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Institutional Integrity: The Four Elements of Self-Policing.

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Faced with allegations of systemic corruption, a law enforcement organization must undertake the daunting task of rebuilding its institutional integrity, not only within the ranks of its officers but also in the eyes of the citizens it serves. In such a situation, the organization will undoubtedly perform a critical review of its self-policing process. What went wrong? What fixes are possible? How could it have been prevented in the first place? Maintaining a high level of institutional integrity represents the key to preventing corruption within any organization. Law enforcement officials must understand how institutional integrity interrelates with the concept of self-policing.

Citizens bestow great power and authority upon their law enforcement organizations. They expect and deserve accountability from their law enforcement public servants and demand that these organizations display a high degree of institutional integrity. Because of this, the law enforcement community remains particularly sensitive to acts of employee misconduct.

Traditionally, law enforcement organizations have addressed employee misconduct through the concept of self-policing and have encountered a myriad of legal, contractual, and social issues. Differences in local and state regulations and the existence of internal factors, such as collective bargaining contracts, hinder the development of a standard model for self-policing that would work for every department. Consequently, internal disciplinary programs vary greatly throughout the law enforcement community.

Although the self-policing process differs in every department, all internal disciplinary programs share four common elements: establishing a code of conduct; conducting internal investigations; adjudicating misconduct; and reporting on the disciplinary process. (1) Agencies should examine how these four elements interrelate and why they should manage them to help improve the institutional integrity of their departments. Conversely, the neglect or mismanagement of these elements can have serious consequences.

THE CODE OF CONDUCT

Every organization has an official, or formal, code of conduct that sets forth the responsibilities of its employees and the rules and regulations governing employee conduct. Likewise, every department has an informal code of conduct that influences employee behavior. The formal and informal codes of conduct combine to form the institutional integrity of the organization.

The Formal Code of Conduct

An organization's formal code of conduct consists of official policy, procedures, and applicable statutes and regulations. Employees learn about these official standards in training academies and continuing education courses.

In today's environment, most law enforcement personnel receive normal ethics training as part of their indoctrination into the formal code of conduct. For example, the FBI provides 16 classroom hours of ethics

instruction as part of its 16-week training academy for new agents. (2) Similarly, new officer recruits in the Dallas, Texas, Police Department receive 8 hours of ethics instruction during their academy training. (3)

Indoctrination into the formal code of conduct, including ethics training, provides employees with a foundation of acceptable behavior. Additionally, it informs employees of what administrators expect in the conduct of their professional lives. Law enforcement agencies enforce compliance with the official code of conduct through a formal disciplinary process.

The Informal Code of Conduct

The informal code of conduct is an organization's unwritten, generally accepted, standard of conduct. This standard represents the level of acceptable conduct that employees demand of themselves and their fellow employees. Because of its strong impact on institutional integrity, every department should strive to keep the informal code of conduct in line with the official code of conduct.

Eight to 16 hours of formal ethics training pales in comparison to the amount of time an employee will spend becoming indoctrinated into an organization's informal code of conduct. After completing formal training and continuing throughout their career, employees learn the informal code by spending 8 to 10 hours each day interacting with peers and observing their behavior. Peer pressure, which, for many years, has been recognized as one of the strongest elements influencing behavior within an organization, enforces the unwritten code of conduct. (4)

Law enforcement managers should realize the impact that the informal code of conduct has on an organization--an out-of-control informal code of conduct can have severe consequences. Agencies can trace incidents of systemic corruption directly to problems with that organization's informal code of conduct. Even a relatively small number of employees with an undesirable informal code of conduct can affect institutional integrity adversely. The allegation of corruption in the Rampart area of Los Angeles, California, is a striking example. The Los Angeles Police Department's (LAPD) board of inquiry into the Rampart area corruption incident declared that the scandal had "devastated our relationship with the public we serve and threatened the integrity of our entire criminal justice system." (5)

Hiring ethical and trustworthy individuals constitutes the essential first step toward establishing an acceptable informal code of conduct. The LAPD board of inquiry into the Rampart incident cited a failure to adhere to this principle as a contributing factor in the alleged corruption within that division. The inquiry determined that employees involved in the scandal had been hired in spite of their criminal records, histories of violence, narcotics involvement, and other factors that should have precluded their employment as police officers. (6)

Periodic ethics refresher training can help organizations maintain a desirable informal code of conduct. Many departments now require such training of their personnel. The Dallas Police Department, for example, provides refresher ethics instruction as part of the required annual recertification training. (7) Some agencies require additional ethics training for supervisors and for personnel involved in financial management and procurement processes.

