematic behavior or attitude and help the officer correct it as soon as possible. It also is important to let the officer know that positive contributions to the organization and community are valued and that such behavior can be acknowledged and that negative behavior can be addressed. In the case of

poor performance, the supervisor can develop a Performance Improvement Plan,[2] identify the specific areas of concern, and use the plan to address and overcome the noted deficiencies (Noble and Alpert, 2009). The plan should be used as positive reinforcement, helping the employee rectify and prevent unacceptable behavior. Supervisors must conduct follow-up between evaluation meetings to ensure that the officer's performance and accountability continue to improve.

Most often used within the context of Internal Affairs, Early Intervention Systems (EIS)[3] and Risk Management Systems are effective in identifying, addressing, and preventing problem behavior before it escalates to a matter for Internal Affairs. EIS, which come in many forms, are a series of interrelated personnel management processes that help supervisors identify, assess, and evaluate employees' performance for the purpose of addressing potential concerns in a timely manner. Part of a larger effort to raise the level of accountability in a police department, an EIS is a valuable way to collect and analyze data on an officer's performance, ensuring integrity at all levels of the agency (Hughes and Andre, 2007). An EIS, however, not only reveals unacceptable performance, it should also identify exemplary performance. While an EIS helps an officer in a nonpunitive way (e.g., referral to counseling or training), it also should reward outstanding behavior through awards or promotions.

Most EIS use computer systems or databases to track employee records and are housed as a separate entity from the disciplinary system, usually within Internal Affairs units (Walker, Milligan, et al., 2006). The EIS records are intended to track employee behaviors and interventions by supervisors, should that become necessary. As data-driven mechanisms of accountability, these programs rely on a broad array of performance indicators, including use-of-force incidents, citizen complaints, department and community commendations and awards, court appearances, and arrest reports. Supervisors must be adequately prepared to review the data and, as with traditional performance evaluations, conduct appropriate interventions and follow-up with the employee (Walker, 2003). Through an EIS, many behavior problems could be reduced significantly, resulting in a decrease in the caseload of the Internal Affairs unit.

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2. A sample Performance Improvement Plan, as well as a sample policy and procedure for a Performance Improvement Program, is in Appendix B.

3. Many agencies use the term Early Warning System (EWS) interchangeably with EIS. While this is accurate, EIS connotes a positive, nondisciplinary approach to assisting an officer, rather than a negative warning to an officer that his or her behavior is being monitored. EIS treat officers with problems, not problem officers (Walker, Milligan, et al., 2006).

External Strategies for Building Community Trust

Ongoing community partnerships and dialog help department leaders gauge the communities' perception of the police department and help foster trust between the community and the police. When a chief maintains a continuous dialog with the members of his or her community regarding their perception of how the agency is adhering to established standards, both the police and community leaders gain a better understanding of the community perception and can act to have a positive impact on that perception. Many strategies exist for engaging in effective community outreach with the goal of enhanced community trust, for example, circulating community safety surveys that accurately measure community perception and needs. Such an effort requires a commitment by the police leader to engage the community and respond to its needs.

Community Oriented Policing

A valuable and effective way for a department to engage its community is by practicing community oriented policing. Organizational transformation, problem-solving, and community partnerships comprise the concept known as community oriented policing (Fisher-Stewart, 2007). In existence for more than 30 years, community oriented policing is a policing philosophy that promotes and supports organizational strategies to address the causes, and reduce the fear of, crime and social disorder through problem-solving tactics and community/police partnerships. There is no single set of rules or a specific checklist for what constitutes a community oriented policing program; rather, the philosophy requires citizens and police to collaborate to proactively increase public safety within the community (Fisher-Stewart, 2007). Each community policing program is as unique as the community in which it is practiced; however, law enforcement agencies have cited five consistent key elements of an effective community oriented policing program (*Protecting Civil Rights,* 2006):

1. Adopting community service as the overarching philosophy of the organization.
2. Making an institutional commitment to community policing that is internalized throughout the command structure.
3. Emphasizing geographically decentralized models of policing that stress services tailored to the needs of individual communities rather than a one-size-fits-all approach for the entire jurisdiction.
4. Empowering citizens to act in partnership with the police on issues of crime and more broadly defined social problems, for example, quality-of-life issues.
5. Using problem-oriented or problem-solving approaches involving police personnel working with community members.

In addition to the five key elements, it is imperative that the chief of police demonstrates his or her commitment to the philosophy and incorporates it into the department's overall mission and way of doing business. Research shows that community oriented policing has greatly improved the public's perception of police. Community oriented policing strategies can establish frequent contact and build more meaningful relationships with the community by fostering dialog between the police and residents and enhancing community trust. Some examples of successful strategies include the following:

- Convene monthly meetings with community members
- Increase bicycle and foot patrols on community streets
- Engage specific sectors of the community, such as schools, minority communities (particularly those who previously have felt disenfranchised), and faith-based organizations
- Establish programs that solicit involvement from residents, such as Neighborhood Watch and Night Out Programs.

Citizen Police Academies

Another way for law enforcement to foster community trust is through citizen police academies. Citizen police academies enable residents to learn about their local law enforcement agency's culture and core values and the overall operations of a department. Citizen police academies provide citizens with a first-hand look at the mission, policies, and regulations to which officers must adhere, and allow them to better understand the job of being a police officer, including the stresses of the occupation (see National Citizens Police Academy Association, www.nationalcpaa.org). Graduates of citizen police academies often become advocates and ambassadors of police policy and practices to fellow citizens. This is an effective way to enhance the relationship between the public and law enforcement.

The Media

Proactively engaging the local media can be an effective way to influence community perception of a police department. Whether a department has a specifically designated public information officer, the agency always has a spokesperson who should use his or her media contacts to conduct a broad, proactive outreach strategy, disseminating information about successful programs within the department. Building rapport with the media will also provide the department with more opportunities to highlight positive stories in the future. By publicizing a community oriented policing or citizen police academy program through the news and print media, a police department can further convey its mission and core values to the public (Chermak and Weiss, 2003).

Implementing Community Trust-Building Activities

Internal Strategies

- Institute culture-changing policies, programs, and training to solidify the department's core values and ethical principles. Consider developing an Office of Professional Standards to manage these activities.
- Develop a comprehensive recruiting plan; recruit and hire people with a service orientation.
- Provide continuous training in ethics, integrity, and discretion to every officer from the time he or she enters the police academy through the time of retirement.
- Conduct consistent evaluations and review of all employees, and immediately address negative behavior and reward positive behavior.
- Use some form of Early Intervention System, not only in Internal Affairs, but to prevent behavior that may lead to an Internal Affairs complaint and investigation.

External Strategies

- Institute some form of community oriented policing program to better engage the community.
- Develop a citizen's police academy.
- Use the media to publicize positive programs and stories about the department.
- Hold workshops on subjects of interest to the community.
- Conduct a community survey to gauge and enhance public perception.
- Proactively involve the public.

Seminars, Publications, and Surveys

Many law enforcement agencies across the country have used innovative ways to reach out to their communities. Some agencies have held 1-day workshops and seminars on subjects such as community oriented policing and proper use of force. Some agencies have canvassed neighborhoods, handing out pamphlets and brochures about the department's programs or local crime statistics. Others have posted billboards with hot line and other important numbers at the police department, while others have posted pertinent information on their web sites or in their annual reports (Chermak and Weiss, 2003). Additionally, many agencies conduct community surveys every few years. A community survey can serve two purposes: 1) it can gather information about the public perception of the agency and 2) it promotes the understanding that the police department is interested in the community, seeks out and listens to community opinions and needs, and is responsive to the community. Sample community surveys are in Appendix C.

Citizen Involvement

Often implemented as a result of a local crisis, such as police misconduct, and usually associated exclusively with the Internal Affairs process in the form of a citizen review board, citizen involvement can be used as a tool that fosters continuous dialog between residents and the police department. By formally engaging community leaders in appropriate internal decision-making (e.g., where to implement Neighborhood Watch programs or whether it is necessary to start a Senior Citizen Alert program), residents will feel that they have a stake in programs that the police may implement, that the police are transparent in their motivations, and that they are assisting the police in improving public safety. If citizen involvement is used only in response to misconduct or corruption, citizens are likely to feel isolated and wary of law enforcement. If they feel included through collaboration, though, they will gain a broader appreciation of police work and gain insight into, and consequently trust of, law enforcement (Delattre, 2006).

Trust is built when citizens feel that the police department listens and appropriately responds to their valid concerns and opinions. Confidential information should not be shared with citizens; however, involving them in even the smallest facet of the organization goes a long way toward instilling a sense of community trust.

Internal Affairs as an Effective Tool for Building Trust

Community outreach and collaboration, as detailed in the previous section, are valuable tools in developing community trust. Internal Affairs, however, also plays an important role in the relationship between the public and the police. Internal Affairs is a function within a law enforcement agency that investigates allegations of misconduct, corruption, inappropriate adherence to policies and procedures and to behavior, and matters so assigned by superior officers to ensure the professional integrity of the department and its members. Internal Affairs should be part of the OPS in midsized and larger agencies and should have an integral role in smaller agencies.

"The vast majority of law enforcement officers are honest, loyal, and hardworking professionals" (*Investigation of Employee Misconduct*, 2007, 1); nevertheless, a small number of officers become susceptible to misconduct, and when this occurs, community trust in police is eroded. Whether the misconduct is administrative or criminal in nature, the police department must be "able to effectively identify, investigate, discipline, and control their officers to uphold the high standards of integrity central to the policing mission" (Noble and Alpert, 2009, 2). That is when the Internal Affairs process is a necessary tool, not only to address an officer's misconduct, but to regain and maintain the trust of the public.

Effective Internal Affairs processes ensure that complaints about an officer are heard and dealt with effectively within the department, and that an officer is protected against false or malicious accusations through fair, thorough, accurate, and impartial investigations (Noble and Alpert, 2009). A strong Internal Affairs function should both improve morale within an agency and increase trust within the community.

The chief of police and all supervisory staff must be steadfast in their commitment to the Internal Affairs process. The procedures for accepting and investigating both internal and external complaints against an officer must be fair, consistent, and timely (*Investigation of Employee Misconduct*, 2001). The department should have written policies and procedures in place about the administration and investigation of Internal Affairs issues and the chief of police must ensure that all Internal Affairs rules and procedures are strictly enforced. A standard for Internal Affairs is in Chapter 52 of *Standards for Law Enforcement Agencies: A Management Improvement Model through Accreditation* (2006), a publication of the Commission on Accreditation for Law Enforcement Agencies (CALEA). The guidance from that chapter ranges from to whom the Internal Affairs position or division reports to reporting findings at the conclusion of an investigation. Additional information about Chapter 52 is in Appendix E.

There is no one-size-fits-all approach to Internal Affairs. The key is to ensure accountability in the agency. The methods for achieving this vary by the size of the department, the existing risk management tools in use, the type of misconduct, and the unique characteristics of the community (Noble and Alpert, 2009). Whether a department has a stand-alone Internal Affairs division, a designated supervisory officer, an external oversight agency, or any combination of the three, there are several guiding principles that any department should follow.

The Structure of Internal Affairs

If internal investigations are conducted in house, the physical location of the Internal Affairs function and related documents is of critical importance. It should always be housed in a private, secure area. "The best location for Internal Affairs would be a facility completely separate from the police facility. Complainants, witnesses, and subject officers could appear for interviews and interrogations without their appearances known by the entire department" (Noble and Alpert, 2009, 13). In reality, however, this is feasible only in larger agencies. Many law enforcement executives demonstrate the importance and seriousness of the Internal Affairs function by symbolically placing the unit or person near the executive staff offices (Noble and Alpert, 2009). Similarly, the chief of police (or his or her designee) should directly oversee Internal Affairs matters, further ensuring confidentiality of records and the integrity of the process (*Investigation of Employee Misconduct*, 2007).

Selecting the right person or persons to serve as Internal Affairs staff is crucial. The chief of police must select officers who want to be a part of the Internal Affairs function; an officer should never be forced into this position. The investigator must be well-respected in the department, by union officials (if applicable), and in the community; have good interpersonal skills; have significant patrol and supervisory experience; and be fair, objective, and honest. Whoever is selected to serve in Internal Affairs must possess highly advanced investigation skills similar to those used in conducting criminal investigations. Even the most skilled investigator should receive additional and continuous training, not only on the subject of investigations but also in the areas of state employment law, the applicable collective bargaining agreement, and related topics (*Investigation of Employee Misconduct,* 2007). The chief of police must send a clear message about the importance of Internal Affairs by having those personnel report directly to the chief. Moreover, the top executive should reward fair and thorough internal investigators with promotions, commendations, conference attendance, and public recognition of the good work of the officer(s).

By sheer necessity, the chief of police in a smaller agency may be responsible for conducting all Internal Affairs investigations and determining the appropriate dispositions. The executive must determine whether he or she can continue to administer the agency while fairly and thoroughly investigating individual cases. Chiefs should be cautious of creating the perception of impropriety because he or she will be forced to both investigate the allegation and rule on its outcome.

An alternative way for an agency to handle complaint allegations is for the chief of police to ask the subject officer's immediate supervisor to investigate the issue and recommend an outcome to the executive, who will ultimately make the final determination. Usually, the employee's supervisor will conduct investigations into complaints of rudeness, minor neglect of duty, failure to appear in court, failure to follow proper procedure, and other less-serious accusations (Noble and Alpert, 2009). For this method to be effective, however, extensive training for supervisors is required.

Last, when a complaint allegation involves the chief executive or a member of his or her executive staff or when there are not enough resources to conduct an internal investigation, an agency can use an external investigator or investigative agency to handle the complaint. The external investigator can be another law enforcement agency, like the state police or the prosecutor's office, or a contract investigator. Some smaller agencies have formed regional Internal Affairs consortiums, while others have established state investigatory associations. Both models allow law enforcement organizations to conduct another agency's Internal Affairs investigations, providing more support and structure throughout the process. These models also reassure the community of fairness and impartiality.

If a department chooses to use an outside investigator or agency to conduct the investigation, that person or agency must be independent, unbiased, and knowledgeable in the areas of law enforcement and employment law. Additionally, the department and the external investigator should enter into a memorandum of understanding (MOU) that sets forth the parameters of the investigation (e.g., timeline, to whom the investigator reports, and the limits on his or her authority with respect to agency staff/witnesses). The MOU should make it clear that the investigator maintain the utmost confidentiality in the matter and adhere to all applicable laws and collective bargaining agreements. The law enforcement executive should always retain his or her right to release information to the public and should never assign that authority to anyone else. Finally, the external agency should provide frequent progress reports to the chief of police. These reports should not reveal details of the investigation but rather details about the progress of the investigation; for example, which witness the investigator interviewed or when the investigator reviewed a security tape of the alleged incident (Noble and Alpert, 2009). For more information about what to include in an MOU, review the sample MOU in Appendix D.

Regardless of which investigatory method is used, a high level of quality control is essential to any fair and thorough investigation. Some basic steps to ensure quality control are set forth in the following section.

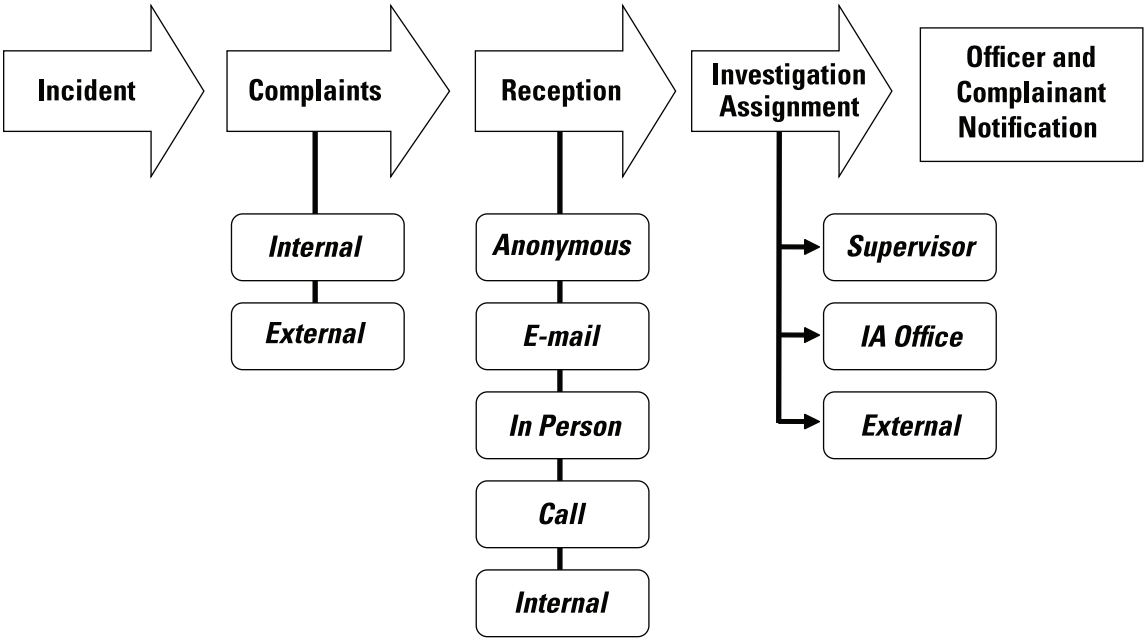
The Complaint Process

> "The complaint process should not discourage, dishearten, or intimidate complainants, or give them cause for fear"
>
> (*Internal Affairs Guidelines,* 2008, 10)

A complaint is an expression of displeasure with the actions or services of an agency and/or its employer, or an allegation of wrongdoing. Receipt of a complaint will initiate the Internal Affairs process, so a procedure for complaints must be established. A general model of the complaint process is detailed in Figure 2 and in the text that follows.

It is imperative to not only have procedures in place for fairly and impartially accepting, processing, and investigating complaints concerning allegations of employee misconduct but also to inform all police employees and the public of that process (*Investigation of Employee Misconduct,* 2007). "An accessible, fair, and transparent complaint process is the hallmark of police responsiveness to the community" (*Protecting Civil Rights,* 2006, 81). It is incumbent on the police department to make its citizens aware that a complaint process exists, how to file a complaint, and how the agency processes and investigates complaints.

Figure 2: The Complaint Process



Principles of an Effective Complaint Process

An effective complaint process contains the following four underlying principles (*Protecting Civil Rights,* 2006):

Comprehensive

A department must investigate all misconduct complaints, regardless of the source (*Investigation of Employee Misconduct,* 2007). CALEA Accreditation Standard No. 52.1.1 states that a written directive must require that "all complaints against the agency or its employees be investigated, including anonymous complaints." A standard practice of accepting any and all complaints is the best way to ensure that any method of complaint is accepted (Thurnauer, 2002). Complaints should be accepted in all forms, including in person, in writing, by e-mail and web pages, or by telephone. Some agencies have even established 24-hour complaint hot lines (Noble and Alpert, 2009).

Accessible

Employees and civilians alike should be made aware, through proactive outreach programs, of their right to file a complaint. CALEA Accreditation Standard No. 52.1.4 states that information on registering complaints must be made available through the media and community outreach. Many agencies use brochures (in multiple languages, where applicable), their web sites, and community meetings to let the public know that the process exists.

Fair and Thorough

Departments should afford each complaint "a thorough, rigorous, unbiased, and timely investigation" (*Protecting Civil Rights,* 2006, 89). There should be a standard of fundamental fairness in the investigation of a complaint. All subject officers should be treated equally and be afforded comprehensive investigations into any claims of misconduct.

Transparent

There should be a formal process for all employees to be able to accept complaints at any of the police department's facilities, including substations, satellite offices, and oversight agencies (Noble and Alpert, 2009). All department staff must fully understand the Internal Affairs process and the department should make every effort to inform their constituents about the process. All employees should be trained on what to do when a complainant files a complaint, and the department should have a formal way to keep the complainant apprised of the progress of the complaint (*Protecting Civil Rights,* 2006).

Both the IACP and CALEA have adopted standards for written policies and procedures for internal and citizen complaints.[4] In addition to the IACP and CALEA standards, many agencies follow similar state certification standards. Whatever standards a department follows, it is important to note that before any type of complaint process is implemented, state and local laws and any collective bargaining agreements that may be in effect must be examined to ensure proper adherence to legal and contract rights.

Once a complaint is received, it should be forwarded to the appropriate personnel (i.e., the Internal Affairs unit, staff member who is in charge of Internal Affairs, or immediate supervisor); recorded, preferably electronically; and kept in a separate, secure storage area, apart from other personnel records (CALEA, 2006, 52.1.2). As the complaint progresses through the process, it should be tracked, electronically when possible (Noble and Alpert, 2009). Unless a criminal investigation would prohibit it, the subject officer should be notified in writing of the complaint immediately.[5] The notification must contain the rights and responsibilities of the employee with respect to the investigation (CALEA, 2006, 52.2.5). If the state has a codified Officer's Bill of Rights, it should also be included with the notification. Additionally, the notification should include the nature of the allegations; a copy of the complaint, if available; and the name and rank of the officer or the name of the agency that will investigate the claim (Thurnauer, 2002). The entire process should embrace the notion of fundamental fairness. All employees who receive a complaint against them, regardless of rank or tenure, should be treated fairly and equitably.

It is essential to have a written directive that delineates which types of complaints will be investigated by the subject officer's supervisor and which will be referred to Internal Affairs (CALEA, 2006, 52.2.1). Usually, less-serious complaints are handled by the chain of command, while more serious allegations are reviewed by the Internal Affairs function. Even if Internal Affairs is involved, the employee's supervisor should be notified.

Examples of Complaint Categories

- Verbal abuse
- Physical abuse
- On-duty
- Off-duty
- Drug and alcohol
- Informal complaints
- Traffic citation complaints
- Shooting incidents
- Violation of policy/procedure
- Profiling
- Violation of policy/procedure.

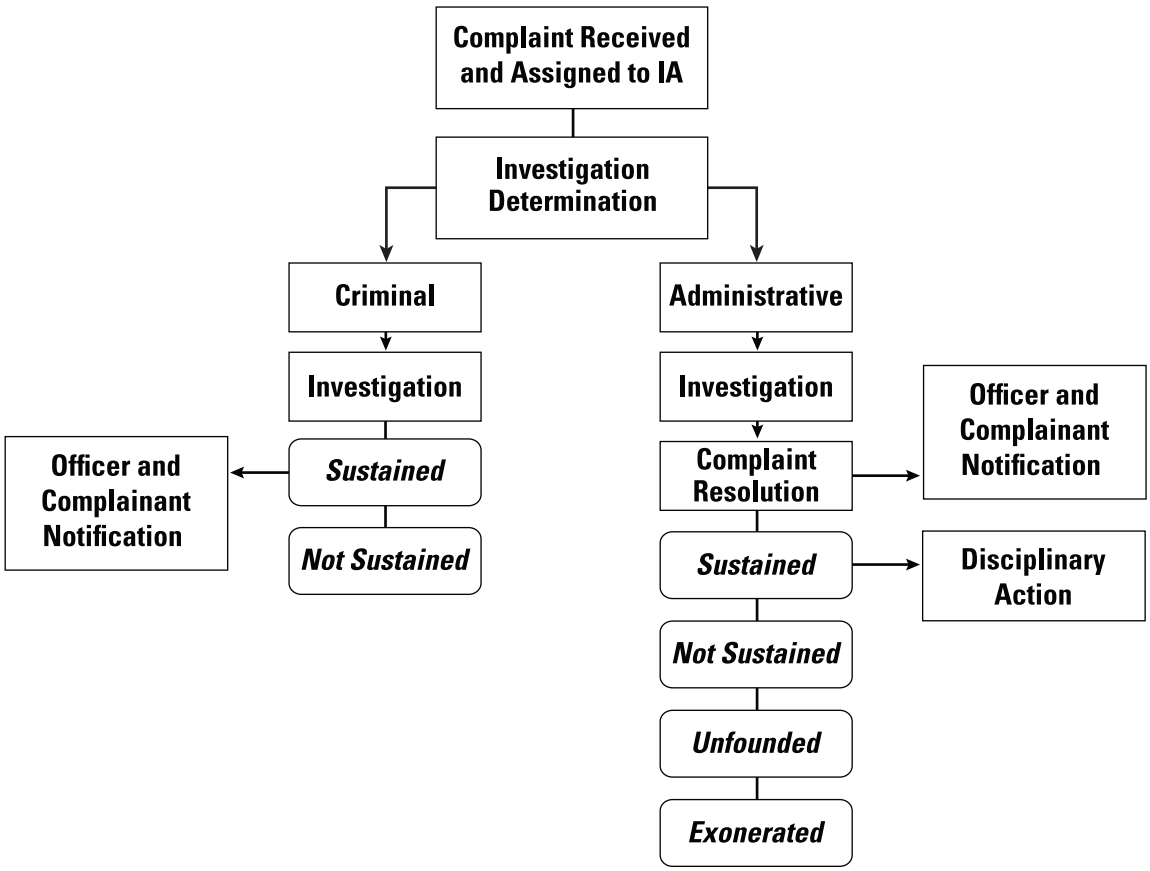
4. CALEA *Standards for Internal Affairs* is in Appendix E and the IACP *Model Policy* is in Appendix F.
5. A sample officer notification form is in Appendix G.

Once the investigator is assigned, the department sends a letter to the complainant acknowledging receipt of the complaint.[6] The letter should contain the name and contact information of the investigator and explain that the complainant will receive periodic status reports about the investigation and notice of the ultimate disposition within a reasonable time frame (CALEA,2006, 52.2.4). CALEA Accreditation Standard No. 52.2.3 dictates that a police department must have a written time frame for completing all Internal Affairs investigations. Having a time frame established enhances accountability for a timely response to both the complainant and the officer.

The Investigation

Once a complaint has been received and assigned to an investigator, the investigation process can commence. A general model of the investigation process is detailed in Figure 3 and in the text that follows.

Figure 3: The Investigation Process



6. This does not apply to complaints received anonymously.

Understanding Garrity

Every Internal Affairs investigator should understand the seminal United States Supreme Court case of *Garrity* v. *New Jersey*, 385 U.S. 493 (1967). *Garrity* held that in administrative proceedings, an employer may compel a statement from a public employee by threatening him or her with dismissal from the job, but the statement may not be used in subsequent criminal prosecutions. It is advisable, therefore, to provide *Garrity* warnings during an investigation. Similar to Miranda warnings, a *Garrity* warning advises the employee that failure to fully disclose information that is related to the office held may result in disciplinary action up to and including dismissal. This enables an administrative investigator to obtain complete information without being obligated to share it with the criminal investigator. To avoid any complications associated with *Garrity*, it is advisable that the criminal investigator's interview of the subject officer be conducted prior to that of the administrative investigator. Some agencies avoid this confusion by waiting until the criminal investigation is completed before beginning the administrative investigation (Noble and Alpert, 2009). Because of the various complications that may arise, it is advisable that every department create a protocol delineating how to proceed with an administrative complaint while waiting for a potential criminal case to arise (*Internal Affairs Guidelines,* 2008). If the chief feels that the complaint allegation or the situation is dire (e.g., lethal use of force), he or she must make a decision immediately about what action is warranted for the subject employee (e.g., unpaid leave or removal of his or her firearm), rather than waiting for the outcome of the criminal investigation. The chief must always remember that protecting the public is his or her first priority and that waiting for prosecutorial determinations is not practical in many situations.

At the beginning of the investigation, the investigator must determine if the complaint is valid and, if so, he or she must classify the complaint as either administrative or criminal in nature. If the investigating officer determines that the complaint is frivolous or specifies an action that is made in accordance with agency policy and procedure, the complaint should be dismissed (Noble and Alpert, 2009). If the investigating officer has reason to believe that the allegations are reasonable, he or she should classify the complaint as administrative or criminal and begin the investigation (Noble and Alpert, 2009).

If the complaint reveals both administrative and criminal behavior, the matter should be separated into two investigations, one administrative and one criminal, with a separate investigator assigned to each investigation (Thurnauer, 2002). Each type of investigation must follow the letter of the law as well as agency policy and procedure, while being careful not to compel statements from the subject officer that may be used against him or her in the criminal investigation (Noble and Alpert, 2009).

After the complaint has been categorized as either criminal or administrative and the subject officer has been notified, the investigator can begin a thorough, unbiased, and timely investigation into the allegation.[7] Information obtained from all sources, including mobile data terminals, witness interviews, photographs, and canvassing of the scene should be explored. Interviews should not take place in a group setting and should be conducted as close to the incident in question as possible (Noble and Alpert, 2009, 44). Absent restrictions dictated by law or union contract, the department should give the subject officer advance warning before an administration interview, allowing the officer to obtain legal (or union) representation, if he or she wishes (*Internal Affairs Guidelines*, 2008). The investigator must adhere to the investigatory timeline used by the agency. Many agencies have a policy that sets a 30-day time frame of completion from the date the complaint is received.[8] Particularly for smaller agencies, such a timeline may put undue strain on an internal investigator. All departments, therefore, should have a policy that allows an investigator to request additional time to complete the investigation. If the investigation cannot be completed within 30 days, the chief of police should grant an extension and immediately notify the subject officer and complainant of the extension.

Sample Report Outline for Internal Investigations

1. Predication.
2. General information, including evidence.
3. Complainant interview.
4. Victim interview, if not the complainant.
5. Witness interview(s).
6. Accused interview.
7. Polygraph results.
8. Findings.
9. Attachments (*Garrity*, copies of policies, diagrams, photos, etc.).

The entire investigation process should be transparent to the subject officer and the complainant, and they should be updated regularly on the progress of the investigation. If a collective bargaining agreement is in place, the investigator must adhere strictly to the procedures set forth in the agreement and a designated union representative should also receive periodic updates. It is crucial to note that an investigator should never be a witness in a case that he or she is investigating.

7. Even if the subject officer resigns prior to, or during, an investigation into his or her conduct, the law enforcement executive should consider investigating the complaint as if the officer was still employed, resources permitting (*Internal Affairs Guidelines,* 2008).

8. Information gathered from an IACP member survey indicates that the majority of respondents use a 30-day time frame. Additional information about the survey results and overall methodology is in Appendix I.

Once the investigation is complete, the investigator should analyze the issues, evidence, testimony, and materials; logically organize the presentation of facts; and write a comprehensive report. The report should include a summary of the complaint, identification of the subject officer, identification of all witnesses, the details of the allegations, the policies and procedures that were allegedly violated, and an extensive narrative about the substance and process of the investigation (Noble and Alpert, 2009). It is advisable to use a uniform report outline in a consistent manner, as shown in the sidebar, "Sample Report Outline for Internal Regulations"[9] on page 25.

The Disposition

The investigator must forward his or her report first to the subject officer's supervisor and then to the chief of police. Usually, the chief is responsible for determining the final disposition in the matter, but he or she can delegate this authority.[10] Findings should consist of at least the following four determinations:

1. Unfounded: the allegation was false or devoid of fact.
2. Exonerated: the act occurred but was lawful and within policy.
3. Not Sustained: the evidence was insufficient to either prove or disprove the allegation.
4. Sustained: the evidence was sufficient to prove the allegation. (*Investigation of Employee Misconduct,* 2001)

Once a finding is reached, the chief of police must notify the subject officer and the complainant (CALEA, 2006, 52.2.8). The employee should be advised of the findings and, if sustained, notified that he or she will be disciplined. In all cases, the subject officer should receive a complete copy of the investigative report (*Investigation of Employee Misconduct,* 2001). Similarly, the complainant should receive written notification of the final disposition of the complaint and, at a minimum, the name and contact information of the commanding officer who can answer any questions (Noble and Alpert, 2009).

9. Sample report outline for internal investigations is provided by the Douglasville (Georgia) Police Department.

10. The chief of police may delegate authority to four sources that can make a determination of finding on a complaint. They are: the head of, or a group within, the Internal Affairs unit; the subject officer's supervisor; an internal panel of police managers; or an oversight agency (*Managing Accountability Systems for Police Conduct: Internal Affairs and External Oversight,* 2009).

Addressing Problem Behavior

If a complaint against the subject employee is sustained, the chief of police must approve some form of corrective action to modify the employee's behavior and, in some cases, discipline the officer. Action taken against the employee should be consistent but flexible, recognizing that each situation has unique factors (Noble and Alpert, 2009). Before determining how to address the issue with the employee, both state and local laws and collective bargaining agreements that may be in effect should be examined to ensure compliance with legal and contract rights.

Police agencies around the United States address the issue of discipline from a variety of perspectives. In all cases, the goal of discipline is to assist employees who are not performing at established standards or who may not be in compliance with a rule or policy to make better future judgments. The disciplinary action should also help them internalize the policies and procedures of the agency that support its guiding principals and core values. All disciplinary action should be fair and consistent.

Some agencies use a traditional form of discipline in which discipline is a punitive system that increases in severity depending on the severity of the infraction, up to and including termination. Termination, though, should be used as a last resort when the officer fails to conform to departmental standards after various opportunities to correct the behavior or when the employee has been found to have committed serious misconduct or criminal acts (Noble and Alpert, 2009). CALEA Accreditation Standard No. 52.2.7 requires an agency to have a written directive establishing the circumstances in which an employee may be terminated. The underlying assumption of this progressive discipline model is that the more severe the punishment, the greater the deterrent.

In other models, discipline is addressed through training intended to help the employee develop greater self-control so that future judgment is more compliant with agency values and guiding principles. The emphasis in this disciplinary system (Discipline without Punishment), is on the employees taking personal responsibility for their actions by internalizing the agency policies and aligning themselves with its core values and guiding principles. It is the employees' responsibility to choose to make the right decision, or take the right action that is supported by their peers and agency leadership. It is not solely the responsibility of the leadership, in this case, to determine when an employee's behavior is inappropriate and administer punishment. When an employee willingly follows agency policy, meets or exceeds expectations, and practices good judgment, it is indicative of effective discipline and self-monitoring. There may be many ways to accomplish this goal and maintain positive relationships between the employee and supervisors through coaching, mentoring, and discipline.

Working with Unions

In jurisdictions where there are collective bargaining agreements with police unions, police chiefs must be fair but firm in their position on issues pertaining to ethical accountability, the Internal Affairs process, and discipline. The chief of police can concede in some areas, such as benefits or work schedules, but should not negotiate executive oversight in these important areas. If the premise of any negotiation begins with both sides wanting an ethical, fair, and unbiased work environment, the discussions should not be antagonistic.

Some agencies use a disciplinary matrix that provides the chief with a guide for determining disciplinary action. Other agencies use disciplinary guidelines to obtain flexibility in the disciplinary response for specific actions, while ensuring that the response remains consistent and not arbitrary (*Internal Affairs Guidelines,* 2008). Whatever type of guidance the department uses, the decision-maker should be allowed some disciplinary discretion (*Investigation of Employee Misconduct,* 2007).

Before the employee's supervisor imposes any recommended disciplinary action, the written document that notifies the employee of the investigation's outcome must also notify the officer of his or her right to formally respond to the finding (*Investigation of Employee Misconduct,* 2007). If the officer wants to respond, he or she may do so within the period set forth in the formal notification. Depending on the agency's policies, the officer may 1) request, either in writing or verbally, the chief or his or her designee for a predisciplinary hearing, or 2) merely respond, in writing, to the finding. In either case, the employee should be allowed to address the charges against him or her and request a reduction in any proposed disciplinary action (*Investigation of Employee Misconduct,* 2007). Once the top executive reviews the employee's response and makes a final ruling on the proposed discipline, the chief may order the supervisory officer to implement the disciplinary action. It is important to note that some union contracts require that, before any corrective action or termination takes place, the agency must demonstrate just cause in determining whether management acted reasonably in its decision to implement discipline or termination (Noble and Alpert, 2009).

Implementing an Effective and Transparent Internal Affairs Process

Structure

- Establish and maintain an Internal Affairs function in the agency.
- Draft written policies and procedures with respect to Internal Affairs, ensuring fair, unbiased, and timely investigations of officers.
- Select a private and secure location for the Internal Affairs function.
- Select the appropriate person or persons to perform the Internal Affairs function, and provide training for the position.
- Determine whether Internal Affairs investigations will be handled internally, externally, or a combination thereof.
- If an external investigator is used, enter into an MOU before turning over any authority to investigate.

Complaints

- Establish written policies and procedures for accepting, processing, and investigating complaints, ensuring fairness to the subject officers.
- Ensure that the public is aware of the complaint process.
- Determine whether the complaint is administrative or criminal in nature, and if both, separate it into two investigations.

Investigations

- Adhere to written timelines for investigations, which should be between 30 to 60 days from the date the complaint was filed.
- Upon completion of the investigation, the investigator must write a comprehensive report on the matter.
- Findings should consist of at least four, clear determinations (unfounded, exonerated, not sustained, and sustained).
- Notify the subject officer and complainant, in writing, of the outcome.
- Approve of corrective action, which should always be fair, consistent, and positive, if a complaint has been sustained.
- Allow the subject officer to respond to the finding before imposing corrective action.

Confidentiality

- Ensure that all documents and files are kept separately and securely, apart from other personnel files.
- Review state public records laws.

Internal Affairs Files and Confidentiality

Once an investigation is complete, all documents and files must be forwarded to the department's Internal Affairs unit, if applicable, or to the law enforcement executive who oversees Internal Affairs. These files should be kept completely separate from all other personnel files, and should always remain locked, accessible only to appropriately credentialed personnel and preferably, in the office of the chief of police. All files must remain confidential and should be retained for a period of time required by law or, if no law exists, for an appropriate length of time determined by the chief of police (*Investigation of Employee Misconduct,* 2007).

Finally, executives and investigators should operate on the assumption that all written interviews, statements, and reports may be reviewed by the public. All 50 states and the District of Columbia have public records laws. Some states have enacted multiple statutes, but generally, these laws enable members of the public to obtain documents and other public records from state and local governments. Although these laws are similar to the federal Freedom of Information Act (FOIA), there are important differences between and among the laws. At the very least, every chief must familiarize him or herself with the FOIAs within his or her state, thereby knowing what information is vulnerable to public inspection.

Accountability Through Internal Affairs

The Internal Affairs function must focus on a broad range of concerns, rather than merely adjudicating an individual case. Internal Affairs "must demonstrate a commitment to enhance public trust and assess whether deficiencies in departmental policies, procedures, or training may have contributed to the problematic behavior" (*Protecting Civil Rights,* 2006, 103). There are a variety of ways to establish individual and departmental accountability.

Citizen Review

Citizen involvement is one possible measure that would serve to reassure the community of the accountability of the department. Among the various forms of citizen review of police misconduct, the most common include the following:[11]

- **Citizen review board:** a panel of citizens handles every aspect of the citizen complaint continuum.
- **Police review/citizen oversight:** the police department handles every aspect of the complaint continuum, but citizens review those actions/determinations.
- **Police review/citizen-police appeal board:** the police department handles every aspect of the complaint continuum, but the complainant may appeal the outcome to a board comprised of officers and citizens.
- **Independent citizen auditor:** the police department handles every aspect of the complaint continuum, but a citizen serves as an auditor to review the process for effectiveness and accuracy, making recommendations to improve the process as necessary.

While some agencies may view citizen review as a sign of mistrust or interference from the community, generally "citizen review proposals are not negative in character but an outreach from the community to help departments respond objectively to different internal situations" (*Police Accountability,* 2000, 2). If an allegation of police misconduct occurs, the community may begin to lack faith in the Internal Affairs process. The public, then, often becomes uncomfortable with law enforcement policing itself and may want more involvement in the process (*Police Accountability,* 2000).

Citizen involvement may not be feasible, warranted, or necessary in all communities. It is important for a chief of police, in collaboration with government and community representatives, to take a position on citizen review after careful and detailed analysis of existing problems, costs, and political consequences and weigh alternative methods of reviewing internal matters in a way the fosters community trust.

11. See *Police Accountability and Citizen Review* for a detailed account of citizen review.

Complaint Tracking

A highly effective way to establish both individual and departmental accountability is by collecting, maintaining, and analyzing all complaint data (*Internal Affairs Guidelines,* 2008). CALEA Accreditation Standard No. 52.1.5 requires that agencies make annual statistical summaries of all records of law enforcement investigations available to the public and all departmental employees.

By tracking complaints, management can evaluate the types of offenses that are the most frequent subject of complaints and also identify patterns of behavior related to specific officers.[12] This form of tracking will help inform agency-wide training priorities as well as opportunities for individual intervention. Employee evaluations should use the EIS to identify an officer who may have repeated complaints lodged against him or her, and after analyzing the data, management can assist the employee in rectifying the problem behavior. This kind of tracking contributes to the internal structure that can increase citizen trust in the agency, and decreases the department's (and the city's) legal liability as a risk-management tool.

Implementing Accountability Measures

- Consider implementation of a citizen advisory function.
- Use data management systems to track complaints and assess the overall agency climate.
- Disseminate summary complaint and investigation outcomes to the public on a regular, consistent basis.

Additionally, by tracking the complaint process and analyzing the data from it, agencies can produce comprehensive, clear, and informative summary reports to disseminate to the public. In accordance with CALEA Accreditation Standard No. 52.1.5, these summary reports should be widely disseminated, "sending a message of transparency and accountability to the public" (*Protecting Civil Rights,* 2006, 104). Many agencies make this information available in their annual reports, in brochures, on their agency's web sites, and through public service announcements. The information from these reports should be used in conjunction with other indicators of citizen satisfaction to ensure the continued integrity of the police department. Routine assessments of the agency are a way to proactively ensure that the high standards of the organization are being implemented and that those standards reflect the needs and desires of the community.

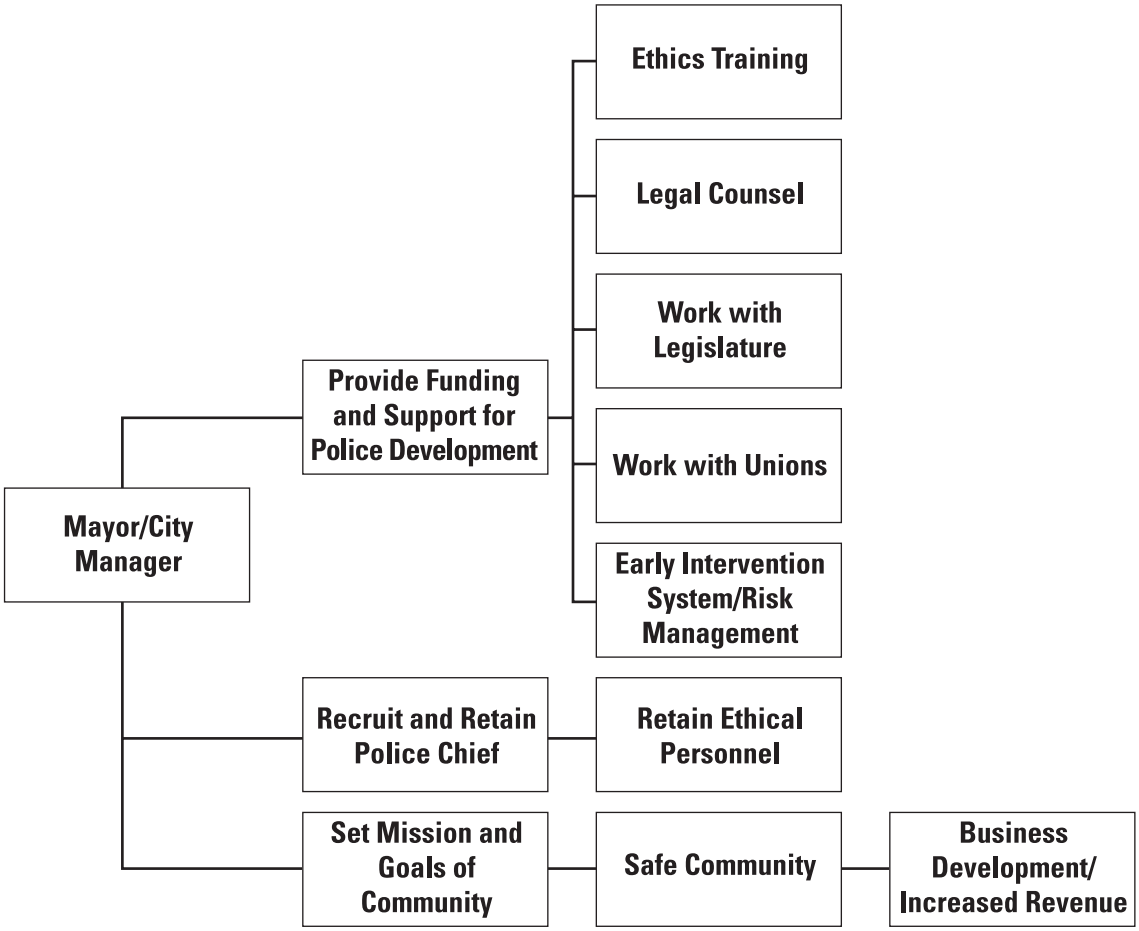
12. Various types of computer programs track this kind of information, such as IA Pro, CompStat, and PoliceStat.

The Local Government's Role in Building Community Trust

The police department is often one of the most visible public representations of a municipal government because of its frequent interaction with citizens in the community. The local government, therefore, also has a stake in building trust between the police department and the public. The vested interest of the mayor/city manager in promoting public safety and community trust is detailed in Figure 4.

The chief of police should not only see himself or herself as the leader of the law enforcement agency in the community, but as a part of the management team of the city government. All city leaders are beholden to the citizens they serve, and meeting the needs and expectations of those citizens should be the mission of any city. If the city operates successfully, business development will occur, bringing money into the community. These funds can be spent on structural improvements; services; and recruiting, retaining, and training city employees. Those investments lead to a cohesive and ethical workforce, a safe community, and enhance public trust in the community leadership.

Figure 4: The Mayor/City Manager's Relationship to the Process



Strategies for Engaging Municipal Government

- Develop and maintain a positive working relationship with city leaders.
- Meet regularly with the mayor or city manager to keep him or her involved in, and knowledgeable about, the department's ethics commitment and Internal Affairs process.
- Consult with a qualified attorney, preferably one supplied by the municipal government, throughout the complaint investigation process.

It is critical that the chief of police and city leaders develop and maintain a positive, effective working relationship. The mayor/city manager, city council, and chief of police must collaborate to ensure ethical standards and accountability in the police department. Presumably, the city government selected the police chief because of the officer's high ethical and moral standards and hopes the chief will enforce and maintain those standards throughout the department. The mayor/city manager should immediately show an interest in police accountability measures and support the chief in his or her ethics policies and procedures, including the development or enhancement of Internal Affairs procedures within the agency. The mayor/city manager should issue a press release notifying the public of the police department's Internal Affairs function and that he or she and the chief of police are committed to upholding a fair, unbiased, and transparent police department. Immediately, this communicates to the community that city management and the chief of police have the same core values and that accountability measures are important and in place.

To sustain a positive working relationship, it is imperative that the chief of police and mayor/city manager meet regularly to discuss ethical behavior and accountability practices, including Internal Affairs matters, in the department. The chief of police needs to tell city management that if an allegation of misconduct occurs, no one should make a statement about the incident until a full investigation has been completed. Presenting this unified front confirms to the public that the mayor/city manager has the utmost confidence in the Internal Affairs process and in the ability of the police department to handle the complaint fairly, thoroughly, and in a timely manner.

City executives often can be passive concerning the enforcement and maintenance of ethical policies and procedures until an incident of misconduct or corruption occurs. The mayor/city manager should feel equally as accountable as the chief of police for ensuring an ethical law enforcement agency. Municipal executives should demonstrate to the public their support of the law enforcement management by: adequately funding the agency; voicing support for the agency's mission, policies, and procedures; not intervening with agency operations; endorsing laws that assist the department in increasing public safety; and speaking with police union representatives to ensure honest and fair negotiations. Funding for the agency should include money for continuing officer training and education, hiring legal staff, and purchasing data management systems, thereby further ensuring accountability in the department.

The municipal government can also support its police department by providing legal counsel for matters related to Internal Affairs. It is critically important for every police agency to be able to consult with legal counsel immediately upon learning of an allegation of misconduct and again prior to any disciplinary action. Ideally, this lawyer would be on the staff of the police agency, but that is likely to be cost-prohibitive for most departments. Nonetheless, it is imperative that an attorney is available (perhaps on retainer with the city) who keeps abreast of all new laws in the area of law enforcement and employment law.

By funding the police department in its efforts to ensure ethical and effective policing, the city will foster an overall sense of trust between the community, law enforcement, and the municipal government. When cities are safe and there is a high level of community trust, businesses are more likely to locate there, bringing services to citizens and funds to the city.

Conclusion

The unique position of power and authority that members of law enforcement hold means that there is an added need to uphold high ethical standards and accountability to the community that a department is sworn to serve and protect. One officer who engages in misconduct or abuse of power can sully the reputation of the entire profession. It is imperative for executives to consistently maintain a culture of integrity and community trust throughout their departments every day. Addressing negative issues and behaviors only when they arise is not an effective operating model. Continued community trust-building and maintenance is the key to effective policing.

Through various forms of community outreach, standardized practices of hiring new recruits, continued education and training, and consistent evaluations and early intervention, a chief can sustain his or her department's integrity, while garnering public trust. Internal Affairs policies and procedures are critical to every agency, but it is important to remember that Internal Affairs is one component of a thoughtful, systemic approach to ethical conduct.

When Internal Affairs processes are necessary, the department must handle the issue at hand with confidence. Through a comprehensive, accessible, fair, and transparent complaint, investigation, and disposition process, the law enforcement executive will be able to address any problem while continuing to maintain the trust of his or her staff and that of the community.

With standards and practices of integrity in place in every police department across America, law enforcement will be able to maintain its place as a most honorable profession. Everyone, from recruits to captains and from citizens to municipal government officials, will benefit.

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Glossary

The IACP compiled these terms and acronyms from the law enforcement perspective. Realizing that not all stakeholders use or interpret the same terminology in the same ways, this glossary is not intended to be comprehensive or exhaustive.

42. U.S.C.: 1983 modern administrative regulation that allows federal civil complaints to be brought against persons who violate the legally or constitutional guaranteed rights of any person under color of law.

Adjudicating Officer: An individual responsible for the adjudication of an internal investigation.

Administrative Conflict of Interest: In the law enforcement fitness for duty methodology a circumstance in which subordinate status of an internal provider gives the appearance that the professional's opinion may be improperly influenced by superiors and is not objective.

Administrative Action: Corrective action taken by command/supervisory personnel.

Administrative Investigation: Inquiries into alleged misconduct by personnel or any inquiry into the actions of department personnel required by directives where no misconduct is alleged.

Bureau Register: A compilation of data indexing the initiation and processing of administrative investigations by Internal Affairs Division control number.

Caveats, Warnings, or Notices: Filed in court by an interested party requesting the postponement of a proceeding until there is an evidentiary hearing.

Civil Service Merit-Based System: Meant to provide the hiring of qualified persons in law enforcement. A part of the modernization of the American law enforcement system.

Civilian Review Boards: Composed of nonlaw enforcement personnel in government service, who examine or review conduct, complaint processing, policy changes, and operation of mediation centers.

***Cleveland Board of Education* v. *Loudermill*:** Provides all but probationary officers with the right to be notified of the charges against them and to respond either verbally or in writing to those charges. This applies to all charges against an employee except a reprimand. The employee can give a statement and clarify any information or present any facts that could be exculpatory during an Internal Affairs investigation or could result in a reduced punishment to include dismissal of charges, but the employee cannot cross-examine witnesses as in a court setting. This mandates that the department prepare a charging document and give the employee ample time to respond with a union representative or attorney. There is no requirement to respond, however. This is a right because public nonprobationary public employees are deemed to have a property right in their employment.

Code of Ethics: A statement of the organization's values on behavioral, moral, and conduct issues.

Community: A social group consisting of individuals sharing the same environment with essentially the same interests, goals, and objectives.

Community Policing: A policing philosophy that promotes and supports organizational strategies to address the causes and reduce the fear of crime and social disorder through problem-solving tactics and community-police partnership.

Community Trust: An established and highly honored relationship between a police agency and the citizens it has been entrusted to serve.

Complaint: An allegation identifying conduct which, if substantiated, would constitute a violation of law or agency policy and procedure.

Complainant: A person with knowledge of an alleged incident of misconduct, or violation of a statute or department directive, who brings the information to the attention of the department.

Complaint Process: A series of steps by which law enforcement agencies accept, investigate, and adjudicate allegations of misconduct malfeasance, misfeasance, and nonfeasance on the part of police personnel.

Conduct Unbecoming: A term of administration regarding misconduct by law enforcement officers that usually applies to distasteful and undesirable conduct that is not clearly criminal or corrupt.

Deliberate Indifference: The conscious or reckless disregard of the consequences of one's acts or omissions.

Discipline: The action(s) of an agency, punitive and/or corrective in nature, with the specific intent to ensure obedience of its members to rules, regulations, policies, and procedures, and which is designed to promote order and deter acts of disobedience as established and enacted by supervisory personnel.

Disciplinary System: A mechanism by which employees are held accountable for their actions based on violation of established rules, regulations, policies, and procedures, and is based on the sound principles of fairness and objectivity.

Early Intervention System (Early Warning System/Performance Management): A series of interrelated personnel management processes that help supervisors identify, assess, and evaluate employees' performance for the purposes of addressing potential concerns in a timely manner.

Employee Assistance Program: A counseling service for employees and their eligible dependents who may be experiencing personal or work place problems

Ethics: The duty of all law enforcement personnel to conduct themselves at all times in a manner that reflects the ethical standards consistent with the rules of their agency; to effectively and efficiently protect the public, maintain peace and order, and conduct other essential business. The choice between right and wrong.

Exonerated (Proper Conduct): The allegation is true; the action of the agency or the employee was consistent with agency policy.

Eye Witness: A person who was present and saw or heard the incident/complaint.

***Garrity*:** *Garrity* v. *New Jersey* is a constitutional protection that holds that public employee statements that are induced (compelled) by threat of dismissal or other discipline may not be used in a subsequent criminal prosecution.

Fitness for Duty Examination (FFDE): A physical or mental examination to determine if an officer is able to perform his or her duties.

Full Investigation: An in-depth investigation in which all pertinent facts are gathered and are impartially and thoroughly reported on the appropriate agency investigative document.

Internal Affairs: A specific division within a law enforcement agency that investigates allegations of misconduct, corruption, inappropriate behavior, adherence to policy and procedure, and matters so assigned by superior officers to ensure the professional integrity of the department and its members.

Internal Affairs Control Number: A sequential number assigned by the internal affairs department to index all complaints and administrative investigations.

Internal Affairs History: A member's record of internal affairs department investigations which includes internal affairs department control numbers, complaint dates, types of complaints, and administrative actions.

Internal Affairs Investigator: A member of the Internal Affairs unit.

Internal Affairs Process: A series of steps used to conduct a review for possible misconduct by an agency's employee.

Internal Affairs Policy: Agency guidelines promulgated to receive, track, evaluate, and investigate complaints of police misconduct that violate department policies and procedures.

Lautenberg Amendment: Federal law that restricts the ability of a person to own or possess a firearm.

Limited Investigation: The alleged misconduct failed to constitute a violation of department rules and regulations.

- The complainant was mistaken and the misconduct alleged was not attributed to personnel.
- The complainant was the subject of a criminal or administrative investigation conducted by the department; the complaint alleged bias or misconduct during the criminal, investigative, or disciplinary process by investigators or personnel involved; and the complainant was afforded a full and fair opportunity to litigate the matters complained of before a court or administrative tribunal.
- The complainant(s) refused to verify the complaint by signing a completed complaint verification form and the nature of the complaint does not include allegations of criminal conduct or conduct that could reasonably be construed to result in a recommendation of court-martial by the department's disciplinary officer.

Lybarger Admonishment: If information is given to physiological examiners in a FFED, that examinee is told that information from the examination may not be used against him or her because it is mandatory, not voluntary.

Misconduct not Based on Original Complaint: Misconduct discovered during an internal investigation not associated with original complaint.

Negligent Retention: Allowing an officer to remain working when doing so the department knew that he or she was a risk to the public.

Noncomplaint Investigation: An investigation into the actions of department personnel required by directive or requested by the office of chief counsel, with no misconduct alleged.

Not Sustained: Investigation failed to conclusively prove or disprove the allegation.

Office of Professional Standards: The designated employee(s)/unit with primary responsibility for conducting investigations of employee misconduct allegations.

OISB: Officer involved shooting board that investigates instances of the use of deadly force.

Performance Inadequacies: Minor infractions of omission/commission by a member that violate a department policy or regulation. Infractions of this type do not include conduct that involves compliance to lawful orders, the veracity of a member, criminal or civil liability, or publicity which may adversely affect the department or its personnel.