Despite careful hiring procedures and formal ethics training programs, some employees still will become subjects of misconduct allegations. When managers learn of such allegations, the formal process of an internal investigation begins.

INTERNAL INVESTIGATIONS

The purpose of an internal investigation is to review allegations of employee misconduct and determine the facts of the case. The manner in which a department conducts its internal investigations has a great impact on the informal code of conduct of its employees. To achieve a favorable impact, employees must perceive the internal investigation process as fair and impartial. Equal treatment of all employees is fundamental to the concept of fairness; therefore, all allegations of employee misconduct should receive the same review process. The executive summary of the Rampart incident report emphasized this maxim by concluding that LAPD's board of inquiry determined a strong perception of a dual disciplinary standard within the department, one for captains and above and another for lieutenants and below. (8)

In the FBI, two internal investigative units within the Office of Professional Responsibility (OPR) conduct internal investigations. Identical in organization, each unit oversees one-half of the FBI's field offices and headquarters divisions. FBI policy requires that these investigative units receive all allegations of employee misconduct. Unit managers review each allegation and decide if it warrants an investigation. This ensures that an employee accused of an act of misconduct in New York receives the same treatment as an employee accused of the same misconduct in California.

Assigning the case to an investigator with no potential conflict of interest and no supervisory responsibility over the employee under investigation ensures impartiality. The internal investigator should have equal or greater rank than the person they interview. This reduces the possibility of rank influencing the results of the investigation, as well as the potential for retaliation against the investigator.

Timeliness also impacts on the fairness of an investigation and is important to the employee under internal investigation, as well as to the public. Both have the right to expeditious handling of the investigation. The FBI operates under a 180-day deadline for the completion of all internal inquiries, beginning with the receipt of the allegation and ending when the case becomes adjudicated. The head of OPR, the highest ranking disciplinary official in the FBI, personally must approve the continuation of an investigation past the 180-day deadline.

Additionally, thoroughness is vitally important to the internal investigative process. Investigators experienced in handling complex, sensitive matters should conduct internal investigations. Many departments and agencies, including the FBI, assign internal investigations to management personnel and consider such assignments an essential component in their professional development.

To further assure thoroughness in its internal investigations, the FBI requires that managers conduct periodic file reviews for every case. When the investigation is complete, managers review the case again to decide whether to close the case as unfounded or refer it to the next element--adjudication.

THE ADJUDICATION PROCESS

A case is ready for adjudication when management completes all investigative steps and thoroughly compiles all facts of an allegation. Some departments use a review board to adjudicate employee misconduct, and others rely on a senior official to make the decision. Regardless of the makeup of its adjudication process, every department adheres essentially to the same method--it compares the act of employee misconduct to prohibited behavior outlined in the official code of conduct and imposes suitable discipline.

The manner in which agencies adjudicate internal investigations can have a significant impact on the informal code of conduct within an organization. To achieve a favorable impact, departments must apply discipline in a fair and reasonable manner by imposing discipline similar to what they applied previously for the same

misconduct.

The two adjudication units within the FBI's OPR use teams of attorneys and specially trained employees to review investigations and apply disciplinary precedent to each case. The FBI maintains a computerized database of all discipline imposed on employees dating back to 1997 and reviews this historic record, or precedent base, for incidents that most closely match the current case. The FBI compares and contrasts the case with the historic precedent and administers discipline accordingly, which ensures that an employee who receives punishment in New York receives the same penalty for the same offense as an employee in California. Such a disciplinary database should remain relatively recent to keep the disciplinary precedent up-to-date with current policy, but it also should contain enough cases to cover a broad range of disciplinary precedent.

The FBI's disciplinary process divides internal investigations into two broad categories of serious and nonserious misconduct. The level of discipline imposed for nonserious misconduct ranges from an oral reprimand to a maximum of 14 days of suspension without pay. Discipline for serious misconduct ranges from 15 days of suspension without pay up to, and including, dismissal.

A critical component of adjudication is the appellate process. To ensure impartiality and fairness, employees should have the right to appeal certain levels of discipline. Similar to the U.S. judicial system, individuals can appeal to an authority who has the power to overturn a disciplinary finding. In the FBI, nonprobationary employees have the right to appeal discipline greater than a letter of censure to an appellate official within the FBI. The appellate official has the authority to overturn or reduce imposed discipline. Unlike the U.S. judicial system, however, the appellate official also has the authority to increase the level of discipline imposed by OPR. Once a case has been adjudicated completely, the disciplinary process reaches the fourth and final element.