Policy Void: Indicates that the action of the department or the involved member(s) was not inconsistent with existing department policy, but the complainant still suffered harm.

Professional Ethics: Those ethics to use when acting in a professional capacity that center on sound judgment and the judicious disbursement of information based on the principles of integrity, honesty, and commitment to duty.

Public Complaint Package: Packages containing complaint forms, information on the complaint procedure used by the agency and actions the public can expect from this agency in response to a complaint.

Substantiated or Sustained (Improper Conduct): The allegation is true. The action of the agency or the member was inconsistent with agency policy.

— Investigation indicates that misconduct did actually occur.

Supervisory Review: A preliminary review undertaken immediately upon receipt of a complaint. Conducted for the thorough gathering and securing of evidence and facts to discover truth and reach conclusions as to the possibility a department member has violated any rules, regulations, policies and/or procedures. The investigating supervisor will make contact with the complainant in order to discuss the incident, and will notify the complainant of the final outcome of the preliminary review. Based on this review, the chief of police will determine the need for further investigation.

— The individual responsible for reviewing an administrative investigation and concurring with the adjudication rendered by the adjudicating officer.

Transparency: A clear and concise understanding of an agency's Internal Affairs process, and function, by the general citizenry.

Unfounded: Indicates that the incident did not occur or could not have occurred as alleged.

Unsubstantiated or Not Sustained (Insufficient Evidence): The investigation failed to conclusively prove or disprove the allegation.

Weingarten Rule: In certain employment conditions, the right for a union representative to be present during an interview.

Withdrawn: Indicates that the complainant refused to sign a complaint verification and the investigation was terminated or an investigation was otherwise concluded on advice of the appropriate command staff.

Appendixes

Appendix A: Sample Recruitment Plan

Appendix B: Sample Performance Improvement Policy, Procedure, and Plan

Appendix C: Sample Community Surveys

Appendix D: Sample Memorandum of Understanding

Appendix E: CALEA Standards for Law Enforcement Agencies—Chapter 52 on Internal Affairs

Appendix F: IACP Concepts and Issues Paper and Model Policy—Investigation of Employee Misconduct

Appendix G: Sample Officer Notification Form

Appendix H: Funding Sources for Training and Software on Ethics and Internal Affairs

Appendix I: Methodology

Appendix A: Sample Recruitment Plan

This sample recruitment plan is provided courtesy of the Pennsylvania State Police.

Pennsylvania State Police Recruitment Plan

RECRUITMENT AND SPECIAL SERVICES OFFICE, RECRUITMENT SECTION

A. **Recruitment Vision and Mission Statements**

VISION: *To be a proficient and professional recruitment section acting with enthusiasm and integrity. To assist the Department in its commitment to maintain an organization which promotes public confidence in the integrity, efficiency, and professional excellence expected of the Pennsylvania State Police. To actively seek and encourage the most qualified individuals to apply for positions within this Department who reflect this commitment, in addition to the diverse cultural, gender, and ethnic backgrounds of all citizens of this Commonwealth.*

MISSION: *To develop and implement strategies and procedures which enable us to continue to attract the best caliber of individuals for the Department.*

GENERAL RECRUITMENT ACTIVITIES

Recruitment activities shall include, but are not limited to:

A. Contacting and cultivating working relationships with career/guidance counselors at colleges (colleges listed on appendages IV thru VIII) and high schools.

B. Conducting career presentations.

C. Contacting career planning officers at institutions of higher learning on a biannual basis to promote law enforcement:

1. As a professional career choice.
2. Opportunities for assignment to a variety of specialized positions.
3. Opportunities for advancement.

D. Cultivating liaisons with prospective applicants and establishing an applicant support system.

E. Participating in or initiating career programs.

F. Scheduling and conducting interview sessions with potential applicants.

G. Scheduling the Mobile Recruitment Office (MRO) to travel to community locations, colleges and universities.

CADET RECRUITMENT ACTIVITIES

A. Recruiters shall:

1. Provide realistic overview and accurate information of law enforcement as a career, so applicants can make an informed decision regarding a future in law enforcement.

2. Identify and address specific questions, issues, and concerns of potential applicants.

3. Present information regarding:

   a. Opportunities to serve the Commonwealth.

   b. Salary and benefits.

   c. Promotional opportunities.

   d. Job security.

   e. Mobility within the Commonwealth.

   f. Academy training and Department expectations.

4. Contact local reserve centers, armed forces recruiters, veterans' organizations, and various military installations located within a reasonable distance of the Pennsylvania borders.

5. Maintain contact with:

   a. Community leaders.

   b. Civic organizations.

   c. Department personnel.

   d. Community centers.

   e. Religious leaders.

   f. Other high visibility locations.

6. Attend community events within the wide variety of ethnic and cultural settings representative of the Commonwealth's population.

7. Annually update human resource lists.

8. Notify human resource contacts of job opportunities within the Department. This will facilitate the dispersal of information to members of their communities and organizations.

9. Post job announcements, in both English and Spanish, at designated locations.

10. Initiate contact with referred persons to provide information concerning job requirements, responsibilities, benefits, and the selection process.

11. Keep applicants updated regarding the application and selection processes.

12. Periodically meet with recruiters from other law enforcement agencies to exchange ideas and information.

13. Utilize tools and materials, such as the Mobile Recruitment Office, PowerPoint Presentations, wireless aircards, videos, photographs, and posters when canvassing for prospective applicants at:

    a. Career and job fairs.

    b. Job centers.

    c. Historical, annual or ethnic events.

    d. Police activity exhibits at parks, institutions of higher education, malls, etc.

14. Provide updated recruiting literature.

Appendix B: Sample Performance Improvement Policy, Procedure, and Plan

This sample Performance Improvement Policy, Procedure, and Plan is provided courtesy of the Arroyo Grande (California) Police Department.

I. POLICY

A. The policy of the Arroyo Grande Police Department is that all employees are expected to perform in a competent manner in furtherance of the mission and objectives of the Department and in accordance with the law and the policies and procedures of the City of Arroyo Grande and the Police Department.

B. In furtherance of this policy, the Police Department does establish this procedure whereby substandard/unacceptable performance can be identified and an appropriate program of corrective action can be established.

II. PURPOSE

A. The objective of this procedure is to correct the substandard/unacceptable performance, thereby restoring the employee to a level of acceptable and competent productivity. In order to accomplish this objective, this procedure is developed upon the following key criteria:

1. Identification of the substandard/unacceptable performance/behavior,
2. Communication of the deficiencies to the employee,
3. Formal documentation of the deficiency and the expected change(s), and
4. Development of the document which specifies an action plan.

B. Performance Improvement Programs are not intended to be disciplinary in nature and therefore will not be made a part of an employee's personnel file if the employee successfully completes the program.

1. Failure to successfully complete the program, resulting in reduction in pay, demotion, or termination, will result in the inclusion of the program documentation in the employee's personnel file.
2. Program documentation for cases involving successful completion of the program will be maintained in a separate file by the Office of the Chief of Police until such time as it may be disposed of per current City Council Resolution for records destruction.

III. PROCEDURE

A. Initial Supervisory Corrections

1. When minor policy infractions and/or performance deficiencies are noted for the first time, verbal counseling is the preferred method for corrective action.

2. When repeated policy infractions and/or performance deficiencies are noted, formal counseling sessions should be initiated. Such counseling sessions should be documented on either a Supervisor's Report or counseling memo.

    a. The counseling session should address each policy infraction and/or performance deficiency which has been identified and the expected corrective action by the employee for each one.

    b. The documentation of the counseling session should list each policy infraction and/or performance deficiency along with the expected corrective action.

3. Should formal counseling fail to correct the performance deficiency and/or ensure compliance with policy, a Performance Improvement Program shall be implemented.

B. Performance Improvement Program

1. The Performance Improvement Plan Process

    a. The supervisor prepares a draft Performance Improvement Plan (P.I.P).

    b. The supervisor forwards the draft P.I.P. to his/her supervisor for approval.

        (1) The draft P.I.P. will be forwarded through the chain-of-command to the Chief of Police for approval.

    c. The supervisor discusses the draft P.I.P. with the employee and prepares the final version of the P.I.P.

    d. The supervisor implements the Supervisory Assistance Sections and conducts follow-up counseling.

    e. The supervisor completes the final progress report and forwards the completed file to the Operations Commander for review and approval.

        (1) Should punitive action be necessary, such action will be implemented in accordance with General Order 0204 - Personnel Complaints.

2. Performance Improvement Plan

    a. Heading

    Standard memo headings shall be used:

        (1) TO: (Name of the affected employee)

(2) FROM: (Name of the employee's supervisor)

(3) Subject: FAILURE TO MEET PERFORMANCE STANDARDS

b. Performance Standards and How You Failed to Meet Them

(1) List each performance standard in which the employee is deficient.

(a) Example: "An employee shall be punctual in reporting for duty at the time and place specified by his superior (General Order 0201 - Rules of Conduct)."

(2) List specifically and with detail each occasion where the employee failed to meet the listed standard.

(3) Repeat this process for each standard.

c. How to Improve Your Performance

(1) This section is a summary of the positive behavior the supervisor expects the employee to exhibit in order to be regarded as an acceptable employee.

d. Supervisory Assistance and Guidance

(1) The supervisor sets a review schedule where the supervisor will review the progress of the employee with him/her. Such reviews will be done either weekly or bi-weekly.

(2) The supervisor may direct the employee to obtain training and/or counseling when appropriate.

e. Time Frame and Consequences

(1) The supervisor will set the duration of the Performance Improvement Program.

(a) Normally, a Performance Improvement Program will be 90 days in length. The minimum specified time for such a program is 60 days and the maximum time is 120 days.

(b) Should the employee progress at an accelerated rate, the Performance Improvement Program may be shortened from the specified time.

(2) The consequences of failing to satisfactorily complete the Performance Improvement Program must be clearly stated. In most situations, the consequence will be termination for failure to meet the specified performance standards within the allotted time. When appropriate, demotion and reduction in pay may be administered.

3. The Initial Interview

    a. The supervisor will address each performance deficiency identified in the Performance Improvement Plan along with the expected corrective behavior.

        (1) The supervisor should emphasize the objectives of the Performance Improvement Process as stated in Section I.C. of this General Order.

            (a) The supervisor should advise the employee of the intent of the supervisor to assist the employee in his/her improvement.

            (b) The supervisor should encourage employee input and take appropriate notes concerning the employee's viewpoints. This information may be incorporated into the Performance Improvement Plan.

    b. The supervisor will advise the employee of the review process and the schedule for the review sessions.

    c. The supervisor will inform the employee of any outside training and/or counseling that is required as part of the Performance Improvement Program.

    d. The supervisor will inform the employee of the consequences that may result in the event the employee fails to satisfactorily complete the Performance Improvement Program.

4. Follow-Up Counseling

    a. During the duration of the Performance Improvement Program, the supervisor will meet in formal counseling sessions with the employee as specified in the Performance Improvement Plan.

    b. The supervisor will review the employee's progress as it relates to each identified performance deficiency.

        (1) Appropriate reinforcement should be given to the employee depending on whether the employee is improving or not.

    c. The counseling session will be documented in a Progress Report.

5. Final Report

    a. At the end of the Performance Improvement Program, the supervisor shall prepare a final report regarding the employee's progress in the Performance Improvement Program.

(1) When the employee successfully completes the program, the final report should reinforce the employee's improved performance and encourage continued acceptable performance.

(2) In the event the employee does not successfully complete the program, the report should:

(a) Specify those standards the employee failed to achieve and how he/she failed to do so,

(b) State that the supervisor is recommending that the penalty contained in the Performance Improvement Plan as a consequence for non-improvement, be implemented, and

(c) Contain a detailed account of the employee's comments regarding the final report.

b. The Final Report along with all follow-up reports and other appropriate documentation will be forwarded via the chain-of-command, to the Chief of Police for review and appropriate action.

IV. ATTACHMENTS

A. Sample of Performance Improvement Plan

Name of Department
Performance Improvement Plan

To: *(Name of the affected employee)*

From: *(Name of the employee's supervisor)*

Date:

Subject: Failure to Meet Performance Standards

Performance Standards and how you failed to meet them:

List each performance standard to which the employee has failed to meet, list specific occasions.

How to improve your performance:

List positive behaviors

Supervisory Assistance and Guidance:

Over the next 90 days your supervisor/s will meet with you and follow up with your performance improvement progress every:

☐ Monday ☐ Tuesday ☐ Wednesday ☐ Thursday ☐ Friday

☐ Weekly ☐ Bi-Weekly Time: _____ Location: _____

Your supervisor directs you to obtain training and/or counseling in the following areas:

If your performance fails to improve or you fail to complete the requirements indicated above, you are subject to termination, or if deemed appropriate, demotion and a reduction in pay.

Signature of Supervisor

Signature Badge No. Date Time

Appendix C: Sample Community Surveys

The following sample community surveys are courtesy of the Geddes (New York) Police Department and the Lexington (Massachusetts) Police Department. Additional information about community surveys is available through the IACP.

2007 Community Satisfaction Survey
Town of Geddes Police Department

1. How satisfied are you with the visibility of the Town of Geddes Police Department?
Very Dissatisfied Dissatisfied Neutral Satisfied Very Satisfied DK

2. How satisfied are you with how professional the officers act?
Very Dissatisfied Dissatisfied Neutral Satisfied Very Satisfied DK

3. How satisfied are you with the competency of the officers?
Very Dissatisfied Dissatisfied Neutral Satisfied Very Satisfied DK

4. How satisfied are you with the courtesy of the officers?
Very Dissatisfied Dissatisfied Neutral Satisfied Very Satisfied DK

5. How satisfied are you with the appearance of the officers?
Very Dissatisfied Dissatisfied Neutral Satisfied Very Satisfied DK

6. How safe do you feel walking alone in your neighborhood at night?
Very Unsafe Unsafe Neutral Safe Very Safe DK

7. How safe do you feel in your home?
Very Unsafe Unsafe Neutral Safe Very Safe DK

8. Is the police presence adequate in your neighborhood?
Yes No DK

9. Is the traffic enforcement adequate in the Town of Geddes?
Yes No DK

10. Have you ever been a victim of a crime in the Town of Geddes?
Yes No DK

11. What do you like best about the Police Department?

_____ NA

12. How would you improve the Police Department?

_____ NA

13. How do you feel the Geddes Police Department has changed over the past four years?
Much Worse Worse Same Improved Much Improved Didn't live here DK

Sex: Male or Female (Circle One)
Age: 18-24 25-34 35-44 45-54 55-64 65+ (Circle One)

Lexington Police Department
Public Safety Survey

Directions: *Please answer the following questions to the best of your knowledge. All of your responses will be absolutely confidential.*

Section I: Your Community

1. Please rate the seriousness of the following crimes and quality of life issues in Lexington for the past 5 years. (Check only one box for each item)

	Very Serious	Moderately Serious	Slightly Serious	Not a Problem	Don't Know
Burglary/House break ins					
Assaults					
Domestic Violence					
Unlawful drug use					
Unsupervised house parties					
Animal control problems					
Drinking groups in woods/parks					
Graffiti					
Litter					
Unlawful weapon use					
Loitering					
Property theft					
Organized gangs					
Speeding motor vehicles					
Poor driving attitudes					
Drunk driving					
Credit card/check fraud					
Computer/Internet problems					
Skateboarding/Rollerblading in business districts					
Vehicle theft					
Harassing/Annoying phone calls					
Vandalism					
Parking problems					
Solicitors					
Bicycles on sidewalks					
Pedestrian safety					
Public drinking					
Unnecessary noise					
Other:					

2. Have you ever been the victim of a crime ***in*** Lexington? [ ] No [ ] Yes

3. Have you ever been the victim of a crime ***outside*** Lexington? [ ] No [ ] Yes

4. In Lexington, have you ever: *(Check all that apply)*

[ ] Stopped to ask an officer advice or directions
[ ] Stopped to talk to a police officer about a community issue
[ ] Called the police station to discuss a community issue
[ ] Been involved in a traffic accident which required police intervention
[ ] Been involved in a police/community outreach program (ex. DARE, Bicycle Safety)
[ ] Been stopped for a traffic offense
[ ] Been questioned by the police and released (other than for a traffic offense)
[ ] Reported a crime
[ ] Been arrested
[ ] Filed a formal complaint against a Lexington Police Officer/Department

5. In your opinion how much have the following factors contributed to the crime rate in Lexington over the past 5 years? *(Check only one box for each subject)*

	Large Influence	Moderate Influence	Slight Influence	No Influence	Don't Know
Courts are too lenient					
Drug/alcohol abuse					
Lack of alternative activities for youth					
Lack of education					
Lack of jobs/employment					
Limited police presence					
Poor parenting					
Poverty/low income					
Intolerance of differences based on race, religion, sexual orientation, etc.					
Social programs/welfare					
Over population					
Availability of weapons					
Lack of respect					
Affluence					
Other:					

6. Does your neighborhood have a citizen crime watch group? [ ] No [ ] Yes
If no, would you participate in a crime watch group? [ ] No [ ] Yes

7. What kind of security do you use at home? *(Check all that apply--this survey is anonymous)*
[ ] alarm system [ ] sensor lights [ ] standard door & window locks
[ ] window grills [ ] dead bolt locks [ ] anti-open devices in windows
[ ] dog [ ] exterior/interior burglar bars [ ] do not secure home

8. In your opinion, how likely is it that you will be the victim of a ***property*** crime in Lexington over the next 5 years?
[ ] highly likely [ ] moderately likely [ ] slightly likely [ ] Not at all likely

9. In your opinion, how likely is it that you will be the victim of a ***violent*** crime in Lexington over the next 5 years?
[ ] highly likely [ ] moderately likely [ ] slightly likely [ ] Not at all likely

10 How much time do you spend actively participating in the community (community-based programs, committees, boards, etc.) each month?
[ ] 1-7 hrs [ ] 8-12 hrs [ ] 13-20 hrs [ ] 21+ hrs [ ] don't participate

11. In your opinion, compared to other communities in the Boston area, how safe is Lexington overall?
[ ] much safer [ ]slightly safer [ ] about the same
[ ] less safe [ ] much less safe

12. What do you believe about the prevalence of crime in Lexington?
(Please check only one category)
[ ] Crime has increased in Lexington over the last five years.
[ ] Crime has remained the same in Lexington over the last five years.
[ ] Crime has decreased in Lexington over the last five years.
[ ] Don't know.

13. Please check one response for each statement:

	Strongly Agree	**Agree**	**Disagree**	**Strongly Disagree**	**Don't Know**
I feel safe at home					
I feel safe walking alone in my neighborhood after dark					
I feel safe walking with others after dark in my neighborhood					
I feel that my personal property is safe when I leave home					
When returning home at night, I feel safe					
I feel safe leaving my home/car unlocked during the day in Lexington					
I feel safe *with others* on the Minuteman Bikeway					
I feel safe *alone* on the Minuteman Bikeway					
I feel safe walking *alone* in Lexington's shopping districts *at night*					
I feel safe walking *with others* in Lexington's shopping districts *at night*					
I feel safe *alone* in parks and recreation areas in Lexington					
I feel safe with *others* in parks and recreation areas in Lexington					

14. How serious is the illegal drug problem in the following areas in Lexington?
(Please check one box for each item)

	Very Serious	**Somewhat Serious**	**Slightly Serious**	**Not Serious**	**Don't Know**
High Schools					
Middle Schools					
Elementary Schools					
Playgrounds & recreation areas					
Within the adult community					

Section II: The Department

15. Please respond whether you agree or disagree with the following statements:
(Please check one box for each item)

	Strongly Agree	Agree	No Opinion	Disagree	Strongly Disagree
The police presence in my neighborhood is appropriate for the need					
Traffic enforcement in Lexington meets the needs of the community					
The Police Department gives proper attention to minor crimes (i.e. vandalism, disturbances, etc.)					
The Police Department is providing appropriate community education and outreach programs					
Efforts of the Police Department to enforce the law are compatible with community needs					
Lexington police officers perform an appropriate amount of patrolling on foot in Lexington Center					
There is an appropriate representation of female officers in the Lexington Police Department					
The Police Department responds to emergency calls in a timely manner					
Lexington police officers treat people with respect					
Lexington police officers respect the rights of individuals and treat people fairly					
Telephone calls to the Lexington police station are handled professionally and courteously					
A formal complaint brought against a Lexington police officer will receive a fair, objective and timely response					
The Lexington Police Department solicits and welcomes community input					
Lexington police officers are respected by the community					
The Lexington Police Department has a good public image					
The Lexington Police Department does its job well					
Lexington police officers look professional in appearance					
Police information provided in local newspaper is useful					
Lexington police officers provide timely and useful information to persons reporting crimes					
The Lexington Police Department publicizes its services and programs adequately *(see question 16 on next page)*					

16. How effective do you believe the following Lexington Police & Community programs are on the crime problem and quality of life issues? *(Please check only one box for each)*

	Very Effective	Somewhat Effective	Slightly Effective	Not At All	Don't Know
D.A.R.E. program					
Bike Patrol					
Police resource officer assigned full-time at the high school					
Domestic violence response advocate					
Family services program					
Full-time center officer					
Web Page					
Traffic Enforcement					
Dedicated Parking Enforcement Officer					
E911 Combined Dispatch Center					
LPD Facility Access					
Peer leadership program in schools					
Citizen police academy					
Alzheimer registration					
Youth-at-risk intervention program					
Alcohol/tobacco sale compliance checks					
Juvenile diversion program for first time criminal offenders					
Greater Boston drug task force					
Police accreditation program					
Police Cadet program					
"Directed patrol" to high incident areas					
False burglar alarm bylaw enforcement					
All-night winter parking enforcement					
Trading card program					
Long Term assignments of Patrol Officers to a single area of town rather than random assignments					
Future Programs:					
Skateboard/rollerblade park					
Youth drop-in center					

Section III: Demographic Information

17. How long have you lived in Lexington?
[ ] less than one year [ ] 1-3 years [ ] 4-10 years [ ] 11-20 years [ ] 21+ years

18. How old are you?
[ ] 18-24 [ ] 25-34 [ ] 35-44
[ ] 45-54 [ ] 55-64 [ ] 65 or older

19. How many people are in your household?
[ ] 1 person [ ] 2-3 people [ ] 4-5 people [ ] 6+ people

20. Do you have any children under the age of 21 living in your household? [ ] No [ ] Yes
If yes, please list their ages here: _____

21. Do you own or rent your home? [ ] Own [ ] Rent [ ] Other _____

22. Average household yearly income before taxes?
[ ] under $30,000 [ ] $30,000-59,000 [ ] $60,000-89,999 [ ] $90,000-119,999 [ ] $120,000+

23. What is your current employment status? *(Please check only one box)*
[ ] Employed [ ] Unemployed [ ] Student
[ ] Self-employed [ ] Disabled [ ] House wife/husband
[ ] Retired [ ] Other

24. What is your race?
[ ] Caucasian [ ] African-American [ ] Asian [ ] Hispanic
[ ] Other _____

25. Do you or anyone in the household own any firearms for sport or protection against crime?
[ ] Yes, Sport [ ] Yes, Both [ ] Choose not to answer
[ ] Yes, Protection against crime [ ] No, Neither

Section IV: Your Comments

Please feel free to use as much space or additional pages as necessary.

The thing I like best about the Lexington Police Department is:

The thing I would most like to see improved at the Lexington Police Department is:

Please list the most significant values or characteristics that a Lexington Police Officer should possess.

Other comments or expansion of previous answers ***(use reverse side of page if more space is needed)*:**

If you have any questions/comments regarding this survey, please contact Chief Casey's Office at (781) 862-1212 or e-mail at ccasey@ci.lexington.ma.us

Appendix D: Sample Memorandum of Understanding

The following memorandum of understanding (MOU) is only a sample. MOUs are legally binding documents and should be reviewed by legal counsel prior to finalization and signature.

Purpose:

(Explain why your department is entering into a memorandum of understanding)

List the primary reasons:

- To assist the _____ Police Department in providing proper and unbiased Internal Affairs investigations of the staff and sworn law enforcement of the - _____ Police Department.

Once the _____ Police Department has received a complaint and the chief executive officer has been briefed on the content of the complaint, the chief executive officer, having determined that the investigation should be carried out externally, will engage the _____ Police Department to conduct the Internal Affairs investigation.

Responsibilities:

Responsibilities of the investigation team will be to assist the _____ Police Department Internal Affairs investigation. It is understood that the investigation team is in support of the _____ Police Department and must abide by all laws and procedures enforced by the _____ Police Department as outlined in this Memorandum of Understanding.

- The investigation team reports to the lead investigator and the lead investigator reports to the chief executive officer of the _____ Police Department.
- Confidentiality of all matters involved in the investigation will be maintained.
- The chief executive officer of the _____ Police Department will be the only one allowed to disclose any information to the media, complainant, and to the officer/s involved in the complaint once the investigation is concluded.
- The lead investigator will be determined on a case-by-case basis by the parties involved.
- The lead investigator will have the responsibility and authority to resolve any procedural or investigative conflicts resulting during the course of the investigation. The lead investigator will have the responsibility and authority to discuss the progress and outcome of the investigation with the _____ Police Department's executive officer.

Responsibilities of the contracting Police Department:

- Will not inhibit the investigation process by sharing information, evidence, interview/s, or in any way jeopardizing the investigation by releasing confidential information to the public.
- The police department will ensure that the investigation adheres to applicable law and the department's policy and procedure manual.
- The police department will, when possible, support the investigative efforts with assets such as laboratory costs (including DNA) associated with the investigation.

Exchange of Information:

Information shared between the contracting agencies will be done so in a confidential manner so as not to compromise the investigation process.

Procedure:

Investigation Process
Role of each Police Department
Conclusion and Recommendations

In the case of a chief executive officer being under investigation, the investigation team will be reporting to and under the supervision of the chief executive's supervisor (mayor, city council, etc. as per legal guidance).

Limitations:

The chief executive officer of _____ Police Department will be the only person to notify the mayor or supervising authority, the public, or media concerning the investigation.

Oversight of the investigative team will be the responsibility of the lead investigator who will report to their executive officer.

Progress Reports:

If needed, progress reports may be written every 30 days by the lead investigator. These reports will be made available to his/her executive officer who will update the contracting executive officer or appropriate authority of the contracting department.

Final Report:

A final report will be completed by the lead investigator. This report will include the outcomes and findings of the investigation for the chief executive officer of the contracting agency. All evidence as to the process and methodology used by the investigative party will be summarized and included in the final report.

Resolution:

The _____ Police Department's executive officer will have the final authority to investigate and/or recommend any resolution after the completion of the Internal Affairs investigation.

Time Frame for Completion of the Internal Affairs Investigation:

If possible, the investigation will be completed within 150 days of reception, depending upon the complexity of the case.

Amendment:

This agreement may be amended by deleting or modifying any of its provisions, or adding new provisions, upon the written agreement of both parties.

Effective Date:

This agreement goes into effect when signed by both parties.

Termination:

This agreement shall remain in full force until terminated by either party upon 60 days of written notice.

_____ _____

Chief Executive Officer Date

_____

Police Department

_____ _____

Chief Executive Officer Date

_____

Police Department

Standards Manual Text

Chapter **52 - Internal Affairs**
Section **1 - Administration and Operations**
Standard **1 - Complaint Investigation**
Number **52.1.1**

52.1.1 *A written directive requires all complaints against the agency or its employees be investigated, to include anonymous complaints.*

Commentary: To ensure the integrity of its operations and personnel, agencies should investigate all allegations of misconduct, regardless of their source. Anonymous complaints can be difficult to investigate; however, the agency should carefully review each complaint for validation before disregarding it for lack of a credible complainant. **(M M M M)**

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Standards Manual Text

Chapter 52 - Internal Affairs
Section 1 - Administration and Operations
Standard 2 - Records, Maintenance and Security
Number 52.1.2

52.1.2 *A written directive requires the agency to maintain a record of all complaints against the agency or employees and to protect the confidentiality of these records by maintaining them in a secure area.*

Commentary: The confidentiality of internal affairs records is important, and proper security precautions should be taken. This records activity is a task of the internal affairs function and is an exception to the personnel records or centralized records systems. The schedule for retaining internal affairs records should be consistent with legal requirements. **(M M M M)**

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Standards Manual Text

Chapter	**52 - Internal Affairs**
Section	**1 - Administration and Operations**
Standard	**3 - CEO, Direct Accessibility**
Number	**52.1.3**

52.1.3 *A written directive specifies that the position responsible for the internal affairs function has the authority to report directly to the agency's chief executive officer.*

Commentary: The sensitivity and impact of internal affairs matters on the direction and control of an agency require that the agency's chief executive officer receive all pertinent information directly. **(M M M M)**

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Standards Manual Text

Chapter **52 - Internal Affairs**
Section **1 - Administration and Operations**
Standard **4 - Complaint Registering Procedures**
Number **52.1.4**

52.1.4 *The agency makes available information to the public on procedures to be followed in registering complaints against the agency or its employees.*

Commentary: Procedures for registering complaints should be made available to the community through the media or the agency's community relations programs. This information should also be disseminated to all agency employees. **(O O O O)**

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Standards Manual Text

Chapter 52 - Internal Affairs
Section 1 - Administration and Operations
Standard 5 - Annual Summaries-Public Availability
Number 52.1.5

52.1.5 *The agency compiles annual statistical summaries, based upon records of internal affairs investigations, which are made available to the public and agency employees.*

Commentary: None. **(M M M M)**

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Standards Manual Text

Chapter 52 - Internal Affairs
Section 2 - Complaint Procedures
Standard 1 - Complaint Types
Number 52.2.1

52.2.1 *A written directive specifies:*

a. the type of complaints to be investigated by line supervisors; and
b. the type of complaints that require investigation by the internal affairs function.

Commentary: The intent of this standard is to provide guidelines regarding which categories of complaints are to be handled by the internal affairs function and which are part of routine discipline. The criteria for determining the categories of complaints to be referred to the internal affairs function may include allegations of corruption, brutality, misuse of force, breach of civil rights, and criminal misconduct. Criteria for assignment of the investigation of the complaint to line supervisors may include, for example, alleged rudeness on the part of the officer, tardiness, or insubordination. **(M M M M)**

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Standards Manual Text

Chapter 52 - Internal Affairs
Section 2 - Complaint Procedures
Standard 2 - CEO, Notification
Number 52.2.2

52.2.2 *A written directive specifies the procedures for notifying the agency's chief executive officer of complaints against the agency or its employees.*

Commentary: The directive should specify the nature of those complaints that should be brought immediately to the attention of the agency's chief executive officer and those that can be postponed to a later time. **(O O OO)**

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Standards Manual Text

Chapter 52 - Internal Affairs
Section 2 - Complaint Procedures
Standard 3 - Investigation Time Limits
Number 52.2.3

52.2.3 *A written directive specifies a time limit for completing an internal affairs investigation, with provisions for extensions.*

Commentary: None. **(M M M M)**

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Standards Manual Text

Chapter 52 - Internal Affairs
Section 2 - Complaint Procedures
Standard 4 - Informing Complainant
Number 52.2.4

52.2.4 *The agency keeps the complainant informed concerning the status of a complaint to include, at a minimum:*

a. verification of receipt that the complaint has been received for processing;
b. periodic status reports; and
c. notification of the results of the investigation upon conclusion.

Commentary: The verification, usually in the form of a receipt, furnished to persons initiating complaints alleging misconduct on the part of the agency or an agency employe may contain a description of the investigative process. The status of investigations should be communicated to the complainant, although the degree of specificity of the notice is left to the discretion of the agency. This standard does not apply to anonymous complaints. **(O O O O)**

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Standards Manual Text

Chapter 52 - Internal Affairs
Section 2 - Complaint Procedures
Standard 5 - Statement of Allegations/Rights
Number 52.2.5

52.2.5 *When employees are notified that they have become the subject of an internal affairs investigation, the agency issues the employee a written statement of the allegations and the employee's rights and responsibilities relative to the investigation.*

Commentary: None. **(M M M M)**

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Standards Manual Text

Chapter **52 - Internal Affairs**
Section **2 - Complaint Procedures**
Standard **6 - Submission to Tests, Procedures**
Number **52.2.6**

52.2.6 *A written directive specifies the conditions, if any, during an internal affairs investigation, when:*

a. medical or laboratory examinations are administered;
b. photographs are taken of employees;
c. an employee may be directed to participate in a line-up;
d. an employee may be required to submit financial disclosure statements; and
e. instruments for the detection of deception are used.

Commentary: The written directive should be based on the legal requirements in the jurisdiction, case law, and precedent and should be consistent with other administrative decisions. An employee may be required to submit to a medical or laboratory examination, at the agency's expense, when the examination is specifically directed and narrowly related to a particular internal affairs investigation being conducted by the agency. An example is
the use of this process in determining drug use by employees. An employee may also be required to be photographed, to participate in a line-up, and/or submit to a financial disclosure statement when the actions are material to a particular internal affairs investigation being conducted by the agency. **(M M M M)**

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Standards Manual Text

Chapter	**52 - Internal Affairs**
Section	**2 - Complaint Procedures**
Standard	**7 - Relieved from Duty**
Number	**52.2.7**

52.2.7 *A written directive specifies the circumstances in which an employee may be relieved from duty.*

Commentary: The written directive should be supported by other documents establishing the powers and authority of the office of the chief executive. The relief from duty may be a temporary administrative action pertaining to an employee's physical or psychological fitness for duty or an action pending disposition of an internal affairs investigation. The authority to relieve an employee from duty should extend to supervisory levels. **(O O O O)**

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Standards Manual Text

Chapter	**52 - Internal Affairs**
Section	**2 - Complaint Procedures**
Standard	**8 - Conclusion of Fact**
Number	**52.2.8**

52.2.8 *A written directive requires a "conclusion of fact" for each investigation into allegation of misconduct.*

Commentary: The conclusion of the disciplinary process should be structured and should provide information to all participants in the process. The agency needs to be aware of changes in policies, procedures, rules, and regulations that may prevent future allegations of misconduct, as well as the need to modify or expand training. **(O O O O)**

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Appendix F: IACP Concepts and Issues Paper and Model Policy—Investigation of Employee Misconduct

IACP National Law Enforcement Policy Center

Investigation of Employee Misconduct

Concepts and Issues Paper
Originally Published: 1990
Revised: October 2001, January 2007

I. INTRODUCTION

A. Purpose of the Document

This document was designed to accompany the Model Policy on Investigation of Employee Misconduct established by the IACP National Law Enforcement Policy Center. This paper provides essential background material and supporting documentation to provide greater understanding of the developmental philosophy and implementation requirements for the model policy. This material will be of value to law enforcement executives in their efforts to tailor the model to the requirements and circumstances of their communities and their law enforcement agencies.

This discussion is divided into five parts. Part I provides background information; part II discusses discipline as an integral and potentially constructive part of any internal investigative process; part III examines the process of receiving and processing complaints from the public; part IV addresses the legal and procedural issues surrounding the investigative process; and part V reviews means of preventing employee misconduct.

B. Background

A substantial degree of attention is devoted in this concepts and issues paper to the disciplinary process, citizen complaints, and the many facets of investigating allegations of police officer misconduct. There are several reasons for addressing these interrelated issues in such detail.

First, over the past several years there has been a series of high-profile incidents of police officer misconduct. Many individuals believe that this demonstrates in part a weakness in many police agencies—even the largest and seemingly most sophisticated agencies—to detect, effectively intervene in, or prevent instances of officer misconduct as well as a failure to effectively supervise officers and take effective action in instances of officer misconduct. The notoriety generated by the most serious of these high-profile cases has had devastating effects on the police agencies involved, undermined their reputation and effectiveness in the communities they serve, and diminished the police profession. In fact, as this document is being prepared, the federal government is considering a comprehensive nationwide study of issues surrounding law enforcement misconduct and integrity.

Second, early in their careers some police officers become suspicious of or even hostile to the internal investigation process and wary of disciplinary procedures. These procedures are often viewed as unfair and biased against accused officers, and in some instances even regarded as an unnecessary interference into an officer's ability to perform his or her duties. Some officers come to view this regulatory function as an indication that the police agency does not trust them or that management has misgivings about the integrity and honesty of their officers. As such, some police officers may only grudgingly cooperate in internal affairs investigations—an act that often perpetuates the all-too-common distance between management and line officers.

The vast majority of police officers are honest, loyal, and hardworking professionals. The broad-brush strokes of officer brutality and excessive force sometimes painted by the media are almost always the product of misconduct by a small minority of officers. But the misconduct of a few can often taint the reputation of many. Often this affects an entire department when, in the face of employee misconduct, management imposes a more demanding system of officer accountability and discipline. Of course, police officers, like all other professionals, can and do make mistakes. There are also some officers who take advantage of their office or who, on a recurring basis, make such serious errors of judgment or overstep their authority that they probably should not be employed in law enforcement. Therefore, a police department must monitor its officer's mistakes and misconduct to protect its interests and reputation.

A publication of the IACP National Law Enforcement Policy Center
515 N. Washington St., Alexandria, VA 22314-2357
This document is the result of work performed by the IACP National Law Enforcement Policy Center. The views and opinions expressed in this document are sanctioned by the center's advisory board and do not necessarily represent the official position or policies of the International Association of Chiefs of Police.

To protect their own interests, reputations, and career goals, police officers must be forthcoming about their conduct and the conduct of other officers. This requires that they have knowledge of and faith in the integrity of their agency's investigative and disciplinary process. These are complex issue areas that require sound procedures based on up-to-date information. But, to be effective, internal investigation and disciplinary procedures must be understood by all members of the department.

Therefore, it is the intent of this document and the model policy upon which it is based to closely examine the internal investigation and disciplinary process. This information will (1) provide possible alternatives to present procedures; (2) expand the knowledge of officers, supervisors, and managers alike concerning their legal rights and responsibilities during internal investigations and disciplinary actions; and (3) instill the notion that a well-organized and professionally run internal investigation and disciplinary process serves the best interests of officers, law enforcement agencies, and the communities they serve.

It is recognized that individual agencies often have widely varying procedures and styles in this area and that some of these are the product of individual state law, employment contracts, state or local civil service requirements, and related matters. Obviously, this document cannot take into account all of the terms of these requirements and agreements. But it attempts to provide the essential ingredients of a well-administered, professional program governing internal investigations and disciplinary procedures.

II. GENERAL DISCIPLINARY CONCEPTS

A. "Fair Play" in Officer Investigations and Discipline

Discipline is an indispensable component of law enforcement management. There are rules and regulations that pertain to all fields of employment. But, unlike any other professionals, law enforcement officers possess unique powers and discretion to take actions that require professional supervision, management, oversight, and control, and adherence of officers to a rigid code of conduct and professionalism.

There are few issues among law enforcement personnel that can raise more concern, debate, rancor, and sometimes outright dissention than the issue of employee discipline and the way agencies investigate specific allegations of employee misconduct. Where there are widespread perceptions that the investigation and administration of discipline is handled unfairly, capriciously, inconsistently, or unprofessionally, ramifications can be widespread and extremely damaging to department morale and operations.

A theme that runs throughout this document involves the need for police agencies to follow an investigative and disciplinary process based on the principle of "fair play." Police agencies have a duty to investigate fully and completely accusations of officer misconduct to protect the department's integrity and its credibility in the community, not to mention clearing the names of officers who have done no wrong. But in that process, it must be remembered that accused officers do not lose their due process rights or the right to be treated fairly, impartially, and respectfully. When all officers understand that the department's disciplinary process is managed in this way it goes a long way to enhance relations between management and staff and to eliminate self-protective, stonewalling behavior that is often seen among officers who view the disciplinary system as unfair.

B. Perceptions of Discipline

As noted, public complaints and the disciplinary process often have unpleasant connotations for law enforcement officers and their superiors. For some officers, disciplinary matters conjure up feelings of fear, shame, discredit, anger, and alienation from the department. The issue also raises concerns and stress for law enforcement managers. The thoughtful executive or administrator may question whether his or her current mechanism for detecting officer misconduct achieves its goal. These same persons may question whether the existing disciplinary system is too lax or too harsh, whether it is applied consistently and fairly, and whether the disciplined officer will become embittered by the process or learn to become a better officer.

By contrast, some law enforcement officers and executives view citizens' allegations of officer misconduct and the disciplinary process in a significantly different light. They may consider these functions to be a carefully created facade to satisfy political and community groups, with no real intention of effectively investigating allegations of misconduct and applying appropriate discipline when warranted. Some officers take the position that the policies, procedures, and rules of an agency are primarily intended to assign blame when things go wrong rather than serve as a necessary means for directing, controlling, and managing employee conduct and operational practices. Such attitudes exist for a variety of reasons, not the least of which are issues of alienation between line and management personnel incorporating but not limited to a failure to engage officers in the establishment and justification of policies, procedures, and rules in the first place.

Neither of the foregoing views is healthy for the officer or law enforcement agency. Each undermines the basic goals of the internal investigative process and disciplinary system. In order to maximize the goals and purposes of these critical functions, police agencies must understand the entire process and formulate a philosophy of discipline for the department. The common adage, "Actions speak louder than words," is appropriate here. To instill an unbiased philosophy of discipline there must be a history within the agency of dealing fairly, impartially, and consistently with officers in the disciplinary process. Unfair or unnecessarily harsh discipline, treating officers as criminals or as guilty until proven innocent during the investigative process, generally has unintended negative consequences. Rather than serve to gain cooperation and respect of officers,

such treatment most often serves to estrange them. It lowers morale and can even foster a siege mentality between management and line officers that debilitates the entire organization. Aside from issues such as fairness, a large part of the problem is how police agencies and officers view discipline in general—particularly whether it is regarded as a fundamentally punitive measure (negative discipline) or whether it also serves a constructive purpose (positive discipline).

C. Positive vs. Negative Discipline

In order to develop a sound philosophy of discipline and apply it effectively, one must understand the distinction between negative discipline and positive discipline.

1. *Negative discipline.* The concept of negative discipline functions on one reactive and negative premise: A proven allegation of misconduct receives immediate punishment. This style is reactive because officer misconduct is addressed only after it has occurred. The disciplinary process is an end in itself and not a means of educating officers about appropriate types of behavior or a way to explain why certain standards are necessary. While negative discipline is long on punishment, it generally is short on reward.

Traditionally, the law enforcement profession has maintained a negative, reactive approach to internal investigations of allegations of officer misconduct and the disciplinary process. The paramilitary style upon which the law enforcement profession is modeled has helped to reinforce this approach.

2. *Positive discipline*. The current trend among law enforcement is to formulate an internal investigation and discipline system using a more holistic and positive approach to discipline and investigating allegations of officer misconduct.[1]

Positive discipline also focuses on determining why misconduct occurred, rather than focusing solely on taking measures to punish misconduct. For example, officer misconduct may be a result of poorly written policy or ineffective training. A positive disciplinary system analyzes each case to determine the cause of misconduct and develops appropriate remedial recommendations in addition to or in place of punitive actions.

Positive discipline includes reinforcement of excellent behavior by maintaining a reward system in addition to a punitive system. Actions by officers that exceed the norm deserve recognition. This may be done by special departmental commendations and medals or by recognition during performance reviews or similar means. In addition, each agency has officers who may not be outstanding but who are known for their reliability and consistent performance. These individuals also need to be recognized.

Generally, human beings respond to praise more positively than to criticism and punishment. Officers who perceive that their daily contributions are appreciated tend to feel better about themselves and want to continue doing a good job or even improve. They feel part of the agency and want to support its reputation. The use of threats of punishment alone to gain compliance with policy does not encourage excellence or promote the efficient delivery of police services.

Positive discipline implies a departmental goal of administering counseling, reprimands, suspension, or other discipline in a fair and consistent manner. Inconsistent discipline can undermine the entire disciplinary process and lead to charges of disparate treatment and civil litigation. Where officers perceive that they may receive stiffer punishment than another officer or supervisor for similar misconduct, any lessons that the department hoped to impart through discipline will be lost. This is true of every employee, irrespective of rank. Discipline must be consistent.

Finally, it should be noted that training is one of the most effective approaches to positive discipline. Some disciplinary matters are largely a product of inadequate training, a failure by officers to master what is being taught, or their inability to maintain specific skills and abilities or remember how to follow specific practices, protocols, or procedures. For them, refresher training may be more effective and appropriate than punishment.

D. Developing a Departmental Philosophy of Discipline

1. *Establishing Goals.* Law enforcement agencies must provide a firm foundation for the disciplinary process by developing clear goals to be achieved by the department. It is not enough for the chief executive officer to inform officers that the goal of the department is to prevent and detect criminal activity. While it may be the mission, this goal is too broad and too simple. Modern agencies operate in a complicated environment that affects this mission and requires thoughtful assessment of how these many factors affect delivery of public services. For example, relevant departmental goals may be established to create an environment that encourages the community both to work with the agency and to actively use the citizen complaint process. Goals focusing on a more positive relationship with the community have helped departments achieve the larger mission of detecting criminal conduct.

Additionally, the internal investigative process must be mindful of the potential for internal police misconduct that is not registered through the citizen complaint process. Therefore, it is important that police ethics and rules of police conduct are clearly defined. The process for internal investigations should also provide for the reporting and investigation of potential misconduct that has been identified from within the agency.

2. *Goals and Departmental Policy.* Departmental policy is the written expression of the department's goals. Departmental policy also reflects the standards of behavior that are expected from officers in daily operations. In addition, policy is one means of communicating these goals and how they are to be implemented by the officer.

3. *Communicating Goals, Policy, Procedures, and Rules.* [2] In order to achieve a positive, focused disciplinary system, departmental goals as well as departmental policy, rules, and procedures must be effectively communicated to and understood by all

employees. Effective communication is often a complex and difficult process, and it requires much more than periodic pronouncements posted on a bulletin board. One method of communicating goals and policies effectively is by incorporating officers and supervisors into the policy development process. Empowering officers and supervisors to participate in the articulation of goals and development of policies can help hone policies into more effective instruments for officer guidance and direction. Sharing the process of developing goals and policies will provide the officer with a better understanding of why a policy is necessary and why the officer must conform his or her behavior to that standard.

Officers who can internalize the basis for agency goals through assisting in developing and refining agency policy have a clearer understanding of the reasons for expected behavior. This is one way to minimize disciplinary problems. Individuals will generally conform more easily to a standard that they understand and accept as rational than to blind orders to adhere to such standards or procedures.

E. Disciplinary "Schedules"

One essential criteria for effective discipline is the degree to which departmental personnel perceive the disciplinary system as being fair. In order to achieve consistency, fairness, and objectivity in discipline, some departments use a system of graduated discipline. This typically involves the use of tables or schedules of penalties for one or more infractions or breaches of conduct, policy, procedures, or rules. There are arguments both for and against this type of uniformity.

On the one hand, it provides officers with a general idea of what they can expect for committing certain types of infractions. Major departures from the disciplinary schedule for these infractions are readily apparent—a factor that also serves as a check on decision making. This approach is more easily applied to certain types of misconduct where there are no unusual circumstances involved. However, many instances of misconduct occur that, while they may involve the same or similar charges, involve substantially different facts and circumstances. Administration of discipline strictly on a formula basis in these circumstances may not take into account the total circumstances of the event or the performance history of the individual officer(s). Therefore, disciplinary systems that rely solely on administration of discipline by formula can prove to be too inflexible and thus unfair.

However, the availability of a scale of disciplinary actions for various types of misconduct provides some general controls over inappropriate use of administrative discretion. If punishment for misconduct deviates from what is perceived to be the norm, a written explanation should be made explaining the decision-making process that supported the punitive action. Administrators and supervisors need not relinquish all discretion in this matter if they use a disciplinary scale. It can be used with the understanding that unusual circumstances may require departures from the schedule and that the reasons for such departures will be fully explained to those involved.

All things being equal, use of a scale of disciplinary penalties, or a "disciplinary matrix," can be a valuable tool for both employers and employees. The federal government uses a system that incorporates both a scale of potential penalties for various administrative infractions, as well as guidelines that supervisors must incorporate in making final decisions that takes into account both mitigating and aggravating factors of the employee's employment record. (A discussion of this process is included in an addendum to this concept paper).

Ideally, a matrix of penalties should be developed in a collaborative undertaking between employees and management. Employees who have input into determining appropriate punitive action for misconduct automatically invest themselves in the system. Some police departments that have used this approach have found both that officers are often harsher in their perceptions of appropriate disciplinary action for specific acts of misconduct than is management, and are less likely to lodge complaints against management for being unfair in disciplinary decision making.

III. RECEIVING AND PROCESSING COMPLAINTS

A. Responsibility for Complaint Investigation and Review

A police department's mechanism for investigating allegations of officer misconduct is of great importance. Whether this responsibility falls on one individual or an entire unit, those involved should adhere to guidelines and principles of operation that in many respects go far beyond those undertaken by internal affairs units of days gone by. Significant issue areas in this regard include the following:

1. *Necessity for Establishing an Internal Investigations Authority.* The internal investigation function is critical to maintaining the integrity and professionalism of a police agency. Public trust and confidence in law enforcement are injured where the public perceives that officer misconduct is ignored or that punishment is not commensurate with the misconduct. In addition, the internal investigation function serves to maintain the internal discipline and control necessary to provide efficient law enforcement services. Therefore, each law enforcement agency should have a mechanism for investigating citizen complaints and other allegations of employee misconduct.

2. Nature of the Investigative Authority. The traditional approach to investigating employee misconduct has been the responsibility of what has been commonly referred to as "internal affairs." This document's use of the term "office of professional standards" (OPS) to define this function represents more than a change in terminology. It is meant to convey a different perspective on the duties and responsibilities of this function within police agencies. Where information is available, compiled and summarized, this office can identify potential problems with agency policy, training, supervision, and other functions.

The office is also well situated to combine information on individual officer misconduct with other

risk factors to determine whether individual officers or even units have been engaged in behavior that is potentially problematic. Often referred to as an "early warning" or "early identification" system, these analyses can be used effectively to avoid future misconduct by identifying employees who are exhibiting various types of problematic behavior. Early warning systems are now required as an element of the accreditation process for agencies seeking or maintaining that status through the Commission on Accreditation for Law Enforcement Agencies, Inc. (CALEA).[3]

As suggested above, an office of professional standards should be charged with more than investigating alleged wrongdoing by officers, which is a purely reactive response to problems of misconduct. OPS can become a cornerstone for risk management within law enforcement agencies by identifying ways the agency and officers can avoid problems and correct shortcomings before they become problems. This office can also monitor evolving police practices that the agency may wish to adopt. These functions are best performed in conjunction with the inspections unit, research and planning or similar offices where available.

Many agencies have a separate unit that is solely responsible for conducting investigations of employee misconduct. Smaller agencies are typically unable to staff a separate unit. These agencies may designate an officer or officers to conduct all internal investigations on an ad hoc basis or rotate this responsibility among selected investigators as the need arises.

A growing number of law enforcement agencies have one unit to review the outcome of complaints lodged by the public and another to investigate internal allegations of employee misconduct. Some of these agencies staff the public complaint unit solely with department employees or use a mixture of citizens and officers. The latter may create more public accountability, since the citizens in the unit are meant to guard against internal department bias.

Several large urban areas have attempted to develop distinct units outside their departments in order to facilitate the public complaint review process. These units are usually staffed exclusively by members of the public such as community leaders and politicians or by a combination of police officers and the public. In a study of citizen complaint procedures conducted by the Police Executive Research Forum (PERF), it was determined that these external units have not worked as well as expected.[4]

Proponents of external complaint review units cite the value of injecting an independent and more objective voice in assessing and remedying officer misconduct. They claim that citizen involvement in this function reinforces goodwill between the department and the public. The public gains confidence that misconduct is fairly and adequately addressed where the public participates in the complaint review system.

The PERF study notes that opponents of external complaint review units feel that these units can undermine the morale of a police agency. The authority and responsibility for command staff to manage the department is interrupted and influenced by persons who are inexperienced in law enforcement and its unique workings. The PERF study suggests that some early citizen review boards may have been inherently biased against law enforcement and thus failed to achieve their goals.

3. Organizational Placement of Investigative Authority. The placement of the internal investigations authority—whether designated OPS or known by another title—within the organizational structure of the agency is an issue of critical importance. The internal investigations authority, whether a unit or employee, should be under the direct oversight of the chief executive officer of the department. The authority should have direct access to, and report directly to, this chief executive officer or another senior executive officer if so directed by the chief.

The integrity of internal investigations into allegations of officer misconduct is protected to a large degree when the internal investigations authority is required to report directly to the chief executive officer. Such investigations may unearth sensitive and confidential information that may or may not prove to be true. If treated without rigid internal controls, such information could potentially ruin the reputation and career of employees under investigation. Therefore, access to investigative information must be closely guarded and limited to those personnel with a need and right to know. This will protect the subject from the unfounded rumors or false accusations that may arise where numerous employees have access to all or some of the investigative information.

The process of conducting internal investigations must also guard against personal influence or bias. The possibility that an investigation may be stifled or unduly influenced as a result of favoritism, discrimination, or personal dislike increases as more personnel are involved in the internal investigation function. Where the internal investigation authority does not report directly to the chief executive officer there is a greater opportunity for corrupt officers to influence the outcome of internal investigations.

The attitudes of personnel involved in the investigative process may also threaten the integrity of the investigation. For example, a supervisor may privately consider investigation of use-of-force incidents to be less important than investigation of patrol car accidents, because the supervisor believes that all uses of force are merited. The supervisor may thereby practice internal selectivity in directing internal investigations. Whether due to personal selectivity or bias, the chief executive officer may ultimately receive a distorted picture of allegations of officer misconduct where all complaints are not forwarded to the internal investigation's authority and the authority does not report directly to the Office of the Chief.

The nature of the complaint review process and the duties of the chief executive officer is another reason for placing the internal investigative function under the direct control of the chief. The chief is responsible for control of the law enforcement agency and its employees. Immediate and firsthand knowledge of employee actions is necessary so that the CEO can effectively fulfill this responsibility. Additionally,

corrective actions must be taken in a timely manner where a pattern of misconduct indicates weaknesses in policy, training, or supervision. This can be delayed or interrupted if the chief receives allegations of misconduct through indirect channels.

4. *Staffing of the Investigations Authority.* The choice of staff to perform internal investigations is a critical factor in ensuring the integrity of this function. Officers for these assignments must be selected and assigned with the utmost care. Some law enforcement managers are uncomfortable with the prospect of administering discipline to fellow officers for misconduct. Often, they retain the perception that everything is different on the street and that any subsequent review of the facts to determine potential misconduct cannot accurately reproduce the event or duplicate the officer's feelings while involved in the incident.[5] Where civilians are involved in the review of investigations of misconduct (as in civilian review boards) the civilian may compensate for lack of street experience by recommending inordinately harsh or light discipline. Therefore, the chief executive officer must establish a unit comprised of personnel who understand the critical necessity for accurate, unbiased, and fair investigations.

Another means of ensuring unbiased and professional internal investigations is to use only trained personnel for this function. Personnel should receive formal training in this area both within the department and through professionally recognized external sources. The law relating to internal investigations is complex and requires investigators to know its requirements. In addition, internal investigators should have a firm grasp of such matters as the Peace Officers' Bill of Rights, use of the polygraph, the range of other operations and practices that influence the investigative process as well as local collective bargaining agreements, civil service requirements, and related matters.

When considering candidates for internal investigation assignments, the department CEO should evaluate a candidate's image within the department, his or her communication skills, personal disciplinary history and reputation, and breadth of law enforcement experience. The successful candidate for this assignment should have considerable patrol and supervisory experience, a positive reputation within the department, and outstanding interpersonal and investigative skills. In order for an officer to perform his or her duties, the officer must be able to conduct focused, unbiased fact-finding investigations irrespective of the officer(s) under investigation. At the same time, these no-nonsense investigations must be conducted in a manner that promotes a sense of fairness in the internal investigative process and confidence both inside and outside the police agency that charges of officer misconduct are being dealt within a professional manner. These are significant demands and underscore the demanding qualifications that must be possessed by the successful candidate.

B. Additional Duties of OPS

Although a supervisor will often initiate complaint inquiries, the primary responsibility for review and investigation of complaints and allegations against employees lies with the office of professional standards. This is the case regardless of whether the complaint or allegation is initiated by a member of the public or someone in the department or another state or local governmental agency. OPS may, for example, assume responsibility for an investigation (a) upon notification from a supervisor of the complaint or allegation, or (b) upon its own initiative once the complaint is registered with the department. However, OPS can take the initiative to conduct internal investigations of its own that are not generated by one of the foregoing sources if given prior approval by the department's CEO or the CEO's designee. This approval process is required to ensure that OPS does not become too independent and engage in "fishing expeditions" without reasonable justification to suspect misconduct.