THE REPORTING PROCESS

The reporting process constitutes the last stage of the self-policing process. Every organization has formal and informal means of communicating information, (9) which also includes knowledge regarding a department's disciplinary process. Formal reporting methods consist of the official documents and notifications prepared by the department. Employees, and some times the public, generate reporting methods to fill the informational void left when the formal method is less than timely or fails to satisfy their interest.

The simplest formal reporting procedure involves notifying the subject employee of an investigation's results. At times, this may occur only when the agency imposes final disciplinary action on the employee. However, relying solely on this form of reporting deprives a department of valuable opportunities to increase overall employee awareness of the standard of conduct expected of them. Furthermore, the department loses the opportunity to display openness and accountability concerning its internal affairs.

Some agencies, including the FBI, issue formal yearly reports on their disciplinary process. In June 2000, the FBI published its latest disciplinary program report, a comprehensive overview, for fiscal year 1999. The FBI prepares this report to increase the awareness of the standards of conduct expected of all of its employees. The report uses narratives and statistics to describe the FBI's disciplinary program, and it contains general information, such as an organizational chart of OPR, as well as specific statistical data on the results of all internal investigations conducted during that fiscal year. Additionally, the report includes recent policy guidance and information on current developments within the FBI's disciplinary program. (10)

Organizations must protect the privacy of employees subjected to the disciplinary process. However, agencies should not use privacy restrictions as an excuse for not having a comprehensive reporting program. Formal

reports containing brief and generic descriptions of adjudicated misconduct can provide valuable guidance to employees and favorably impact the informal code of conduct in the organization.

Absent a comprehensive formal reporting and feedback procedure, employees will have to rely on the informal process. An organization has little, if any, control over the content and accuracy of information flowing through the informal reporting process.

CONCLUSION

Law enforcement officials should welcome constructive comments and suggestions that can improve the institutional integrity of their departments. Each agency operates in a unique environment; therefore, various methods of selfpolicing may work for different departments. However, an awareness of the four elements of the self-policing process may help improve a department's disciplinary program and, thereby, strengthen the institutional integrity of the organization.

The FBI's Office of Professional Responsibility concluded its fiscal year 1998 disciplinary report with a message concerning the core values of the FBI. Although specifically directed toward FBI employees, the message can apply to all law enforcement agencies. Core values include uncompromising personal and institutional integrity. Individuals who enforce the laws also must obey them, and they have an obligation to set a moral example for others to follow. A strong institutional integrity results from both an organizational culture that addresses and disciplines wrongdoing, as well as from its employees who actively support the task of fairly and expeditiously identifying and punishing misconduct within its ranks." (11)

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Endnotes

- (1.) The author developed his theory on the four elements of the self-policing process through his experience as a police officer and as an FBI special agent, including his assignment in the FBI's disciplinary program as chief of the FBI's Internal Investigative Unit 1, Office of Professional Responsibility.
- (2.) Michael A. DeFeo, Office of Professional Responsibility, FBI, interview by author, September 2000.
- (3.) Steve Otto, director of training, Dallas, Texas, Police Department, interview by author, September 2000.
- (4.) James L. Gibson, John M. Ivancevich, and James H. Donnelly, Jr., *Organizations--Behavior--Structure--Processes*, 8th ed. (Burr Ridge, IL: Irwin, 1994), 320-323.
- (5.) Bernard C. Parks, Los Angeles Police Department Board of Inquiry into the Rampart Area Corruption Incident, Executive Summary (Los Angeles, CA: Los Angeles Police Department, 2000), 3; http://www.lapdonline.org/pdf_files/boi/boi_exec_summary.pdf; accessed January 26, 2001.
- (6.) Ibid., 4-5.
- (7.) Supra note 3.
- (8.) Supra note 5, 11.

(9.) Paul Hersey, Kenneth H. Blanchard, and Dewey E. Johnson. Management of Organizational Behavior. 7th ed. (New York, NY: Prentice Hall, 1996), 352.

(10.) U.S. Department of Justice, Federal Bureau of Investigation. Fiscal Year 1999 Report, Office of Professional Responsibility (Washington, DC, 2000), 25-26.

(11.) U.S. Department of Justice, Federal Bureau of Investigation. Fiscal Year 1998 Report, Office of Professional Responsibility. (Washington, DC, 1999), 25.

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