In addition to its conduct of, or participation in, investigations of alleged employee misconduct, OPS should also do the following:

- Maintain a complaint log.
- Maintain a central file of complaints received. This file should be stored in a secured area with limited access. These records should be maintained in accordance with any records retention requirements imposed by state law.
- Conduct a regular audit of complaints to ascertain the need for changes in training or policy.
- Compile statistical and related information to identify trends in complaints involving use of excessive force or abuse of authority.
- Track complaints against individual employees to assist in employee risk analysis (e.g., early warning systems).
- Provide the department's CEO with an annual summary of complaints against employees and the disposition of those com plaints. This summary may be made available to the public or used in other ways as directed by the CEO.

Analysis of documented public complaints and their disposition may provide the department with critical information pertaining to the need for increased training and policy development or refinement on a department wide basis. This analysis may also act as an early warning system by producing one element of such a system—evidence of a pattern of misconduct by an officer or officers. It can serve as one component of a more comprehensive system for identifying problematic patterns of officer behavior and conduct that warrant attention and possible intervention. Analysis may also illuminate malfunctions in the disciplinary process itself that may be corrected, such as inconsistent discipline.

Another role of OPS is to provide certain types of information that will assist the agency in educating the public about the public complaint process. This is an essential part of efforts to facilitate a climate in which the public feels it can be heard by the police department. For this reason annual summaries of complaints investigated and the collective results of investigations should be made available to the public. These reports should not name the officers involved but should provide a summary of the nature of the complaints and dispositions. Increased education about the public

complaint process and the daily operations of its law enforcement agency will help the public better understand law enforcement procedures. Often, public complaints arise due to a lack of understanding of these procedures.

C. Accepting and Filing Public Complaints

Although allegations of misconduct may come from within the department as well as from external sources, the primary focus here is upon the handling of complaints from members of the public.

1. Receipt of Complaint. Police departments should allow public complaints to be received initially by any member of the department.[6] However, when someone expresses to a non-supervisory employee a desire to make a complaint, where possible the matter should be referred to a supervisor, as noted below. There should be little or no restriction on the means of receiving a complaint. Complaints should be accepted directly from the complainant in person, by telephone, in writing, or by any other means.[7] Anonymous complaints should also be accepted and reviewed.

Any supervisor within the department should be authorized to accept and record a public complaint. This is the prevalent practice among law enforcement agencies. Many departments permit any sworn officer or department employee to accept such complaints. This has the benefit of broad employee involvement while maximizing citizen access to the complaint process. This approach eliminates the need for the public to go through lengthy procedures before being able to register a complaint. In this manner, the public may also perceive that all officers and departmental personnel are genuinely open to investigation of misconduct. However, allowing a line officer to record a complaint may promote a lack of organization in the complaint acceptance and review process and permit individual officers to bypass the process by not recording or forwarding troublesome complaints. Therefore, it is preferable in efforts to safeguard the integrity of the process for members of the public to lodge complaints with a supervisory officer and be provided with whatever assistance is reasonable and necessary for them to do so by subordinate officers.

Alternatively, the department's complaint procedures should be explained to the complainant, and the complainant should be advised where and with whom the complaint may be filed. It should also be explained to the complainant that the complaint may be made in person or by any other means.

Supervisors are generally considered to have primary initial responsibility for observing officers' behavior for potential misconduct (see below); thus, responsibility for primary intake of public complaints reinforces their knowledge and ability to carry out this function.

The most appropriate manner of addressing public complaints has become a matter of concern for law enforcement. One particular issue is whether all public complaints received by the department should be subject to a thorough internal investigation. Some police personnel maintain a skeptical attitude towards public complaints. They assert that the complaint process can be manipulated by the public to exact revenge against officers. The increasingly high monetary judgments against law enforcement agencies in actions filed under Title 42 U.S.C. Sec. 1983 have contributed to the filing of frivolous or harassing public complaints. It is argued that some individuals file misconduct complaints and legal actions in the hopes of forcing the police department or governing jurisdiction into a quick out-of-court monetary settlement. Also, many officers dislike public complaints because they fear that the department may be more willing to believe the citizen than its own employee. The possibility of abuse in the public complaint filing process has prompted some agencies to investigate only the most serious allegations of officer misconduct.

Criticisms of the public complaint review process focusing on the potential for abuse of the system have some merit. Citizen abuse of this mechanism has occurred. However, when weighed against the benefits accrued to the department and public from a strong public review process, these criticisms prove negligible. In short, all citizen allegations of employee misconduct should be recorded and reviewed by the internal investigation authority. This doesn't mean that a full-scale investigation of every public complaint should be launched. But at a minimum each should be reviewed to determine whether it merits further investigation.

The complaint should be accepted and reviewed whether or not the complainant wishes to remain anonymous. There are numerous reasons why a citizen may wish to remain anonymous or distance him or herself from the complaint review process. Elderly citizens may have witnessed misconduct, but illness or infirmity may impede their ability to participate. Fear of reprisal should not, but can, influence a complainant's decision. The citizen may believe that a complaint against an officer will make the citizen a target both of the department and the officer against whom the complaint was lodged. Visions of daily parking tickets, citations for minor or nonexistent infractions, and officer failure to respond to a genuine emergency because the citizen was responsible for punishment of another police officer may scare the citizen into requiring anonymity or not registering a complaint at all.

2. Community Relations. Acceptance and review or investigation of all public complaints is vital in efforts to further the law enforcement goal of building and maintaining a good working relationship with all members of the community. One purpose of the complaint review process is to ensure that evidence of an officer's abuse of his or her official position is revealed and corrected. However, some citizens are unaware of the fact that a departmental mechanism exists to address public complaints of officer misconduct.

Until recently, law enforcement agencies have not typically taken active steps to inform the public about how to file complaints or how the police department handles those complaints. Nor have agencies, until relatively recently, provided the public with an annual summary of public complaints investigated and the results of those investigations. Many agencies have begun to provide such information to establish more credibility with, and accountability to, the public.

However, there have been times when, as a result of the general lack of knowledge about the complaint review process, some individuals have simply accepted certain minor forms of officer misconduct without question. Thus isolated from a full picture of officer misconduct, departments often have remained relatively unaccountable for the disposition of public complaints. In doing so, they have also missed the opportunity to dispel rumors about officer conduct within their agency—often information that can demonstrate the overall excellence of their department and fine performance of their officers.

Failure to address public complaints or involve the public in this process may have two unfortunate results. First, incomplete knowledge of officer misconduct may permit officers with hostile or overly aggressive characters to remain in their positions of authority and to continue to abuse that authority. Officers with temporary physical or emotional problems that cause misconduct may not be identified by early warning signals that could have surfaced through public complaints. Second, the public and law enforcement can break into two isolated and opposing camps. Incidents of discriminatory behavior by law enforcement personnel may increasingly alienate large segments of the population. The law enforcement agency may gain a reputation for being unaccountable for its actions. Under such a situation, the phrase "to serve the public" becomes largely meaningless as the public is seldom consulted or considered.

Therefore, review of all public complaints received by the law enforcement agency is an important means of serving the public and remaining in touch with the public's needs. Public trust and confidence are built when the public perceives that officer misconduct is addressed and corrected by the agency. This, in turn, promotes public willingness to help the agency carry out its law enforcement mission. In a climate that fosters trust between the public and law enforcement, citizens are more likely to come forward to testify, to provide evidence of criminal acts, and to provide other needed assistance in reducing crime.

3. Complaint Forms. Public complaint packages for use in the filing of complaints are also a good idea. Such packages should contain complaint forms, information on the department's complaint procedures, and an explanation of the action that the complainant can expect in response to a complaint. These packages can be made available to the public directly through police personnel and at designated public locations. Use of a customized complaint form is a good idea no matter how large or small a police department. The components of a complaint form are attached to this document. Actions forming the basis for a public complaint may also form the basis for litigation against the public entity, employing department, or officer for a violation of individual rights. Full documentation of the complaint helps the department document that the facts as reported to them were received and then acted upon to the fullest extent of the department's abilities.

Should the complainant revise his or her story, the department will have evidence to rebut these changes. Where the complainant has fraudulently filed a public complaint, the officer or department may decide to take legal action against the complainant. The documented complaint may be used to prove these charges.

Filing of false complaints is not a widespread problem in most localities. However, to guard against this possibility, some officers advise the complainant of the penalties for filing a false complaint. This is not a good general practice as it creates a chilling effect on the entire complaint reporting and filing process and could be perceived by others as an attempt to intimidate potential complainants. Failure to fully document all complaints can additionally create a perception that the department is covering up some officer misconduct. Thus, some written documentation of all public complaints should be instituted by law enforcement agencies.

D. Role of the Supervisor

Although the office of professional standards or similar entity should be given primary responsibility for the investigation of complaints and allegations, the initial responsibility for complaint review should lie with the supervisor receiving the complaint. Following is a suggested approach from the model policy for processing public complaints. This may be used as a prototype for creating a reporting/review system or as a basis for comparing an existing system. This approach consists of the following initial steps.

• *Supervisors Conduct a Preliminary Investigation.* Under this approach, supervisors conduct, or cause to be conducted, a preliminary inquiry to determine if grounds exist for initiating a full administrative investigation.

• *Complainant Receives a Copy of the Complaint.* The complainant receives a copy of the complaint as filed and is asked to verify by signature that the complaint set forth on the complaint form is a complete and accurate account of the events involved. If the complainant elects not to sign, this is documented by the supervisor and the inquiry proceeds. Copies of the complaint and the supervisor's findings should be forwarded to the office of professional standards and to the agency's chief executive officer (CEO).

1. Document and Forward the Complaint. All public complaints should be documented upon receipt and forwarded to the office of professional standards and the agency CEO. Even where the supervisor has seemingly resolved the matter by way of explanation of departmental policy or other actions, the complaint should still be documented and forwarded to OPS. The documentation should note any actions that were taken by the supervisor to resolve the complaint and the citizen's reaction. A copy of the complaint should go to the sheriff or chief of police if for no other reason than to keep him or her apprised of the nature of complaints on a daily basis.

2. Provide Complainant with a Copy of the Complaint. The complainant should receive a copy of the complaint. In some cases, citizens who lodge complaints receive little feedback about the final disposition, or whether the complaint was ever investigated. This shortcoming helps promote a general perception that such complaints are discouraged by the police agency, or that the agency takes little meaningful

action in response to public complaints. While agencies may actually investigate public complaints in good faith, lack of public knowledge concerning how these complaints were addressed or their outcomes reinforces this misperception.

3. Explain Complaint Process to Complainant. It is desirable that the complainant be given either a verbal briefing or written description of the complaint process and be informed that he or she will be contacted in writing about the final disposition.

If the supervisor taking the complaint recognizes that the actions taken by the officer(s) were appropriate and in accordance with existing agency policy and procedures, the supervisor should explain this to the complainant. The supervisor may explain to the complainant the policies and procedures in question in the event that a simple misunderstanding has precipitated the complaint.

For example, many citizens are unfamiliar with the field interview procedure or its purpose and may view this procedure as a form of harassment. A simple explanation of the purpose of this procedure may resolve these misunderstandings and may even leave the individual with positive feelings about law enforcement investigations and protection of the community. However, this in no measure implies that the explanation should be used as a means of talking the citizen out of filing a complaint should he or she desire to do so. In fact, the complaint should always be recorded for screening irrespective of other immediate steps by the supervisor to explain the events or actions of the officer. This is a safeguard for the supervisor should he or she be accused of dissuading or failing to record a complaint.

4. Distinguish between Service vs. Personnel Complaints. Some police departments classify complaints as either "service" or "personnel" depending on the issue(s) involved. Service complaints or concerns are those associated with the way police services are provided. A common example is a citizen complaint over police response time. Many of these types of public complaints may be handled in the internal investigative process somewhat differently from those involving personnel action or inaction directly with a citizen. But each type of complaint should receive a unique tracking number and be screened for pertinent information and potential violations of departmental policy and procedures. Even complaints involving misunderstandings may contain information of value to a police agency. This includes, for example, a need for the department to clarify procedures to individual officers or groups of officers, or to provide additional training in communication or other interpersonal skills. Examination of all public complaints allows the police agency to determine if the complaints form a pattern that should be addressed by the department in another appropriate manner.

5. Conduct Further Investigation if Necessary. If the supervisor's preliminary investigation discovers issues that may support a charge of misconduct, the supervisor should cause further investigation to be made and should notify OPS of the information uncovered and the actions that are being undertaken. If the preliminary investigation reveals evidence of criminal conduct by a departmental employee, all available information should be forwarded to both OPS and the agency CEO immediately and investigation of the complaint will be turned over to OPS.

It should be clear, however, that OPS may assume concurrent or sole authority over the investigation of any charge of misconduct at any time or at any point in a supervisor's investigation. In doing so, OPS must notify the involved supervisor of this action. Such actions of OPS without notification or justification risk the development of ill will between OPS investigators and the supervisor involved. Therefore, these actions should only be taken by OPS where unusual circumstances or facts of the incident warrant intervention. The overall purpose for allowing OPS to intervene in this manner is to provide a check against any potential charges of supervisory inaction or failure to pursue an investigation in a diligent manner.

6. Give Supervisors a Major Role in Investigation of Complaints. The office of professional standards must have the primary responsibility for investigating all complaints of employee misconduct. However, in the vast majority of cases, officer misconduct does not rise to the level of an offense for which suspension, dismissal or similarly serious disciplinary action is an appropriate remedy. Positive discipline may include additional training or counseling for an officer as an option to more punitive measures. For example, the officer may simply need a refresher on departmental policies in order to correct relatively minor problems. The supervisor is often in the best position to ascertain where these specific measures would be most effective and to administer them in an appropriate manner given the circumstances.

Thus, in many departments the officer's immediate supervisor is, or should be, given a major role in the investigative and disciplinary process. For example, first-line supervisors may be authorized to give the offending officer a verbal or written reprimand for minor infractions or for more serious infractions that still may not merit action through the department's formal disciplinary process. These reprimands should be used also in an educational manner for the officer, not solely as punishment. Even in more serious instances, the supervisor should also be asked to make recommendations for disposition of the case.

This system permits a more efficient and rational allocation of internal investigative manpower. For example, serious allegations of misconduct, such as brutality, are normally best assigned to OPS for internal investigation, while continued tardiness might better be investigated and handled by the officer's supervisor. In this manner, supervisors have a significant role in the investigatory and disciplinary process. But, where necessary and indicated the supervisor's investigation can be joined or even preempted by the OPS. Agencies that adopt this or a similar approach should provide both supervisors and OPS personnel with general guidelines concerning the types of complaints that should normally be handled by each.

IV. THE INVESTIGATIVE PROCESS

A. General Legal Considerations: Termination or Suspension

There are legal constraints that affect the investigation of officer misconduct and the administration of disciplinary action in all jurisdictions. Certain aspects of law enforcement officer discipline may vary in accordance with state or local law, civil service decisions, or the terms of collective bargaining agreements. In addition, several states provide statutory regulation of the public complaint process. However, in the absence of these specific constraints, certain general principles apply. A broad overview of these general features of officer discipline is important for all police personnel.

The most severe forms of discipline, such as suspension and termination, are those that are most extensively governed by federal, state, and local law. Regardless of the jurisdiction in which the department operates, suspension and termination proceedings must be conducted in accordance with applicable laws if they are to withstand legal scrutiny. The exact procedures for terminating or suspending a law enforcement officer will usually depend upon how the officer's employment is characterized under the applicable law.

Other forms of discipline that could impact an officer's property interests as determined under the 14th Amendment are also subject to legal guidelines as outlined in this section.

1. Property Interest in Continued Employment. The 14th Amendment's Due Process Clause guarantees that no person shall be deprived of life, liberty, or property without due process of law. "Property" has been expanded beyond its common meaning to include the abstract concept of a vested interest or right to continue holding one's job. Where such a property interest in continued employment exists, termination or suspension from such employment must conform to certain federally determined due process procedures.[8] A property interest in employment may be created not only by court decision but also by federal, state, or local legislation, civil service decision, or personnel handbooks. These determine the extent of the property interest.[9]

In most jurisdictions, law enforcement officers are given property interest in their employment by state statute. The wording of such legislation may differ widely from state to state. Many state statutes provide that officers shall retain their position unless dismissed for just cause. Other statutes contain a listing of behavior that may subject an officer to dismissal or discipline. Statutory wording that limits when an officer may be dismissed or suspended generally implies intent to confer a property right.

Where the law confers a property right in employment, officers cannot be terminated or suspended without just cause and a hearing by the law enforcement agency or other appropriate tribunal must precede such management decisions.

Where an officer is considered to have a property right in employment, suspension or termination must be based upon "just cause," that is, certain legally recognized grounds. There may be other grounds for discipline and other rights accorded to a department's officers in a given jurisdiction. These include the following.

• *Incompetence.* Most states permit an officer to be disciplined up to termination for incompetence. The department is not required to retain an officer who is unable to perform his or her duties due to incompetence.[10]

• *Neglect, Nonfeasance, or Failure to Perform Official Duties.* Even where the officer is competent, if the officer does not fulfill his or her responsibilities, the officer may be disciplined. Thus, many states include neglect of duty, nonfeasance, and/or failure to perform official duties as grounds for disciplinary action up to and including termination.

• *Conduct Unbecoming an Officer.* A basis for discipline that has long been a subject of controversy is the catchall provision "conduct unbecoming an officer," often referred to as CUBO. Conduct unbecoming an officer may include a wide range of behavior. For example, acts of moral turpitude by the officer, such as certain sexual activity or lying, may constitute CUBO.[11] This charge may also refer to acts that are considered to damage the department's reputation or the welfare of the department or the general public.

Some courts that are uneasy with the seemingly vague nature of the charge have criticized suspension or dismissal based on CUBO. It is sometimes contended that, because of this vagueness, the officer is not given adequate notice of the types of acts that are prohibited. By contrast, many courts have upheld this charge as a basis for discipline. Under the latter view, the officer is considered able to determine from state case law and department policy the scope of actions constituting conduct unbecoming an officer. In addition, officers are considered to be able to discern from their own moral value systems, which of their acts could potentially bring the department into disrepute. Law enforcement personnel need to receive advice on state employment law to determine whether a trend exists locally that would support CUBO as a basis for discipline.

• *Violation of Departmental Policy, Rules, or Procedures.* "Just cause" for discipline has also been found where the officer has violated departmental policies, rules, or procedures. Officers have a duty to obey all properly promulgated and legal policies and procedures of the department. Charges of misconduct by the officer or malfeasance in office are usually premised on such departmental policy violations.

• *Failure to Obey an Order.* Dismissal may in some cases be founded upon failure to obey the lawful order of a superior officer. What constitutes a lawful order can be disputed in some cases. If the officer can show that there was in fact no direct order, or that the order given was unlawful, there are no grounds for discipline.

• *Violation of Criminal Law.* In most states, an officer may be disciplined administratively in degrees up to and including dismissal for violating criminal law. Where there is a concurrent departmental policy prohibiting criminal conduct, the officer may also be disciplined for violation of departmental policy.[12]

In such cases an administrative finding of misconduct and subsequent discipline will not be dependent on a

judicial conviction unless otherwise provided by law. If the commission of a crime is a violation of department policy (as it should be) it may be immaterial that the employee was not criminally charged or convicted. The administrative proceeding conducted by the police department does not have to be guided by the legal standard of proof "beyond a reasonable doubt" as does a criminal court proceeding. A fair preponderance of the evidence indicating guilt is all that is necessary for a department to take disciplinary action up to and including dismissal from service.

Some departments choose not to file formal administrative charges until there has been an ultimate resolution of the criminal charges. However, this approach has some consequences that should be considered in advance. In particular, criminal court proceedings often take extensive time for resolution, particularly where appeals are granted. If the criminal charges against the officer are serious, the police department often does not and generally should not return the officer to street duties and may transfer him or her either to an administrative assignment or to administrative leave status. If the officer is maintained on any type of duty and/or retains law enforcement powers, the department risks civil litigation should the officer subsequently use those police powers inappropriately, whether on or off duty.

If the officer is placed on administrative leave, it should be with pay. This action ensures the employment status of the officer and, as an employee, the officer is required to answer questions regarding the investigation or face dismissal for failure to comply with a legal order. However, considering that an officer can remain, and many have remained, on administrative leave with pay for years pending the outcome of criminal charges, the financial efficacy of this approach often comes into question. Agencies should also consider whether this action has negative effects on other officers in the department who continue to work for their pay. As a result, the time officers may remain on administrative duty with pay should be as short as possible.

Coordination and cooperation with the prosecutor's office where criminal conduct is under investigation is essential. In some cases, where the evidence is sufficiently strong to determine that an officer has committed a crime, it may be best to dismiss the officer even if in doing so the department has to grant use immunity to the officer barring his statement from being used for criminal prosecution. This action effectively rids the department of an officer who poses additional risks to civilians and other officers if allowed to remain employed. Such decisions depend on a number of factors to include the seriousness of the offense and the strength of the case against the officer, among other matters.

2. Disciplinary Hearings. Law enforcement officers holding a property interest in their position normally must be given an administrative hearing prior to suspension or dismissal.[13] However, the department may be permitted to suspend the officer with pay pending the administrative hearing where the officer would pose a significant hazard to the public or the department if allowed to remain on active duty while awaiting a hearing.[14] Even without these exigent circumstances, an officer may be relieved from active duty or placed on administrative leave with pay pending the administrative hearing. In some rare instances it may be feasible to relieve an officer from active duty without pay with the proviso that if the administrative hearing results in a favorable ruling for the officer, he or she will be reinstated with appropriate back pay and without a break in benefits. Here again, officers and their agencies should understand that these are primarily defensive actions designed to protect the police agency, governing jurisdiction and citizens. It is not worth risking the safety of civilians or other officers when the ability of an officer to hold office is in serious doubt.

3. Terminable-at-will Employment. A more difficult legal disciplinary problem is presented in those states that do not confer a property interest upon law enforcement officers. While few in number, these states essentially treat public and private-sector employees in a similar manner. Termination of officers is considered to be at the will of the employing agency. Probationary officers are often regarded as "terminable-at-will."

Employment at-will means just that. Discharge can be imposed without good cause. However, no at-will employee can be discharged based upon race, religion, sex, or national origin. Nor should any person be discharged because of his or her sexual orientation.

In general, the federal due process pre-disciplinary requirements discussed in the previous section do not apply to terminable-at-will employees. As the officer has no legal property interest in his or her position, there is no deprivation of property upon termination that is protected by the 14th Amendment. As a result, a terminable-at-will officer has no right to a pre-disciplinary hearing to determine the validity of the firing decision except in certain limited instances.[15]

The rights accorded a law enforcement officer in terminable-at-will states vary significantly from state to state.[16] Adoption of exceptions by statute or case law should be researched within individual state laws.

4. Probationary Officers. It is well settled that probationary employees of public agencies can be dismissed without a hearing and without judicially cognizable good cause. [Perry v. Sindermann, 408 U.S. 593 (1972)] However, a general exception to this rule is recognized whenever an officer's liberty interest, as secured by the Due Process Clause of the 14th Amendment is invoked.[17]

5. Right to Good Reputation and "Clean Name." Any employee whose discharge impacts his or her liberty interests as provided by the 14th Amendment has a right to a name-clearing hearing. Impairment of a liberty interest occurs when a stigma or other disability results from termination of employment. In other words, the action affects the terminated employee's reputation or ability to secure new employment.[18] Cases involving the right to a name-clearing hearing have involved accusations of involvement in such criminal activity as rape, corruption, and theft as well as such charges as improper association with women, sexual misconduct, insubordination, and dishonesty.

In terminable-at-will employment, the 14th Amendment property provision has been construed to include an abstract right of employees to a good reputation and "clean name." Even where there is no property interest in the employment itself, the officer may have an enforceable interest in his or her good reputation. Indeed, this interest in reputation triggers the 14th Amendment due process requirements regardless of whether the employee is terminable at will or is being terminated for just cause.[19] Where an officer is to be discharged on the basis of a charge that may damage his or her standing in the community or attach a stigma to his or her good name, reputation, honor, and integrity, a name-clearing hearing prior to termination is necessary.[20]

Essentially, employers are not allowed to ruin an employee's chances of getting another job by firing him or her on the basis of scandalous or grievous charges that may be false, without giving the employee an opportunity to prove that the charges are false. For example, discharge of an employee for a positive drug test would trigger the requirement that the officer be given the opportunity to have a name-clearing hearing.

6. Defamation and Other Interests in Reputation. Even where termination itself is lawful, departments must be cautious of any statements released to the media or to prospective employers regarding the cause for the dismissal.[21] Regardless of whether there is a property interest in the employment, and whether correct procedures were followed in the disciplinary process, incorrect or incautious statements about an ex-officer may provide that officer with a right to bring a civil action in state court for defamation or in federal court for violation of the employee's "liberty interest" in his or her reputation.[22]

7. "Whistle-Blowing" Statutes. An important protection afforded to all employees is found in the so-called whistle-blowing statutes. These statutes prohibit employers from discharging employees who report or threaten to report an employer's violations or intended violations of the law.

B. Investigative Procedures

Responsibility for conducting internal investigations of police conduct carries with it the important responsibility to conduct such investigations in accordance with the law and professionally accepted practices. An officer who is the subject of an internal investigation retains certain rights, and legally accepted procedures must be followed during the investigation of alleged officer misconduct. Officer rights may vary according to state and local law or the terms of a departmental collective bargaining agreement. In addition, the characterization of the investigation as administrative or criminal will determine the applicable rules.

Several state legislatures have enacted legislation addressing the various rights guaranteed to law enforcement officers during their employment. These legislative acts are generally known as Peace Officers' Bill of Rights and generally incorporate the rights of officers who are under investigation for misconduct. The states that have adopted a Peace Officers' Bill of Rights include Kentucky, West Virginia, Virginia, Rhode Island, Maryland, Illinois, California, and Florida, among others.

Where the allegation of officer misconduct may involve a violation of criminal law, different considerations apply, and more stringent officer rights are generally guaranteed. For example, an officer who is to be questioned in a criminal investigation must be read his or her Miranda rights before questioning is begun, and those dictates must be honored during the interview. If in a criminal investigation the officer invokes his or her Miranda rights, that officer may not be disciplined for invocation of those rights. By contrast, questioning an officer during a purely administrative investigation into noncriminal violations invokes what are known as "Reverse Miranda" rights. The officer is not entitled to remain silent and must truthfully answer questions narrowly, specifically, and directly related to the performance of his or her official duties. Failure to answer these narrowly focused questions provides the agency with grounds for invoking discipline up to and including discharge from service for failure of the officer to respond to a direct order. Prior to questioning, the officer must be advised of the Reverse Miranda provisions.

This type of compulsory testimony raises a potential problem for police officers. The officer knows that by answering all questions truthfully he or she may be forced to admit criminal activity and thus face criminal charges. On the other hand, the officer knows that failure to answer as ordered may result in being discharged from employment. In order to circumvent this problem and ensure that officers are encouraged to answer all questions, the officer may be given "use immunity" in return for a waiver of his or her right against self-incrimination during the administrative investigation. "Use immunity" as previously noted, means that the department will not use any admissions of criminal activity by the officer for criminal prosecution purposes. However, if the officer is prosecuted for a federal criminal civil rights violation, such statements may be used for impeachment purposes. Also, the admissions may be used as the basis for administrative charges for any departmental policies that may have been breached.

The distinction between criminal and administrative investigations is an important one for investigators as will be noted later. But for purposes of the following discussion it should be emphasized that this document is primarily intended to address the conduct of administrative investigations.

1. Notification to Employee. Prior to a hearing on charges, the officer must be informed of the charges against him or her in accordance with the provisions of state law. The officer under investigation should have the opportunity to contact the investigating authority, whether a supervisor, OPS, or similar entity, to ascertain the status of the investigation. Some police departments neglect to inform the involved officer of the outcome of the investigation until the disciplinary hearing is imminent. This is a serious oversight by an investigating authority. It is a practice that should not be followed as it

minimizes the officer's opportunity to prepare his or her response and defense to departmental charges. In addition, where the officer is able to ascertain the progress of the investigation, the pressure and alienation generated by being the subject of an internal investigation may be minimized. The officer is not left in the dark and may feel more in control of the situation. Again, providing this information to the officer is part of dealing fairly with police officers under investigation.

2. Interviewing Employees. Irrespective of any notification of the investigation with which the officer has been provided, the employee to be interviewed should be advised of the nature of the complaint prior to any questioning.

All interviews should be conducted while the employee is on duty, unless the seriousness of the investigation is such that an interview during off-duty time is required. The atmosphere of the interview should not be coercive or demeaning. The officer should be treated in a dignified and respectful manner, and offensive or threatening language should not be used.

While more than one internal investigator may be in the room during an interview, one person shall be designated as the primary investigator who will conduct the questioning. Some departments permit questioning by more than one investigator, but this practice can degenerate into a hostile and coercive situation for the interviewee.

An officer under investigation should be able to bring a personal representative into an internal interview. The personal representative may be an attorney, union representative, supervisor, or other person chosen by the officer. But such representative(s) should not be in any manner connected with the incident under investigation. The role of the interviewee's representative is primarily that of observer. He or she should be advised not to intervene in the interview unless requested to do so by the interviewers or the employee, or unless the interview leads to issues of criminal activity.

Some law enforcement agencies only permit an officer under investigation to be accompanied by a supervisor or union representative. It is sometimes asserted that attorneys unnecessarily impede the progress of administrative investigations without fulfilling any critical role. However, in the complex world of civil liability, logic dictates that an officer be permitted legal representation during an administrative interview. A supervisor or union representative may be unable to foresee all the ramifications of any given case or be in a position to adequately prepare the officer. A personal legal representative, although relegated to an observer's role during an administrative interview, can still help the officer prepare a better case, while ensuring that the interview proceeds in an appropriate and legal manner.

Finally, while an administrative interview does not carry the direct threat of punitive action at the conclusion, it does target the livelihood and chosen profession of the officer under investigation. A sense of fairness suggests that an officer is entitled to protect his or her livelihood and unblemished name by having a legal representative present as an observer during an administrative interview.

All interviews should be recorded in their entirety. If breaks are taken, a notation should be made on the recording concerning the time that the break was taken, who requested it, and the time at which the interview resumed.

At the commencement of the interview, the interviewee under investigation should be given the following warning:

- *You are advised that this is an internal administrative investigation only.*
- *You will be asked questions specifically related to the performance of your duties and your fitness for office. You are required to answer all such questions.*
- *If you refuse to answer these questions, you may be subject to discipline for the refusal. This discipline may include measures up to and including termination of employment.*
- *You will also be subject to discipline if you knowingly make false statements during the interview.*
- *Any answers that you give are to be used solely for internal administrative purposes. They may not be used in any subsequent criminal proceedings, if any such proceedings should occur. However, should there be a federal criminal civil rights prosecution, your statement may be admissible for impeachment purposes.*

3. Examinations, Tests, Lineups, and Searches. Where deemed pertinent, the department may require an employee under investigation to undergo any of the following examinations:

- Intoximeter test
- Blood test
- Urine test
- Psychological examination
- Polygraph examination
- Medical examination
- Any other examination not prohibited by law

In addition to the foregoing general authorization for examinations of the officer under investigation, an on-duty supervisor should be permitted to direct an employee to submit immediately to a breath, blood, or urine test when there is reasonable suspicion in the line of duty that alcohol or drug usage is directly related to a public complaint or other misconduct.

Specialized tests such as medical or psychological examinations should only be required as part of an internal investigation where it is probable that the examination will produce relevant evidence. For example, an employee might be ordered to submit to a physical examination where the employee explains that the alleged misconduct occurred due to a temporary physical illness or condition.

State law varies on the permissibility of using the polygraph. The reliability of the polygraph examination has also been increasingly challenged as a means of discerning the truth. Some states have outlawed employer use of the polygraph on employees in both the public and private sector. Law enforcement agencies in those states may not be permitted to use the polygraph as a tool to help prove or disprove employee misconduct.

The trend among the states has been to provide stringent regulations on the use of the polygraph and to require certification of the polygraph examiner where

these tests are permitted. Those states with statutes regulating use of the polygraph generally prohibit its use within the private sector but permit the law enforcement profession to use the polygraph in investigations of employee misconduct and as a recruit-screening device. Some states permit this exception based upon the heightened need for internal security by the law enforcement profession. However, in other states this has led to the argument that a statute requiring only employees of a public law enforcement agency to take a polygraph is unconstitutional. For this reason, individual law enforcement agencies should carefully check their state law on this serious issue.

Where the polygraph examination is permitted as part of an internal investigation into officer misconduct, specific limits should be placed on the scope of the questioning. The employee may only be asked questions that are narrowly related to the performance of his or her official duties. The department may not ask broad questions unrelated to the investigation in hopes of gaining other information. This standard is the same as that applicable to questioning of the officer in a verbal investigative interview.

Whether the employee or employer requests the test, the employee must be advised prior to the polygraph test that failure to answer questions truthfully could result in discipline up to and including discharge. Use immunity for admissions of a criminal nature must be explained and a waiver obtained as in normal face-to-face questioning.

Where the law permits the test, if the citizen making the complaint submits to and passes a polygraph examination, the employee should also be required to submit to a polygraph examination.

An employee can also be required to participate in a lineup, if the lineup is to be used solely for administrative purposes.[23]

With regard to searches, property belonging to the department is normally subject to inspection for investigative purposes. This may include vehicles, desks, files, storage lockers, computers, e-mail messages, MDT transmissions, or other items or locations that are the property of the department. However, this right to inspect applies only to items in which the employee does not have a reasonable expectation of privacy. This is sometimes difficult to determine in cases where it has not been defined by departmental policy.

However, authorization to search should be restricted to a search for evidence of work-related misconduct. Authorization should extend only to departmental property, (that is "those areas and items that are related to work and are generally within the employer's control).[24] The employer may not search for evidence in private areas such as in a purse or locked luggage. Even when the item or location is departmental property, a search may not be legal without first obtaining a search warrant. This is the case if the employee has established a reasonable expectation of privacy by law, by departmental regulations or operating procedures, or by custom or practice of the department where formal policy to the contrary has not been established.

C. Disposition Following Investigation

1. Review and Recommendation. After the investigation is deemed complete, the primary investigative authority should review the complaint report and the investigative findings relative to the complaint. That investigative authority should then compile a report of findings and provide a disposition recommendation for each charge.

The model policy provides four possible dispositions for consideration in making these decisions.

• *Sustained:* There is sufficient evidence to prove the allegations.

• *Not sustained:* There is insufficient evidence to either prove or disprove the allegations.

• *Exonerated:* The incident occurred but was lawful and within policy.

• *Unfounded:* The allegation was false or not factual or the accused employee was not involved in the incident.

2. Review and Forwarding of Report. A copy of the investigator's findings and recommendations should be submitted for review to OPS. Thereafter, OPS may make any additional inquiries or conduct any investigation deemed necessary to verify, authenticate, or clarify the findings and recommendations of the investigative report. The report should then be forwarded to the department CEO through the chain of command for command officers' information, review, and comment.

3. Actions of CEO. Upon receipt of the report, the CEO should review the report and supporting documents. Generally, the CEO then chooses either to accept the findings and recommendations of the report or to remand the case for additional investigation. If the complaint is sustained, the CEO should determine whether final charges should be brought. If there is an affirmative finding on this matter, the CEO or his or her designee must direct that a charging document be prepared by the employee's supervisor or commander or by the OPS as appropriate. This document must be signed and thereafter served upon the employee.

The charging document must include the following:

• The nature of the charges.

• A copy of the investigative file.

• Notification that the employee may respond to the charges and a statement of the time frame for such response. This time frame must be reasonable, that is, long enough to give the employee a reasonable opportunity to prepare his or her response.

4. Response of Employee. The point at which the officer's response to the charges is accepted or heard is commonly referred to as the pre-disciplinary hearing (PDH). An employee who desires an opportunity to be heard regarding the proposed charges may request such a hearing. This request should be made to the CEO or the CEO's designee within the time stated in the charging document. The employee may respond either verbally or in writing to the charges within the time stated in the charging document.

The pre-disciplinary hearing need not approach the formality of a full judicial trial to satisfy the due process requirements of the 14th Amendment. The purpose of the hearing is to determine whether there are reasonable

grounds to believe that departmental charges against the employee are true and that suspension, dismissal, or other form of discipline is merited. This may include a reduction in penalty.

Due process requires that the officer be given notice of and an opportunity to be heard on the charges.[25] Due process does not require a police department to provide a permanent employee with a full evidentiary hearing prior to taking initial punitive action. But it does require at a minimum such pre-disciplinary safeguards as a notice of the proposed action, the reasons for such actions, a copy of the charges and materials on which the action is based, and the opportunity to respond either verbally or in writing within a reasonable period.

In order for the PDH to be meaningful, it must be held at a reasonable time and place. The officer must be permitted enough time before the hearing to prepare to address the charges against him or her, and the hearing must be held at a time and location that is easily accessible to the officer.[26] State law generally establishes the provisions for formal and evidentiary hearings of this type.

In many departments, the CEO will delegate this hearing to a member of his or her command staff or another designee. It is absolutely essential that the individuals so designated be fair and impartial and that the individual posses the authority to recommend a final disposition without fear of any reprisal from the CEO. The CEO may still make his or her own decision concerning appropriate punishment but should provide the reasons for overriding the recommendation decision to the involved officer.

Once the pre-disciplinary hearing is concluded, if the chief executive officer feels that discipline is justified, the officer must have the right to a full evidentiary hearing in order to satisfy the due process clause.[27] It is essential that departments observe the procedural requirements imposed upon the disciplinary process and that officers understand their right to these procedural safeguards. Even where just cause for discipline exists, failure to observe the proper procedures may result in judicial invalidation of the departmental action and an award of civil damages to the officer.

5. Disposition. Following the PDH or written response of the employee, the CEO is in a position to determine the appropriate disposition of the charge(s).[28] The disposition should normally be returned from the CEO to the commander of the employee's unit although this will depend upon the size and organization of the police department. The commander should then direct the employee's supervisor to take whatever disciplinary action is designated. A written copy of the disposition must be provided to the employee. The supervisor must subsequently verify to the commander, to OPS, and to the department's central personnel authority that the authorized disciplinary action has been taken.

6. Time Limit on Review Process. Whenever possible, the investigation of a complaint should be completed within a reasonable period of time. A period of 45 days from the time of the initial receipt of the complaint to its disposition would be considered reasonable under most circumstances although extenuating circumstances may have bearing on this time limit. For that reason, the time designated by the agency may be altered by a waiver granted by the CEO or the CEO's designee and must be modified in accordance with any requirements established by departmental policy, applicable law, or existing labor agreement. Whatever the time allowed, it may be desirable that regular status reports be submitted regarding the progress of the investigation.

This time limit may be impractical in investigations involving criminal activity where the administrative investigation is suspended to allow the criminal investigation to begin or to proceed. However, administrative investigations should comply with some reasonable established timetable in order to ensure the freshness and continuing availability of all witnesses and relevant evidence. In addition, adherence to a time limit demonstrates, both to employees and the community, the department's serious commitment to investigation of alleged misconduct. A set time limit on internal investigations helps to moderate the atmosphere of suspense and pressure that often exists where the accused officer must wait an interminable period for the conclusion of the investigation. Finally, a timetable for all internal investigations tends to ensure fairness in the process.

Coincidentally, serious consideration should be given to limiting the time that an officer may remain on administrative leave with pay pending the outcome of a criminal investigation. While the focus of this discussion is not on criminal investigations, it should be noted that if a criminal investigation has led to the filing of a criminal complaint, continuation of an officer on administrative leave without pay serves little or no purpose. At such point, it may be preferable to remove the officer from this status and to file administrative charges against him or her. This is particularly the case when administrative charges alone would normally form the basis for termination of employment.

7. Appeal. In addition to the foregoing opportunities for an officer to defend against charges of misconduct, most employees may appeal proposed charges and any action taken thereon as provided by statute, ordinance, collective bargaining agreement, civil service regulations, or departmental or jurisdictional appeal procedures.

8. Notification to Complainant. Following final disposition of the complaint, a letter should be sent to the complainant from the CEO or the CEO's designee explaining the final disposition.

9. Applicability of these Procedures. The procedures discussed here should be followed in any proceeding involving written admonishments, punitive transfers, punitive reduction in pay, punitive relinquishment of accumulated overtime or vacation, suspension, and discharge whether for cause or not.

In the last decade there has been a marked increase in complaints by unions and members about the way police officers are treated in personnel investigations. First is the complaint about disparity in the penalty imposed upon a police officer as opposed to a command staff officer. Second is the difference in which these classes of officers are treated while the personnel investigation

is taking place. Complaints about disparity in treatment, among other matters, have become so common that morale in many departments has been negatively affected. When this occurs, there is routinely a reduction in overall efficiency of officers.

It is recognized that in many cases following the recommendations contained herein will give greater rights to employees under investigation than may exist at the state law level. However, these procedures are fundamentally fair and present no downside to either management or employees.

It is self-evident that no CEO wants to impose discipline upon a sworn officer without just cause. Following the prescribed route as outlined here is a safeguard against real or imagined charges by critics that the CEO has acted in a capricious manner. Even though most internal investigations are for non-firing offenses, employees closely watch the manner in which these investigations are conducted. When it becomes clear that management conducts such investigations in a fair and impartial manner, one can expect to maintain or improve employee morale and productivity as well as decrease administrative hearings and civil suits.

D. Records and Confidentiality

The office of professional standards must be informed of all final disciplinary decisions and should in turn forward a copy of the final disciplinary decision to the department's central personnel authority.

It is essential that OPS case files and other information be physically separated from other personnel records and remain under the control of OPS. These files should be retained for the period determined by the CEO or as otherwise required by law. Information in these files is considered confidential and must be retained under secure conditions. OPS files may not be released to any person or entity without prior approval of the CEO unless law otherwise authorizes release.

Each law enforcement agency should recognize the importance of maintaining these investigative case records. Maintaining step-by-step written documentation of the investigative process, from receipt of the initial complaint to final disposition, protects the integrity of internal investigations. Officers who become the subject of an internal investigation are protected from an investigation tainted by personal influence or other corrupt actions from within the department through secured retention of such documentary evidence. In addition, an administrative finding of innocence from an untainted and fully documented investigation will weigh strongly in the officer's and the department's favor in any subsequent litigation that might be filed.

Due to the confidentiality of internal investigations, complaint records must be maintained in a secured area with access limited to only those personnel with the appropriate credentials who have a need to access this information and who have a right to do so as provided by law. To protect the confidentiality of the complainant, each complaint should be assigned a number, that should be used as a reference during the investigation.

V. PREVENTION OF EMPLOYEE MISCONDUCT

A. Proactive Measures

As with any other aspect of law enforcement, the best way to solve a problem is to prevent the problem from arising. For this reason, the topic of employee misconduct discussed here has stressed the importance of embracing a broader view of discipline—one that also incorporates proactive, preventive measures for detecting and responding to indications of potential disciplinary problems before they become realities.[29]

The following additional recommendations for misconduct prevention are provided for consideration by police agencies:

1. Individual Responsibility and Accountability. Line officers are key stakeholders in efforts to preserve and enhance the reputation of their department and their personal pride as police officers. Police officers can no longer subscribe to the timeworn notion that silence and secrecy will serve their individual or collective interests. Experience has clearly demonstrated that these attitudes only serve to build barriers within police agencies and alienate officers, supervisors, and managers. Line officers are on the front line with the community they serve, and their conduct reflects on the department as a whole. They are no better or worse in the eyes of the public than the officers with whom they serve. Unfortunately, the mistakes and misdeeds of a few often have serious repercussions for all who wear the same uniform.

Therefore, if an agency is to maintain a professional image, officers must ensure that their behavior complies with professional standards of conduct. Every employee of the department has a responsibility to adhere to agency standards of conduct, policies, rules, and procedures. Employees should be made fully aware of the fact that they will be held strictly accountable for such adherence. Officers should also be required to report actions or patterns of behavior of fellow officers that breach agency standards of conduct. This does not mean that every misstep, mistake, or instance of poor judgment needs to be reported to a supervisor. Such zealousness could cause more harm than good. However, it does mean that officers need to draw the line when an act or pattern of behavior by fellow officers threatens the rights of citizens and/or the well-being and reputation of police officers and their police department. Officers need to be made aware of the fact that reporting misconduct is not an act of betrayal to fellow officers, it is an act of self-defense.

Agencies should facilitate this reporting practice by providing officers with anonymous or confidential reporting protocols. They should take those measures possible to protect the identity of any officer who reports serious misconduct or behavior that could jeopardize the lives, safety, and well-being of officers or citizens, or damage the department's reputation. The department should also make it known and clearly demonstrate where necessary that any officer who attempts to interfere with or retaliate against an officer or other employee who makes such reports will be dealt with

through administrative regulations or criminal proceedings where indicated.

2. Training, Supervision, and Policy Guidance. The police department is responsible for providing each employee with sufficient and proper training, supervision, and policy guidance to ensure that all employees of the department are fully aware of standards of conduct, policies, rules, and procedures. Policies, procedures, and rules must be tied closely with training and supervision. These are not distinct functions that operate independently from one another but are part of a continuum of officer education, training, and management. An agency's mission establishes the basis for its policies, procedures, and rules. These in turn must serve to establish the essential groundwork upon which training curricula are developed and administered and field supervision conducted. These functions feed into each other, and upon evaluations of officer and agency effectiveness and efficiency, they complete the ongoing process of refinement and modification.

In this respect, policy and procedure development is not static but a dynamic function subject to continued refinement as the department's environment and circumstances change along with the law enforcement profession. As modifications are made, it should be noted that merely distributing or posting policies, procedures, and rules, is not sufficient. Steps must be taken to ensure that each employee has actual notice of such matters and fully understands what is required. To this end, individual copies of each policy, directive, or similar document should be distributed to every individual, a written receipt of delivery should be obtained, and, where necessary, testing should be instituted to determine whether each employee has read and fully understands these documents.

3. Appropriateness of Assignments. Employees must be assigned only to duties and responsibilities for which they have the necessary knowledge, capabilities, skills, abilities, and training.[30] To assign personnel in a haphazard fashion risks performance, morale, motivation, and productivity problems and increases the risk of officer mistakes, miscalculations, and misconduct.

4. Responsibility of Supervisors. The primary responsibility for maintaining and reinforcing employee conformance with the department's standards of conduct and operational procedures is lodged with first-line supervisors. Supervisors are required to familiarize themselves with the personnel in their units. They must closely monitor and evaluate their general conduct and performance. This cannot be done through the review of performance statistics alone. The issue of how officers do their job is as important as the issue of what they accomplish.

Evaluations of officers must be the product of daily observation and close working relationships. Supervisors should remain alert to any indications of behavioral, physical, or other problems that may affect an employee's job performance as well as any behaviors that may suggest conduct that is inconsistent with agency policy, procedures, and rules. Where observed, any information of this type that is deemed relevant should be documented immediately. When problems are detected, a supervisor may recommend additional training, counseling, or other measures for the employee. The supervisor should document all instances of additional training and counseling undertaken to modify an employee's behavior.

Supervisors play a critical role in observing officer behavior that may signal isolated or aggregate personal or work problems that may lead to misconduct. Supervisors are a police department's most important asset for continually reinforcing the department's evolving policies, procedures, goals, and objectives and ensuring that they are carried out properly.

Moreover, it cannot be assumed by the department that an officer's promotion to supervisory status necessarily imparts supervisory or leadership abilities to the subject officer. These are rarely innate talents, and all supervisory personnel require training in first-line supervision skills if they are to be effective in that role and serve the interests of the department and the community.

Endnotes

1. IACP, Managing for Effective Police Discipline, International Association of Chiefs of Police, Alexandria, Virginia (1977).
2. Whenever the term "policy" is used in this document it is meant to include policies, rules, and procedures. The violation of any of these can form the grounds for discipline.
3. The policy center, at this writing, has completed a final draft of a Model Policy on Early Warning Systems. Publication of this document is slated for late summer, 2001.
4. Inspector Paul West, "PERF Investigation of Complaints Against the Police Survey: Summary Report of Results", Police Executive Research Forum, Washington, DC
5. Gardner v. Broderick, 392 U.S. 273 (1968); Garrity v. New Jersey, 385 U.S. 493 (1967).
6. References are made to the receipt of complaints by supervisory personnel, but it is clear that initially a complaint may be received by any member of the department.
7. Today this might include the use of such means as facsimile or e-mail.
8. Goldberg v. Kelly, 397 U.S. 254 (1970).
9. Arnett v. Kennedy, 416 U.S. 134 (1974).
10. This generally does not include physical inability to perform. The Americans with Disabilities Act (ADA) and state or local law may affect the department's right to take action against an employee where physical inability is involved.
11. Some states limit "moral turpitude" to acts involving stealing or lying. Others view the concept more broadly and include such matters as sexual misconduct, drug use, and so on, in the definition of moral turpitude.
12. 16A McQuillan, Municipal Corporations, Sections 45.63 - 45.70 (3rd Ed.).
13. Cleveland Board of Education v. Loudermill, 470 U.S. 532 (1985).
14. Cleveland Board of Education v. Loudermill, 470 U.S. 532, 544-5 (1985).
15. Bishop v. Wood, 426 U.S. 341 (1976).
16. For a fuller discussion of the exceptions to the doctrine of employment at will and the available causes of action, see Larson, and Barowsky, Unjust Dismissal, Mathew Bender Publication (1987).
17. [Lubey v. City and County of San Francisco, 98 Cal. App. 3d 340, 346 (1979)] Lubey defines an officer's liberty interest as "charges of misconduct which 'stigmatize' his reputation, or 'seriously impair' his opportunity to earn a living." Therefore, in matters involving the contemplated discipline of a

probationary officer, only where the officer is able to allege an infringement of his or her liberty interest, will it become certain that "due process does mandate that the employee be accorded certain procedural rights before the discipline becomes effective." [Skelly v. State Personnel Board, 15 Cal. 3d 194, 215 (1975)]

The procedural safeguards in place for public employees who allege valid deprivations of their liberty interest, require that a public employee receive, "prior to imposition of discipline," (1) notice of the action proposed, (2) the grounds for discipline, (3) the charges and materials upon which action is based, and (4) the opportunity to respond in opposition to the proposed action. [Bollinger v. San Diego Civil Service Commission, 84 Cal. Rptr. 2d 27, 32 (1999), quoting Skelly Id at 215: "To be meaningful, the right to respond must afford the employee an opportunity to present his side of the controversy before a reasonable impartial and an uninvolved reviewer who possesses the authority to recommend a final disposition of the matter."]

In determining whether or not an employee has alleged facts sufficient to constitute a violation of due process, courts look at three distinct factors: (1) the private interest that will be affected by the official action; (2) the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or sub statute procedural safeguards; and finally (3) the state's interest. In applying these factors, courts are generally concerned to see whether the probationary officer is currently, or may be, subjected to any stigmatization or impairment of his right to make a living.

18. See for example, Lubey v. City and County of San Francisco, 98 C.A. 3rd, 340 (1979).

19. Board of Regents v. Roth, 408 U.S. 564 (1972).

20. Board of Regents v. Roth, 408 U.S. 564, 573 (1972).

21. Today, legislation may protect the department from liability for statements made to prospective employers about the ex-officer's performance or the cause of the ex-officer's dismissal. To ensure the lawfulness of releasing this information, departments should seek a written release signed by the former employee.

22. For a complete discussion of this complex issue, see, for example, Policy Review, vol. 8, no. 2, "Avoiding Liability for Employment References," IACP National Law Enforcement Policy Center, International Association of Chiefs of Police, Alexandria, Virginia.

23. This document deals with administrative investigations. The gathering of evidence against an employee for use in connection with criminal charges is governed by federal constitutional law.

24. O'Connor v. Ortega, 107 S.Ct. 1492 (1987).

25. Cleveland Board of Education v. Loudermill, 470 U.S. 532, 546 (1985).

26. Goldberg v. Kelly, 397 U.S. 254 (1970).

27. Goldberg v. Kelly, 397 U.S. 254 (1970).

28. If necessary, the CEO may remand the case for further investigation before final disposition.

29. For additional guidance on proactive measures to prevent employee misconduct, refer to the Model Policy on Corruption Prevention and its accompanying Concepts and Issues Paper published by the IACP National Law Enforcement Policy Center.

30. Law such as the Americans with Disabilities Act or similar state laws may impose limitations upon the department as to what employees may or may not be deemed to have the necessary capability to perform a particular job.

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Every effort has been made by the IACP National Law Enforcement Policy Center staff and advisory board to ensure that this model policy incorporates the most current information and contemporary professional judgment on this issue. However, law enforcement administrators should be cautioned that no "model" policy can meet all the needs of any given law enforcement agency. Each law enforcement agency operates in a unique environment of federal court rulings, state laws, local ordinances, regulations, judicial and administrative decisions and collective bargaining agreements that must be considered. In addition, the formulation of specific agency policies must take into account local political and community perspectives and customs, prerogatives and demands; often divergent law enforcement strategies and philosophies; and the impact of varied agency resource capabilities among other factors.

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Attachment
Sample Citizen Complaint and Inquiry Form

This form should be completed in accordance with Departmental Directive

Nature of Complaint: _____

Complainant's Name: _____

Home Address: _____

Business Address: _____

If applicable, list other complainants and/or witnesses: _____

Citizen Complaint #: _____

Race and Sex: _____

Telephone: _____

Member Involved: (1) _____

Member Involved: (2) _____

Member Involved: (3) _____

Location of Incident: _____

Complaint Received By: _____

Forwarded for Investigation to: _____

Division: _____

Division: _____

Division: _____

Date: _____

Time:_____

Summary of Incident: _____

Disposition of Complaint or Inquiry: _____

Court Issue: _____

Resolved with Citizen and/or No Further Action Deemed Necessary: _____

Investigative Comments: _____

Routing: _____

Responsible Division Commanding Officer: _____

Responsible Assistant Chief of Police: _____

Internal Affairs Section: _____

Signature of Responsible Division Commanding Officer: _____

Signature of Responsible Assistant Chief of Police: _____

Appendix
Flow Chart

Investigation of Employee Misconduct

I. INTRODUCTION

The process and component steps or events involved in investigating officer misconduct can be difficult to understand and to visualize as a process. A flow chart is provided as an appendix to this concepts and issues paper to assist in this understanding. The chart presents the sequence of events and steps involved in the investigation as well as decision points in the investigative process.

It should be noted that while this chart includes nearly all the component parts of an internal investigation, not all police agencies will desire or need to adhere to them in the manner presented here or in the depth which they are discussed in the concepts and issues paper. The law, collective bargaining agreements, civil service regulations and other regulatory factors may preclude the need to include certain steps in this process or may require that additional steps or protocols be added. In addition, the size and complexity of individual agencies may dictate that certain investigative protocols or hearings be handled through less formal and more expeditious means than may otherwise be the case in larger agencies.

All police agencies need to protect the legal rights of officers during internal investigations. For example, officers charged with infractions that could affect their property interests in continued employment must be given the right to a pre-disciplinary hearing in most instances. However, in smaller agencies it may be permissible to hold this hearing in a closed door meeting with the chief of police and other authorized persons rather than in a more formal board hearing.

In effect, while the flow chart includes many component parts and at first g lance may appear somewhat daunting, the majority of disciplinary actions within most police agencies can be resolved at the supervisory level as they do not rise to the level of possible suspension or termination of employment.

II. FLOW CHART COMPONENTS

As an overview, it can be seen from the flow chart that an investigation can commence at either of two junctures—through the initiation of a complaint to a police supervisor as depicted on the right side of the chart, or through public complaints lodged directly with the department's Office of Professional Standards (OPS). OPS may also investigate complaints that originate from employees within the agency, from other public agencies or from reasonable suspicion of wrongdoing established by other means or through other sources.

The model policy provides a two-tiered investigative system that (1) draws supervisory personnel into the investigation of employee complaints, (2) allows minor infractions to be handled by supervisory personnel and their immediate commanding officer without the requirement to involve OPS officers in every complaint and (3) includes checks and balances during the process to ensure that all complaints are dealt with, fully, fairly, and impartially.

Some agencies may wish to direct all complaints to OPS rather than adopt the two-pronged approach suggested here. While this would require shifts in the flow of complaints into the agency, most of the other decision points and measures cited in the flow chart would still need to be addressed in some manner.

The rationale for procedures identified in the flow chart are spelled out in the concepts and issues paper and are not reiterated here. The purpose of this discussion is to lead the reader through the sequence of steps and decision points identified in the flow chart and addressed in a more complete manner in the concepts and issues paper.

A. Complaints Lodged with Supervisors

The model policy for complaint acceptance and investigation suggested by the National Law Enforcement Policy Center allows for initiation of an investigation at one of two points—through a supervisory officer, or through the Office of Professional Standards. These two tracks are addressed here individually for sake of convenience. One can readily see the close coordination and direct linkages between supervisory and OPS initiated investigations.

That said, starting on the right side of the flow chart, a complaint that may come to the attention of a line officer must be referred to a supervisory officer for recording in accordance with procedures set forth in the model policy. From that point, the process of a supervisory investigation takes the following course:

- Once the complaint has been documented in a complaint report, a copy is provided to the complainant (unless the complainant is anonymous) and a second copy is forward to OPS.
- The OPS copy serves as a means of informing that office that a complaint has been lodged, allows OPS timely information to provide to the CEO, provides a means for ensuring that a follow-up supervisory investigation is completed in a timely manner, and allows

OPS to intervene in an investigation should it be deemed necessary.

• A report of all complaints filed, whether in summary or detailed format, is provided to the CEO or his/her designee on a routine basis as defined by internal protocols.

• If the initial complaint appears to be relatively minor involving administrative or service matters, the supervisor conducts an investigation into the incident.

• If the investigation provides reasonable suspicion to uphold the complaint, the nature of the offense and potential discipline involved must be evaluated before proceeding.

• If the investigation reveals that the alleged violation is of a more serious nature than originally envisioned and/or would involve punishment that would potentially invoke the officer's "property interests" in employment, the complaint and all investigative findings must be referred to OPS for further action.

• If, on the other hand, the supervisory investigation does not unearth matters of a more serious nature and potential disciplinary action—such as verbal reprimand, counseling or retraining—would not invoke the officer's property interests, the supervisor must advise OPS of the findings of the inquiry with a recommendation for discipline.

• OPS then reviews the findings of the investigation, determines whether the investigation is complete and in order, whether recommended disciplinary action appears warranted and appropriate, and passes the recommendation and findings on to the CEO for approval or other action.

• The CEO may approve the findings and recommendations, dismiss the matter or take other action that he/she deems appropriate. If disciplinary action is approved, the approval is returned to the officer's unit commander and implemented by the subject officer's supervisor.

• A copy of the report and disposition is maintained at the local unit level for reference and use in subsequent periodic evaluations.

B. Investigations Conducted by the Office of Professional Standards

OPS can initiate investigations of alleged officer misconduct in several ways: (1) assumption of responsibility (with notice) of a supervisory investigation at any stage of the investigation, (2) supervisory referral of a public complaint due to the perceived significance/seriousness of the allegations, (3) on the basis of complaints received directly by OPS from individuals or groups of individuals in the public sector, or through public or private institutions or entities, or (4) basis on information and/or evidence developed through internally initiated investigations that have received prior approval of the CEO.

Upon receiving an allegation of misconduct, OPS initiates a case file and reports the allegation to the CEO as previously noted. In instances of more serious complaints, particularly those that potentially involve corruption and other forms of criminal conduct, information on the allegations, evidence and subsequent investigation should normally be presented to the CEO in strict confidence outside normal reporting procedures. Steps and procedures beyond this point involve the following.

• OPS personnel conduct an investigation of the alleged misconduct.

• Should the investigation at any time uncover reasonable grounds to suspect criminal activity, OPS, with the knowledge of the CEO should refer and coordinate their investigation with the office of the prosecutor or district attorney.

• Once the administrative investigation has commenced, OPS should notify the subject officer(s) that OPS is conducting an investigation of the officer's conduct and the circumstances surrounding the specific complaint(s) in question.

• Within time limits designated by the police agency, investigation of the complaint should be concluded or an extension to that timeframe requested in order to conclude the investigation. Thereupon, OPS should complete its report of findings and submit it along with recommended dispositions for each charge to the agency CEO through the subject officer's chain of command.

• The CEO may take at least one of three measures (1) accept the findings and disposition recommendations, (2) reject some or all of the findings and disposition recommendations, or (3) remand some or all of the findings and disposition recommendations to OPS for additional inquiry or clarification.

• For charges that are finally approved by the agency CEO, a document must be prepared itemizing the charges against the officer.

• Upon receipt of the charging document, the officer has a period of time in which he or she can choose to respond to the charges, either verbally or in writing. This is the pre-disciplinary hearing.

• If a hearing is convened or a written statement submitted by the officer, this information will be provided to the CEO for consideration.

• If the officer is entitled to a full evidentiary hearing and chooses to invoke that right, the findings of that hearing will be forwarded to the CEO for consideration.

• Following any such hearings and with all findings in hand, the CEO then determines a disposition for each charge against the officer.

• The disposition is then forwarded to the subject officer's commander who in turn directs that the discipline be implemented.

• A copy of the disposition is provided to the subject officer at that time.

• In some jurisdictions, an officer may have a right to appeal a disciplinary action to a civil service or other board. He or she may also be entitled to a name clearing hearing. Should these options be authorized and available to the officer and he or she elects to be heard in these forums, the results of these hearings shall be returned to the CEO for information purposes or for purposes of making any modifications to the imposed discipline.

• Once disciplinary actions have been imposed and appeals or other hearings concluded, verification of final disciplinary action taken shall be forwarded to the commander of OPS and the agency's personnel authority.

• Finally, the complainant should be provided with a written statement of the outcome of the investigation and any disciplinary action that was taken as a result.

Addendum
Employee Disciplinary Matrix: A Search for Fairness in the Disciplinary Process

There are few issues among law enforcement personnel that can raise more concern, debate, rancor, and sometimes outright dissension than that of employee discipline—both the manner in which agencies investigate specific allegations of employee misconduct, and the way in which disciplinary penalties are determined. Where there are widespread perceptions that the investigation and administration of discipline is handled unfairly, capriciously, inconsistently, or otherwise unprofessionally, ramifications can be widespread and extremely damaging to department morale and operations.[1]

Unfortunately, perceived unfairness is an all too common condition in law enforcement agencies. Employee discipline is never an easy matter to deal with in any employment environment, and law enforcement agencies are no exception. In the field of law enforcement there are additional forces that tend to complicate both the procedural and substantive aspects of employee discipline. In particular, because of the unique powers that police hold in a democratic society, there is greater demand for accountability among police departments and individual officers. Actions and behaviors of officers often have life altering consequences for the public and unauthorized behaviors or actions can have dire legal consequences for officers and their agencies. Consequently, ensuring that police officers act in accordance with law, departmental policy, rules, and training is an indispensable element of effective police management.

Traditionally, law enforcement has been long on discipline and short on remediation. In more recent times, police organizations have adopted disciplinary procedures that are designed not simply to impose negative sanctions but to provide employees with the opportunity to correct inappropriate behavior and learn from mistakes. Consistent with this more redemptive approach to personnel management has come the notion of progressive discipline—a key component, as shall be seen, in the construction and use of a disciplinary matrix. Progressive discipline holds that, when punishment is warranted, it is most effective to mete it out in increasing levels of severity based on reoccurrences. Less serious forms of misconduct and those that are first offenses do not always deserve or require severe punitive actions. They can often be dealt with effectively by verbal reprimands or counseling, among other possible alternatives. In other words, the discipline must fit the misconduct, or be appropriate to the misdeed at hand. Progressive discipline, however, sometimes requires that employees receive different penalties for the same offense behavior because of different disciplinary histories.

In employment generally, and police work in particular, the notion of fairness in administration of discipline plays a key role. If employees believe that they are being dealt with fairly, they are more likely to be accepting of corrective actions and less likely to be alienated. In contrast, when discipline is viewed as unfair or unpredictable, employees often undermine the process and develop negative attitudes towards the organization. Unfair disciplinary processes (and those seen as unfair) support the development of a "code of silence" among employees and undermine the legitimacy of the disciplinary process.

The issue of fairness is comprised of at least two components of equal importance. The first of these is equality, which refers to consistency in the administration of discipline. Employees want to know that their punishment is no harsher than, and at least consistent with, the punishment of other employees who have committed the same type of misconduct. To be consistent, punishment for one person's act of misconduct must be the same or closely similar to the punishment given other persons who have committed the same or similar act. In other words, like penalties for like offenses in like circumstances. Equality also means that favoritism based on an employee's rank or position, race, gender, seniority or other characteristics does not play a part in determining appropriate discipline. Employee actions citing disparate treatment in disciplinary matters are often based on allegations that the police department's punishment was not in line with punishments given to other employees for the same or similar offense.

The second component of "fairness" is equity, meaning that underlying or contextual circumstances surrounding the misconduct or behavior need to be taken into account when deciding punishment. Mitigating circumstances may come into play. For example, in taking a prohibited action, the officer may have misunderstood the task or order that was given and acted inappropriately, the officer may have just learned of a death in the family and was not paying attention when engaged in the task at hand, or may have been confronted with highly unusual circumstances during the incident that warranted departure from established policy. On the other hand, determination of fair discipline must also take into account aggravating circumstances such as an officer's possible negative attitude toward the underlying incident, history of prior misconduct, prior attempts of the department to correct inappropriate behavior, or other factors.

Many if not most organizations generally, and police departments in particular, continue to find it difficult to successfully integrate the foregoing requirements into a cohesive disciplinary system. In larger departments in particular, it is difficult to achieve fairness of punishment when the authority for final disciplinary decisions is spread among a number of district, precinct, or division commanders

who may not share the same views concerning appropriate punishment for the same offense. The perceived fairness of disciplinary actions may be further eroded when supervisory or command level personnel are not held to the same standards as their line counterparts. Aggravating or mitigating information important to the fair determination of discipline may not be shared between departmental assignments or units, informal discipline and remedial actions of supervisors may not be fully documented, and problem employees often may be transferred rather than effectively dealt with by their superiors.

Disciplinary Matrix

The problem of developing a fair system of disciplinary sanctions in policing is similar to the problem of ensuring a fair system of criminal sentencing in the courts. At bottom the issue revolves around the existence of discretion in the disciplinary decision. While discretion is necessary for fairness since latitude allows penalties to be fine-tuned to match behaviors and circumstances, it also allows unfairness. The same system that allows a supervisor to grant leniency in cases involving well intentioned but inexperienced officers can also allow supervisors to grant or withhold leniency based on officer sex, race, age, or other characteristics.

There are three basic ways to control discretion. One way to control discretion is to eliminate it. Mandatory sentencing laws or mandatory penalty policies that require persons found in violation to receive a pre-set punishment act to eliminate discretion. The problem here is that while mandatory penalties can work to improve equality, they almost always undercut equity in the disciplinary process. A second way to control discretion is by developing a series of "checks" so that decisions are reviewed. Appellate review of criminal sentences provides a check on judicial decisions; an appeals process in the disciplinary procedures can do the same. Checks on discretion have a number of problems including the fact that they extend the length of the disciplinary process and thus add to officer and supervisory anxiety, undermine any deterrent effects, and add layers of decision making (and cost) to the process. Disciplinary decisions in most agencies are reviewable today (in addition to any departmental appeals there are often civil service reviews and, in the end, officers can seek court review of disciplinary decisions). Checking discretion may ultimately achieve more fairness, but given the current controversies, existing mechanisms do not seem to prevent disputes. A final way to limit discretion is through developing guidelines for decision makers. Guidelines inform the decision maker about the purpose of the decision, what factors should be considered (and how), and often, what has been the outcome in other similar cases.

In an effort to respond to charges of arbitrary and capricious disciplinary actions, police departments have sought several types of solutions, one of which is the development of a table of disciplinary actions often referred to as a disciplinary matrix. Such matrices attempt to answer the problem of fairness between individual disciplinary actions by the use of predetermined ranges of disciplinary alternatives. These disciplinary alternatives may be correlated to specific acts or various acts may be aggregated into a class of misconduct based on their perceived severity.

A disciplinary matrix provides the decision maker with a guideline for the disciplinary decision.

Disciplinary matrices are similar to matrix sentencing guidelines used in criminal courts around the country. The term "matrix" refers to a table that allows the decision maker to consider at least two things at the same time. Most criminal sentences are based on both the seriousness of the crime and the extent of the offender's prior record. Both more serious crimes and longer or more serious criminal histories lead to more severe penalties. The table plots offense seriousness against prior record and provides a suggested sentence or range of sentence for each combination of seriousness and prior record.

The matrix is like the mileage charts sometimes found on road maps that tell the reader how far it is between destinations. In these charts the same listing of destinations (usually cities) is printed across the top and down the side of the page. To find the distance between cities, the reader locates the first city on the vertical list (down the side) and then reads across the chart until reaching the second city on the horizontal list (across the top). At this point, where the two destinations intersect, the distance between the two places is printed. For discipline, the decision maker finds the seriousness of the behavior on one dimension and then reads across the chart to find a second dimension (such as prior disciplinary record). At the point where these two factors intersect, the matrix provides a range of appropriate sanctions or even a specific suggested sanction.

Progressive discipline is integral to disciplinary matrices or tables. Such tables are generally divided into several columns representing disciplinary history (a first, second, third, or even fourth repeat offense) and several rows representing seriousness of the misbehavior. Penalties increase as either seriousness or disciplinary history increase. For disciplinary history each repeated offense category carries a harsher form of punishment. Generally, repeated misconduct does not have to be of the same type or class in order to constitute repeated misconduct. The department establishes a period of time (typically between one and two years) wherein misconduct qualifies as a repeated offense.

Generally, disciplinary matrices are used for the imposition of punitive action for acts of misconduct rather than behavioral problems. Behavioral problems are often dealt with through counseling, remedial training, mentoring, increased supervision or related approaches. However, depending on the nature of the misbehavior and the frequency of its recurrence, it may be subject to sanctions within the disciplinary matrix.

The matrix is intended to provide officers with a general idea of the upper and lower limits of punishment for acts of misconduct. The matrix also provides guidance to supervisors and managers. In so doing, proponents hold, it takes some of the guesswork out discipline, relieving officer apprehensions about potential penalties and reducing stress during the investigatory and deliberative stages of the disciplinary process. It is also purported to reduce individual concerns and potential grievances and appeals concerning disparate treatment. Strict adherence to a disciplinary matrix can limit the discretion of deciding officials and thereby level the playing field among supervisors who may have widely divergent ideas about discipline. Some also argue that a disciplinary matrix can enhance public information and police accountability in cases where a department's disciplinary table of penalties is made public.

While a disciplinary matrix may assist in bringing consistency to disciplinary decisions, some argue that it does not go far enough in many instances in ensuring the inclusion of mitigating or aggravating factors that could enhance or diminish the decision on severity of discipline. Still others argue that it removes important management discretion to impose punishment that is consistent with both mitigating and aggravating factors.

These are both legitimate concerns. A table of penalties, once accepted by management and line officers alike, could conceivably limit disciplinary discretion of supervisors and commanders. The question then becomes, by using a disciplinary matrix, would departments sacrifice a degree of equity for the sake of meeting demands for equality? The answer to this is both yes and no. Theoretically, to be fully consistent in all cases of punishment would exclude, in some cases, equity in discipline because it would have to overlook individual differences and circumstances in reliance on the formula of penalties. Theoretically, the specific act of misconduct would be the only issue at hand in making a disciplinary decision.

In reality, this is normally not the case for two reasons. First, equity and consistency do not have to be mutually exclusive, nor do they have to unacceptably compromise one another. Mitigating and aggravating factors can, and should, be incorporated into the disciplinary decision-making process when using a matrix. This has been done at the federal level, as we shall see, and to some degree in state and local disciplinary procedures. In fact, it would be problematic if provisions for considering extenuating circumstances were not included in a system that uses a disciplinary matrix given the fact that due process considerations allow employees to reply both orally and in writing to specific charges. Secondly, most tables of discipline do not identify discreet disciplinary penalties but rather a range of possible penalties, thus providing the deciding authority with necessary latitude in entertaining and incorporating extenuating circumstances into the disciplinary decision. An example of one page of a disciplinary matrix is included in the appendix.

The Federal Model

Many elements of the federal government, as well as the Metropolitan Washington Police Department, rely on a disciplinary matrix to guide decision making on appropriate discipline.

The Office of the Secretary of Defense (OSD) for example, provides guidance on the use of the matrix and the incorporation of mitigating and aggravating factors in disciplinary decisions.[2] An overview of their system may provide a useful example for those departments considering the use of a disciplinary matrix.

In this case, supervisors are provided with the primary responsibility for initiating and recommending employee discipline, albeit with significant oversight by a senior commander and a personnel specialist from the Office of Labor Relations. In referencing the table of penalties, guidance provides that a particular penalty is not mandatory simply because it is listed in the table. In addition, the system provides that appropriate penalties for unlisted offenses may be derived by comparing the nature and seriousness of an offense to those listed in the table. Then, selection of an appropriate penalty should involve the balancing of the relevant factors in the individual case, consideration of the employee's previous disciplinary record, if any, and the recent offense giving rise to the disciplinary action.

> *The instructions further state*
> *In selecting the appropriate penalty from the table, a prior offense of any type for which formal disciplinary action was taken forms the basis for proposing the next higher sanction. For example, a first offense of insubordination for which an official reprimand is in the employee's official personnel folder, followed by a charge of absence without leave (AWOL), triggers the second offense identified in the table, i.e., a proposed five-day suspension if the AWOL charge was for eight hours or less or a proposed five-day suspension if the AWOL charge exceeded eight hours. Aggravating factors on which the supervisor intends to rely for imposition of a more stringent penalty, such as a history of discipline or the seriousness of the offense, should be addressed in the notice of proposed discipline, thereby giving the employee the opportunity to respond.*

The federal system emphasizes that a matrix of penalties should not be employed in a mechanical fashion, but with practical realism. This approach was emphasized in the landmark case *Douglas v. Veterans Administration,*[3] in which the Federal Merit System Protection Board, a federal adjudicatory agency, outlined 12 factors that must be considered by supervisors when recommending or deciding

employee disciplinary action. While not all are pertinent to every case, they provide a broad-brush approach of the types of mitigating (or aggravating) factors that can and should be considered when employing an agency table of penalties. Many, if not most, of these have application in the disciplinary decision-making environment of state and local law enforcement:

- The nature and seriousness of the offense, and its relation to the employee's duties, position, and responsibilities, including whether the offense was intentional or technical or inadvertent, or was committed maliciously or for gain, or was frequently repeated
- The employee's job level and type of employment, including supervisory or fiduciary role, contacts with the public, and prominence of the position
- The employee's disciplinary record
- The employee's work record, including length of service, performance on the job, ability to get along with fellow workers, and dependability
- The effect of the offense upon the employee's ability to perform at a satisfactory level and its effect upon supervisors' confidence in the employee's work ability to perform assigned duties
- Consistency of the penalty with those imposed upon other employees for the same or similar offenses
- Consistency of the penalty with any applicable agency table of penalties
- The notoriety of the offense or its impact upon the reputation of the agency
- The clarity with which the employee was on notice of any rules that were violated in committing the offense, or had been warned about the conduct in question
- The potential for the employee's rehabilitation
- Mitigating circumstances surrounding the offense such as unusual job tensions, personality problems, mental impairment, harassment, or bad faith, malice or provocation on the part of others involved in the matter
- The adequacy and effectiveness of alternative sanctions to deter such conduct in the future by the employee or others

Importance of Documentation

It is essential for supervisors to document misconduct and both formal and informal discipline by using either a disciplinary matrix or other means to determine discipline. Without such documentation, it is not possible to ensure consistency between disciplinary decisions for the same employee or other employees who have been engaged in similar misconduct, nor is it possible to respond effectively to potential disciplinary appeals. Informal discipline such as verbal reprimands and counseling is no exception. These should be recorded in a supervisor's memorandum as a matter of record for performance review purposes and for future reference in cases of repeat misconduct. While informal discipline should not be placed in an employee's permanent personnel file and may not have an immediate impact on an officer's employment status or condition, repeated behavioral problems or an accumulation of minor infractions of policy or procedure should be taken into account when assessing an employee's performance or determining future penalties for misconduct. As such, this information must be available to other supervisors if necessary. Such information is normally retained at the unit level for a limited period of time and is expunged after a set period of time if the officer does not engage in additional misconduct.

When conducting any type of informal discipline or corrective action, supervisors should fully document the details of the circumstances of the incident(s) on which the counseling or reprimand is based. The specifics of the counseling or reprimand should also be documented together with such information as the date it took place, persons present such as another supervisor as witness, name of the person conducting the counseling and any statements made by the subject officer that have bearing on the officer's performance or behavior. The officer should be notified that the counseling session or reprimand will be documented but will be used only for purposes of recording the incident unless misconduct or inappropriate behavior is repeated. In some cases, the supervisor and officer may decide to enter into an agreement involving informal remedial training, review of departmental policy and procedures, or related actions to help ensure that similar problems of conduct or misbehavior can be avoided. In such cases, the terms of such an agreement should be clearly defined in the memorandum.

The employee should be given the opportunity to read and discuss the contents of the memorandum once completed, asked to sign and date it to verify that the employee has read it, and given a copy if he or she requests one. Where differences of opinion concerning the contents of the memorandum exist, they should be discussed and documented in an attachment. If the employee refuses to acknowledge the memorandum by signature, this fact should be recorded on the document and witnessed by another supervisor.

The need for documentation is equally if not more important in instances of formal disciplinary actions that have direct impact on the terms and conditions of employment. These procedures and due process safeguards involving such matters as *Garrity* and *Laudermill* are generally well documented in departmental policy and need not be reexamined here.[4]

Comprehensive documentation in the realm of employee discipline may also serve the police department in other ways. When reports of misconduct are lodged in a central repository, they can provide the core data elements for an early warning system, both for individual employees and the organization as a whole. In all organizations, compilation of employee disciplinary offenses and subsequent penalties will prove invaluable for comparative purposes in determining the consistency of disciplinary actions between individuals and, in

larger departments, between divisions, assignments, and varied departmental components. In addition, summary and comparative data on the overall nature of employee misconduct in the department can point to potential problems in departmental policy, training, or supervision as well as possible solutions. For example, public complaints that center on unacceptable delivery of services rather than officer conduct (such as response time) may also prove essential in making alterations in personnel allocation or other organizational change.

When systematically organized in this manner, whether manually or by computer programming, individual officer conduct that may point to more serious problems can be flagged and addressed on a preemptive basis. Repeated complaints regarding firearms discharges, excessive force, damage to motor vehicles, loss of departmental property, and related information can suggest underlying problems with an officer that deserve proactive attention. Finally, this information is vital to monitoring and assessing the operation of the disciplinary matrix. A consistent pattern of disciplinary decisions that fall outside the range suggested in the matrix may be evidence that the matrix should be revised, or that supervisors require additional training in the use of the matrix.

What Is "Reasonable" Discipline?

Possibly most problematic in development of a disciplinary matrix is the selection of appropriate or reasonable penalties for individual acts or classes of misconduct. As noted earlier, a basic criterion for discipline is that the punishment must be in reasonable proportion to the rule or policy violation or other prohibited conduct. Obviously, a penalty that may be reasonable to one person may not be to another. There is no nationally recognized table of disciplines that can be used commonly among disciplinary schedules across states and localities. Many would argue that such a model would be impractical in light of differences in community and individual agency value systems, goals, and priorities. This is not to say that examples from similarly situated police departments cannot be effectively and usefully employed. In fact, if disciplinary actions are challenged as unreasonable, the availability of comparative information from other law enforcement agencies could be useful. But the final decision for an individual department must be made by that police department.

In order for a disciplinary system of this type to function with reasonable effectiveness, there must be some degree of buy in by employees. Where labor unions represent the employment interests of workers, this will unavoidably require union involvement. Even where collective bargaining entities are not at issue, management and line employees will need to reach a degree of agreement on acceptable disciplinary penalties and sanctions. This does not mean that management must seek concurrence on all decisions of disciplinary action but that there needs to be some reasonable accommodation of interests in arriving at a final table of disciplinary penalties.

Such a process of give-and-take can take considerable time and will undoubtedly test the patience of all involved. But if it can be accomplished, the exercise alone can be valuable. For example, in some cases where departments have engaged in this undertaking, it has been reported that employees take a stricter view toward adherence to certain principles of conduct and advocate harsher penalties than management for certain employee transgressions; thus, such negotiation can assist the department in defining or refining its core values and goals. For example, on close examination, employees may determine that police work requires, among all else, reliance on the integrity and truthfulness of officers. As such, employee conduct that undermines these basic tenets must be dealt with decisively and harshly. By the same token, departmental management may endorse more stringent penalties for failure of officers to adhere to policy in critical enforcement areas. For example, failure of officers to abide strictly to vehicular pursuit policy and procedures may be regarded as deserving strict enforcement and harsh penalties due to the department's involvement in a large number of crashes and injuries in such incidents. In this and related instances, a department can utilize the table of penalties to enforce and underline its commitment to specific priorities or goals.

Development of a table of penalties can be time consuming and laborious; however, the effort can be truncated somewhat by organizing acts of misconduct into conceptually similar classes with assigned sanctions on a collective basis. This approach has merit in that it is difficult to attempt to identify every discreet act of misconduct. And, failure to identify a specific act as impermissible could render any discipline in such a case as unreasonable based on the fact that employees were not informed in advance that it was prohibited. Identification of classes of prohibited actions combined with a defined list of mitigating and extenuating factors similar to those identified in Douglas under the federal model may be adequate to provide sufficient particularity to discipline based on the act of misconduct.

There is quite a bit of knowledge and experience with matrix sentencing guidelines that can ease the development of disciplinary matrices. It is not necessary to reinvent the wheel. Based on the experience with sentencing guidelines, there are two basic models for matrix development: descriptive or prescriptive. A descriptive matrix suggests sanctions based on what has typically been done in similar cases in the past. If disciplinary data are available, an analysis is done to identify the factors associated with different sanctions. Almost always this analysis will reveal that the severity of punishments is linked to the seriousness of the misbehavior and the prior history of the employee. Based on this analysis, a matrix can be derived that reflects these factors. In this way, the matrix

actually describes current practice. In this case, the application of the matrix does little to change how discipline is decided but does increase consistency. Alternatively, a prescriptive matrix can be developed by first determining what factors should be important and how they should relate. Then this determination of how discipline should work forms the basis of a matrix that prescribes penalties for future violations. In this case, the matrix discipline system may bear no relation to existing practice. The choice of developmental method depends on several factors including the availability of data, the capacity to conduct the analyses, the levels of satisfaction with current discipline practices, and the like. If the primary complaint about the current disciplinary process is procedural (concerns equality) and not substantive (concerns equity), a descriptive model seems to be indicated.

If a disciplinary matrix is adopted, regardless of the developmental model it is important to institute a system of recording disciplinary actions that includes collecting information about the relevant factors (such as offense seriousness, prior history, and sanction) so that the workings of the matrix system can be documented and evaluated. Periodic reviews should be conducted to look for areas where the system might be improved.

No matter how sanctions are determined in an employee disciplinary system, it is important to realize that the penalties are only part of the process. A matrix system can improve fairness in disciplinary decisions but the integrity of the total disciplinary processes depends on fairness in detecting, reporting, investigating, and documenting infractions. A disciplinary matrix is part of a total employee discipline process.

Endnotes

1. Investigation of Employee Misconduct: Concepts and Issues Paper, IACP National Law Enforcement Policy Center, International Association of Chiefs of Police, 515 North Washington Street, Alexandria, Virginia.

2. Department of Defense, Washington Headquarters Service, Memorandum for Supervisors and Managers: Disciplinary and Adverse Actions, March 1989.

3. Douglas v. Veterans Administration, 5 M.S.P.R. 280, 306 (1981).

4. See Investigation of Employee Misconduct, Model Policy and Concepts and Issues Paper, IACP National Law Enforcement Policy Center, International Association of Chiefs of Police, Alexandria, Virginia.

Model Policy

	Effective Date **July, 2001**	*Number*
Subject **Investigation of Employee Misconduct**		
Reference		*Special Instructions*
Distribution	*Reevaluation Date* **July, 2002**	*No. Pages* **4**

I. PURPOSE

The purpose of this policy is to inform all employees and the public of procedures for accepting, processing and investigating complaints concerning allegations of employee misconduct. This policy defines provisions applicable only to investigation and disposition of allegations of administrative misconduct.

II. POLICY

Establishment of procedures for investigating complaints and allegations of employee misconduct is crucial to demonstrate and protect this agency's integrity. This agency shall accept and investigate fairly and impartially all complaints of employee conduct to determine the validity of allegations and to impose any disciplinary actions that may be justified in a timely and consistent manner.

III. DEFINITIONS

Office of Professional Standards (OPS): The designated employee(s)/unit with primary responsibility for conducting investigations of employee misconduct allegations.

Public Complaint Package: Information packages containing complaint forms, information on the complaint procedures used by this agency and actions the public can expect from this agency in response to their complaint.

Summary Action: Disciplinary action taken by an employee's supervisor or commander for lesser violations of agency rules, policies or procedures as defined by this agency. Summary actions are the lowest level of disciplinary action generally handled by first line supervisors.

IV. PROCEDURES

A. Basis for Discipline

1. Employees are subject to discipline for violations of law or agency policy, rules or regulations.
2. All disciplinary actions taken under this policy are subject to, and shall be consistent with, applicable state law, local ordinances, administrative rulings and collective bargaining agreements.
3. Employees who withhold information from, or fail to cooperate with, internal investigations or who fail to report misconduct of employees are subject to disciplinary action in addition to any other disciplinary action that may result from the investigation.

B. Acceptance/Filing of Complaints

1. Public complaint packages shall be made available to the public through police personnel and at designated public facilities.
2. Complaints may be received by supervisory members of this agency either in person, over the telephone or in writing, and may be lodged anonymously or by any other means.
3. Employees shall provide assistance to those who express the desire to lodge complaints against any employee(s) of this agency. This includes but is not limited to:
   a. calling a supervisor to the scene to document the complaint,
   b. explaining the agency's complaint procedures,
   c. providing referrals to individuals and/or locations where such complaints can be made in person, or
   d. explaining alternative means for lodging complaints, such as by phone or mail.

C. Summary Action

1. Summary action may be taken by supervisory personnel for lesser violations of rules, polices, or procedures, as defined by this agency, upon approval of such action by the unit commander.

2. All summary actions shall be documented and copies of the charges and disposition provided to the subject employee, retained by and forwarded to subsequent units of assignment, forwarded to OPS and incorporated in the employee's central personnel record.

D. Investigation of Public Complaints—Supervisor's Role/Responsibility

1. Supervisory personnel shall cause a preliminary inquiry to be conducted to determine if grounds exist to conduct an administrative investigation.
   a. If the inquiry finds that acceptable agency policy and procedures have been followed, the supervisor will explain to the complainant the investigative steps that were taken by the agency together with the findings and conclusions of the investigation. If appropriate, the supervisor may explain agency procedures, a misunderstanding of which may have precipitated the complaint.
   b. The complainant shall receive a copy of the complaint as lodged with the agency and shall be asked to verify by signature if it is a complete and accurate account. If the complainant elects not to sign, this fact shall be documented and the investigation will proceed.
   c. The allegation shall be documented and copies forwarded to OPS and the agency chief executive officer (CEO).
2. If the supervisor's preliminary investigation identifies grounds that may support disciplinary action, the supervisor shall cause further investigation of the complaint and shall notify OPS of this action.
   a. OPS may assume concurrent or sole authority for the investigation at any point in the investigation upon notification of the subject employee's supervisor and/or commander.
   b. Should an investigation at any time reveal evidence of criminal conduct, all available information shall be forwarded to the agency CEO and to OPS as soon as possible.

E. Investigation of Public Complaints—OPS Role/ Responsibility

1. OPS has primary responsibility for review and investigation of all complaints against employees, whether initiated by the public or by a member of the department.
2. OPS may assume primary responsibility for a supervisor's complaint investigation at any stage in the investigative process upon notification of the supervisor involved. OPS may also initiate an investigation of alleged employee misconduct, with or without a formal complaint, with prior knowledge and approval of the agency CEO or his/her designee.
3. OPS shall have the following additional responsibilities:
   a. Maintain a complaint log;
   b. Maintain a central file for complaints in a secured area and in conformity with records retention requirements of state law;
   c. Conduct a regular audit of complaints to ascertain the need for changes in training or policy;
   d. Maintain statistical and related information to identify trends involving all complaints of excessive force and abuse of authority;
   e. Track complaints against individual employees to assist in employee risk analysis; and
   f. Provide the CEO with an annual summary of complaints against employees and final dispositions that may be made available to the public or otherwise used at the discretion of the CEO.

F. Investigative Interviews and Procedures

1. Prior to being interviewed, the subject employee shall be advised of the nature of the complaint.
2. All interviews will be conducted while the employee is on duty, unless the seriousness of the investigation is such that an immediate interview is required.
3. During interviews conducted by OPS, there will be one employee designated as the primary interviewer.
4. The complete interview shall be recorded. The recording will note the time at which breaks are taken in the interview process, who requested the break and the time at which the interview resumed.
5. The employee shall be provided with the name, rank and command of all persons present during the questioning. The employee shall also be given the following admonitions:
   a. *You are advised that this is an internal administrative investigation only.*
   b. *You will be asked and are required to answer all questions specifically related to the performance of your duties and your fitness for office.*
   c. *If you refuse to answer these questions, you can be subject to discipline that can be as much as discharge or removal from office. You may also be subject to discipline for knowingly giving false statements.*
   d. *I want to reassure you that any answers given are to be used solely for internal administrative purposes and may not be used in any subsequent criminal prosecution should such occur.*
6. Counsel at Interview
   a. Employees may have an attorney, union representative, supervisor, or personal representative

with them during any internal investigative interview so long as the individual is not involved in any manner with the incident under investigation.

b. The employee representative's role is primarily that of observer. He/she should be advised not to intervene in the interview unless requested to do so by the subject employee or unless the interview leads to issues of potential criminal activity.

7. Examinations and Searches

a. The agency may direct that the employee undergo an intoximeter, blood, urine, psychological, polygraph, medical examination or any other exam not prohibited by law if it is believed that such an examination pertinent to the investigation.

b. An on-duty supervisor may direct an employee to submit to a breath, blood or urine test when there is a reasonable suspicion that alcohol and/or drug usage is suspected as the factor directly related to allegations of misconduct.

c. An employee can be required to participate in a lineup if it is used solely for administrative purposes.

d. Property belonging to the law enforcement agency is subject to inspection for investigative purposes unless the employee has been granted a reasonable expectation of privacy in vehicles, desks, files, storage lockers, computers or similar items or places.

G. Disposition

1. The primary investigative authority for the investigation (i.e., subject employee's supervisor and commander or OPS) shall review the complaint report and investigative findings once deemed complete. This authority will compile a report of findings and provide a disposition recommendation for each charge as follows:

a. *Sustained:* Evidence sufficient to prove allegations.

b. *Not sustained:* Insufficient evidence to either prove or disprove allegations.

c. *Exonerated:* Incident occurred but was lawful.

d. *Unfounded:* Allegation is false or not factual or the employee was not involved.

2. A copy of the findings and recommendations shall be submitted for review by OPS prior to submission to the agency CEO if OPS is not the primary investigative authority. OPS may make any additional inquiries or investigative measures deemed necessary to verify, authenticate or clarify findings and recommendations of the investigative report and may include such findings and disposition recommendations with the report submitted to the CEO.

3. All disciplinary investigation findings and recommendations shall be forwarded to the agency CEO through the chain of command for information, review and comment.

4. The CEO will review the investigative report and supporting documents and may accept the findings and recommendations or remand the case for additional investigation in all or in part.

5. If the complaint is sustained, and the CEO determines that formal charges will be brought, the CEO, or his/her designee, will direct that a charging document be prepared by the subject employee's commander, supervisor or OPS as appropriate, signed and thereafter served upon the subject employee. The charging document will provide:

a. nature of the charges,

b. a copy of the investigative file, and

c. a reasonable time frame in which the employee can respond to the charges either in written or oral form.

6. Employees who desire an opportunity to be heard on these proposed charges may make a request for a hearing to the agency CEO or his/her designee within the time period permitted for this action.

7. Following a hearing or written response of the subject employee to the charges, the chief executive shall determine an appropriate disposition of the charges or may remand the case for further investigation or related actions.

8. The employee may appeal the proposed charges as provided by law, ordinance, collective bargaining agreement, or departmental or governing jurisdiction procedure.

9. The disposition shall be returned from the CEO to the commander who shall direct the employee's supervisor to take such disciplinary action as required.

10. The supervisor shall verify to the commander, OPS and the agency's central personnel authority when authorized disciplinary action has been taken. A written copy of the disposition will be provided to the employee.

11. Where the findings do not support the charges, the commander shall forward the complaint with supporting documentation to OPS for reporting and accounting purposes. A copy will also be provided to the subject employee.

12. Following final disposition of the complaint, a letter shall be sent to the complainant from the CEO or his/her designee explaining the final disposition.

13. Whenever reasonably possible, the investigation of complaints should be completed within 45 days

from receipt of the complaint to its disposition unless a waiver is granted by the CEO or his/her designee or another time frame is required by departmental policy, law or labor agreement.

H. OPS Records and Confidentiality

1. OPS shall be informed of all final disciplinary decisions.
2. OPS shall forward a copy of all final disciplinary decisions to the agency's central personnel authority.
3. OPS case files and information shall be maintained separately from personnel records.
4. OPS information is considered confidential and will be retained under secure conditions within OPS.
   a. OPS case files and personnel dispositions may not be released to any source without prior approval of the agency CEO unless otherwise provided by law.
   b. Case investigation files shall be retained for a period of time as defined by state law or the agency CEO.

I. Prevention of Employee Misconduct

1. Every employee of this agency has a personal responsibility for, and will be held strictly accountable for, adherence to the agency standards of conduct, rules, policies and procedures.
2. This agency has the responsibility for, and will provide to each employee, sufficient and proper training, supervision and policy guidance to ensure that all employees are apprised of the demands and requirements of this agency with regard to employee conduct, duties and responsibilities.
3. This agency shall take all reasonable measures to ensure that employees are assigned only to duties and responsibilities in which they have all the requisite knowledge, skills, abilities and training.
4. The primary responsibility for maintaining and reinforcing employee conformance with the standards of conduct of this department shall be with employees and first line supervisors.
5. Supervisors shall familiarize themselves with the employees in their unit and closely observe their general conduct and appearance on a daily basis.
6. Supervisors should remain alert to indications of behavioral problems or changes that may affect an employee's normal job performance and document such information where deemed relevant.
7. Where a supervisor perceives that an employee may be having or causing problems, the supervisor should assess the situation and determine the most appropriate action. Supervisors should refer to and use this agency's *Employee Mental Health Policy* for guidance in cases involving emergency removal of employees from the line of duty and for issues dealing with employee metal health assistance.
8. A supervisor may recommend additional training to refresh and reinforce an employee's skills, abilities or understanding of agency policy, rules and regulations.
9. Counseling may be used by the supervisor to determine the extent of any personal or job problems that may be affecting performance, and to offer assistance and guidance.
10. The supervisor shall document all instances of counseling or additional training used to modify and employee's behavior.

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Every Effort has been made by the IACP National Law Enforcement Policy Center staff and advisory board to ensure that his model policy incorporates the most current information and contemporary professional judgment on this issue. However, law enforcement administrators should be cautioned that no "model" policy can meet all the needs of any given law enforcement agency. Each law enforcement agency operates in a unique environment of federal court rulings, state laws, local ordinances, regulations, judicial and administrative decisions and collective bargaining agreements that must be considered. In addition, the formulation of specific agency policies must take into account local political and community perspectives and customs, prerogatives and demands; often divergent law enforcement strategies and philosophies; and the impact of varied agency resource capabilities, among other factors.

Appendix G: Sample Officer Notification Form

This sample officer notification form wasprovided courtesy of the Pennsylvania State Police.

Name of Department
NOTIFICATION OF INQUIRY

Note: Investigators shall prepare original and one copy, retain the original with case file and provide to the subject of investigation. One of the three listed investigation types shall be checked.

RANK FIRST NAME LAST NAME

You are hereby notified of the following:

- ☐ A complaint investigation is being conducted into an incident which you are alleged to have been involved. The details of the complaint are as follows: (explanation below)
- ☐ A non – complaint investigation is being conducted in accordance with the department directives. The details of your involvement are as follows: (explanation below)
- ☐ An administrative investigation is being conducted pursuant to a request from the office of chief counsel. Your involvement has been identified as follows:

SIGNATURE OF INVESTIGATOR

I acknowledge receipt of this notification and I am aware of my right to a union representative.

SIGNATURE BADGE NO. SOCIAL SECURITY NO. DATE TIME

Appendix H: Funding Sources for Training and Software on Ethics and Internal Affairs

Training:

- National Internal Affairs Investigators Association: www.niaia.us
- Legal and Liability Risk Management Institute, A Division of the Public Agency Training Council: www.llrmi.com/Training/le-internalaffairs.cfm

Software:

- Ci Technologies Inc.: www.ci-technologies.com
- L.E.A. Data Technologies: www.leadatatech.com
- Larimore Associates Inc.: www.larimore.net
- On Target Performance Systems: www.otps.com
- Pilat HR Solutions: www.pilat-nai.com
- Police Foundation: www.policefoundation.org

Appendix I: Methodology

While some books, articles and other publications address the Internal Affairs process, law enforcement integrity and police/community relations, nothing exists that is a hands-on guide to ethical policing and community trust-building. Therefore, the Office of Community Oriented Policing Services (the COPS Office), U.S. Department of Justice, and the International Association of Chiefs of Police (IACP) joined forces to create, *Building Trust Between the Police and the Citizens They Serve: An Internal Affairs Promising Practices Guide for Local Law Enforcement* in an attempt to standardize the practices and procedures of how law enforcement executives address ethical or misconduct problems within their departments. The guide's advisory committee, composed of representatives from the COPS Office, IACP, and numerous police agencies, particularly those involved in Internal Affairs operations, convened to direct the project and determine how to obtain specific information on complaint management, Internal Affairs, and community trust building.

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House and Senate Chambers Sections
Capitol Police Department
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Phil Cline
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Stafford, Virginia

David Williams
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Village Administrator
Itasca, Illinois

Based on these experts' recommendations, IACP project staff conducted an extensive review of the existing literature on the issues of police ethics, community trust, and the Internal Affairs process and attitudes toward it. Staff gathered information from sources including books, reports, monographs, articles, newsletters, newspapers, and web sites. The literature review revealed three areas that need to be focused on by law enforcement agencies in the Internal Affairs process: standardization, training, and education. The complete literature review is available through the IACP.

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Thurnauer, B. *Best Practice Guide, Internal Affairs: A Strategy for Smaller Departments*. Alexandria, Virginia: International Association of Chiefs of Police, 2002. www.theiacp.org/LinkClick.aspx?fileticket=4B%2f4SDZtgV8%3d&tabid=392

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Walker, S., S.O. Milligan, and A. Berke. *Strategies for Intervening with Officers through Early Intervention Systems: A Guide for Front-line Supervisors*. Washington, D.C.: U.S. Department of Justice Office of Community Oriented Policing Services, Police Executive Research Forum, February 2006. www.cops.usdoj.gov/files/RIC/Publications/e01060004.pdf

Second, project staff reviewed 17 IACP management studies[13] conducted between 1991 and 2007 by the IACP's Programs and Research Division. A copy of complete review of the management studies is available through the IACP. The review identified Internal Affairs practices that would benefit any sized law enforcement agency in the United States. The review showed that the following major elements were missing from all of the 17 agencies studied:

- Consistent officer training, which is needed to increase and maintain an understanding of the departments' duties, values, principles, and policies
- Tracking of citizen complaints and the police departments' Internal Affairs processes
- Public awareness of the police departments' complaint processes, values, and structure.

13. *IACP Management Studies*, conducted by the Programs and Research Division, are comprehensive studies that review a police department's strengths and weaknesses, with the intent of improving the agency's overall functioning.

Next, the IACP developed and disseminated a survey intended to identify trends and community practices currently in use by all-sized agencies during an Internal Affairs investigation. The survey was sent via the Internet to 9,000 active IACP members. The IACP received 1,705 responses from state and local law enforcement executives, with an overall response rate of almost 19 percent. A copy of the survey and its results are available from the IACP. Project staff analyzed the data and found that although 91 percent of the survey respondents had an Internal Affairs policy, there was little uniformity in several areas, including the following:

- Who is responsible for investigating complaints
- The types of complaints investigated
- The way complaints are received
- Tracking complaints
- The types of dispositions for complaints
- Whether or not there is an early intervention system (EIS) or risk management system
- The type and amount of input that the governing bodies have in a police agency's Internal Affairs process
- How agencies inform their communities of police ethics and Internal Affairs practices.

The review and synthesis of the survey results further elucidated the need for a practices and procedures guide for law enforcement to effectively maintain a culture of integrity and the public trust.

Last, the IACP hosted four regional roundtable discussions that focused on building trust between the police and the citizens they serve. The groups included police executives, Internal Affairs managers, mayors and city managers, and subject matter experts in the area of police integrity, Internal Affairs, and community trust-building. The participants identified a number of issues that were important to police ethics and integrity and suggested that uniformity among policies and procedures in individual departments was critical. The following were the attendees at the four roundtable meetings.

Roundtable #1, held in Seattle, Washington

Robert Berg
Chief of Police
Centralia Police Department
Centralia, Washington

Jeffrey Chen
Chief of Police
Medina Police Department
Medina, Washington

Bob Collins
Sergeant
Des Moines Police Department
Des Moines, Washington

Don Forman
Operations Captain
Lake Oswego Police Department
Lake Oswego, Oregon

John L. Gray
Chief of Police
City of Arlington Police Department
Arlington, Washington

Doug Greisen
Chief of Police
Scappoose Police Department
Scappoose, Oregon

Robert Huebler
Lieutenant
Enumclaw Police Department
Enumclaw, Washington

Scott Jones
Sergeant
Quincy Police Department
Quincy, Washington

R. Gil Kerlikowske
Chief of Police
Seattle Police Department
Seattle, Washington

Mike Lasnier
Chief of Police
Suquamish Tribe of Washington
Port Madison Indian Reservation
Poulsbo, Washington

Nancy McAllister
Lieutenant
Port of Seattle Police Department
Seattle, Washington

Steve Nelson
Commander
City of Olympia Police Department
Olympia, Washington

Chris Odlin
Captain
Missoula Police Department
Missoula, Montana

Steven W. Orr
Chief of Police
Lewiston Police Department
Lewiston, Idaho

Ronald C. Ruecker
IACP President – 2008
Director of Public Safety
Sherwood, Oregon

Cameron Webster
Captain
King County Sheriff's Office
Seattle, Washington

Kristi Wilson
Commander
Redmond Police Department
Redmond, Washington

Roundtable #2, held in Chicago, Illinois

Peter Brust
Deputy Superintendant
Bureau of Professional Standards
Chicago Police Department
Chicago, Illinois

Anita Flagg
Captain
Operations and Internal Investigations
Murfreesboro Police Department
Murfreesboro, Tennessee

Jack Garcia
Colonel
Division of Internal Investigation
Illinois State Police
Springfield, Illinois

Patrick F. Gransberry
Deputy Chief
East Chicago Police Department
East Chicago, Indiana

Terry D. Milam
Chief of Police
St. John Police Department
St. John, Missouri

Jeanne Miller
Chief of Police
Davidson Police Department
Davidson, North Carolina

Albert Pearsall III
Senior Policy Analyst/COPS Program Manager
Office of Community Oriented Policing Services
Washington, D.C.

Emory A. Plitt, Jr.
Circuit Judge
Circuit Court for Harford County Maryland Courthouse
Bel Air, Maryland

Lynn S. Rowe
Chief of Police
Springfield Police Department
Springfield, Missouri

Dale Sievert
Lieutenant
Services Division
Davenport Police Department
Davenport, Iowa

Tina Skahill
Chief of Internal Affairs
Chicago Police Department
Chicago, Illinois

Wayne W. Schmidt
Executive Director
Americans for Effective Law Enforcement
Park Ridge, Illinois

Gary G. Smith
Chief of Police
Emporia Police Department
Emporia, Kansas

David Tiefenbrunn
Lieutenant
St. Charles Sheriff Department
O'Fallon, Missouri

J. Michael Ward II
Chief of Police
Alexandria Police Department
Alexandria, Kentucky

Roundtable #3, held in Hershey, Pennsylvania

Carol Abrams
Captain
Impact Unit, Internal Affairs
Philadelphia Police Department
Philadelphia, Pennsylvania

John R. Brown
Deputy Commissioner
Professional Standards and Administration
Pennsylvania State Police
Harrisburg, Pennsylvania

Patrick Caughey
Major
Office of Professional Standards
New Jersey State Police
West Trenton, New Jersey

David Falcinelli
Captain
Director, Internal Affairs Division
Montgomery County Police Department
Gaithersburg, Maryland

James Hyde
Captain
Miami Beach Police Department
Miami Beach, Florida

Matthew Klein
Inspector
Director, Internal Affairs Division
Metropolitan Police Department
Washington, D.C.

Christy Lopez
Attorney
Partner, Independent Assessment & Monitoring
Takoma Park, Maryland

Keith Nemeth
Sergeant
Office of Municipal Investigations
Bureau of Pittsburgh Police
Pittsburgh, Pennsylvania

Gary A. Payne
Lieutenant
Internal Affairs Manager, Professional Standards Unit
Virginia State Police
Richmond, Virginia

Albert Pearsall III
Senior Policy Analyst/Program Manager
Office of Community Oriented Policing Services
Washington, D.C.

Daniel Pekrul
Lieutenant
Executive Division
Internal Affairs
Michigan State Police
East Lansing, Michigan

Lloyd Perkins
Chief
Skaneateles Police Department
Skaneateles, New York

Robert L. Smith, Jr.
Attorney
Law Firm of Robert L. Smith, Jr., LLC
Havre de Grace, Maryland

Walter Tuffy
Colonel
Chief of the Internal Investigations
Baltimore City Police Department
Baltimore, Maryland

Roundtable #4, held in Alexandria, Virginia

Geoffrey P. Alpert
Professor
University of South Carolina
Columbia, South Carolina

Cameron D. Benson
City Manager
Hollywood, Florida

John R. Brown
Deputy Commissioner
Administration and Professional Responsibility
Pennsylvania State Police
Harrisburg, Pennsylvania

Darnell Earley
City Manager
Saginaw, Michigan

Riccardo Ginex
Village Manager
Brookfield, Illinois

Robert S. Hoffmann
Borough Administrator
Westwood, New Jersey

Curtis L. Holt
City Manager
Wyoming, Michigan

Richard Kaffenberger
City Manager
Lake Havasu City, Arizona

Sam A. Listi
City Manager
Belton, Texas

Leonard A. Matarese
Director
Public Safety Services
International City/Council Management Association Consulting Services
Washington, D.C.

Keith Matthews
Lieutenant
Internal Investigation Division
Baltimore, Maryland

David Mercier
City Manager
Spokane Valley, Washington

Terry D. Milam
Chief of Police
St. John Police Department
St. John, Missouri

Gary A. Nace
Borough Manager
Ephrata, Pennsylvania

Gary O'Rourke
Village Manager
Streamwood, Illinois

Albert Pearsall III
Senior Policy Analyst/Program Manager
Office of Community Oriented Policing Services
Washington, D.C.

Emory A. Plitt, Jr.
Circuit Judge
Circuit Court for Harford County Maryland Courthouse
Bel Air, Maryland

Christopher Thomaskutty
Deputy Mayor
Baltimore, Maryland

Keith Tiedemann
Major
Internal Investigation Division
Baltimore, Maryland

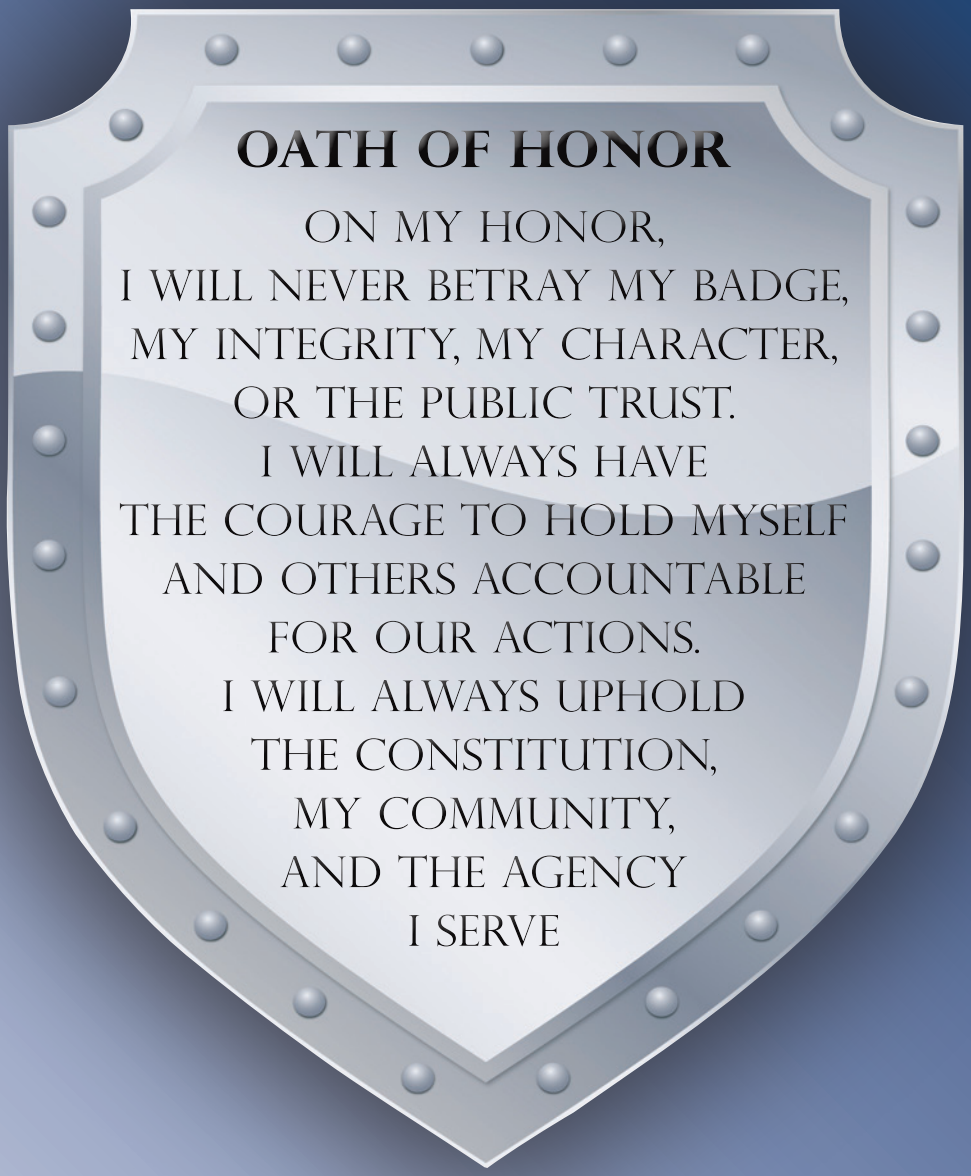
Jose Torres
Mayor
Patterson, New Jersey

James M. Twombly
City Manager
Broken Arrow, Oklahoma

David C. Williams
Colonel-Retired
Village Administrator
Itasca, Illinois

Based on the information obtained through the literature review, management studies, survey, and roundtable discussions, IACP determined what publications already exist on the subject of Internal Affairs and community trust-building; in which areas the most guidance is needed; and what successful practices are in place in various agencies throughout the country. This guide is the result of a thorough and detailed assessment of what will best serve law enforcement in its quest for ethical and honest policing.

Individual detailed reports for the literature review, IACP Management Study review, and the survey of IACP members are available by calling 800.THE.IACP.


OATH OF HONOR
ON MY HONOR,
I WILL NEVER BETRAY MY BADGE,
MY INTEGRITY, MY CHARACTER,
OR THE PUBLIC TRUST.
I WILL ALWAYS HAVE
THE COURAGE TO HOLD MYSELF
AND OTHERS ACCOUNTABLE
FOR OUR ACTIONS.
I WILL ALWAYS UPHOLD
THE CONSTITUTION,
MY COMMUNITY,
AND THE AGENCY
I SERVE

Building Trust Between the Police and the Citizens They Serve focuses on the pivotal role of the Internal Affairs function as one component of an agency-wide professional standards effort in building trust between law enforcement agencies, their staff, and the communities they are sworn to protect and serve. The guide addresses the Internal Affairs function from complaint processing to decision-making, discipline, notification, and community transparency, as well as building an effective Internal Affairs approach for any size agency. It also looks at the Internal Affairs process from the citizen's viewpoint, presenting information how local agencies can be accountable to their citizens through trust-building initiatives and other activities.

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