

The Bill Blackwood
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Developing an Effective Internal Affairs Policy of the Hillsboro Police Department

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ABSTRACT

In contemporary law enforcement, it is an absolute necessity for a police department to have a written policy and procedure for dealing with complaints of officer or employee misconduct. The Hillsboro Police Department in Texas is currently handling these problems through an unwritten procedure. Fortunately these procedures have been effective up to now, but have the potential of causing unwanted liability due to inadequate, incomplete, or inconsistent investigations and resolutions. The Hillsboro Police Department not only needs to meet the standards expected by citizens of the city, but has to meet the needs and standards required by a professional employee to ensure that the employee's loyalty, integrity, and morals are not tarnished by unfounded or unsubstantiated complaints. The most effective way to build a written policy that will fit the Hillsboro Police Department and would ensure that complaints are handled in the most professional way possible is to gather information from existing policies from other law enforcement agencies as well as interviewing members of the Hillsboro Police Department and conducting a survey to form a base to give the policy direction. Because law enforcement has made substantial progress in the last thirty years, and many departments have implemented policies during this time, documentation through journals and periodicals provide needed tips and suggestions for completing and implementing a policy for the department. With all the information gathered through the resources listed, the Hillsboro Police Department should be able to draft and implement a policy and procedure that will ensure that complaints are handled in a thorough, swift, fair, and professional manner, which will assist the department in maintaining a good working relationship with the citizens of Hillsboro while maintaining a higher level of professionalism.

INTRODUCTION

All police departments around the world should have a set of procedures, whether the procedure is in writing or is a standard unwritten procedure, which addresses complaints against police officers and other civilian employees of that department. Currently the Hillsboro Police Department in Hillsboro, Texas is addressing these problems through the unwritten procedure which has proven to be affective but has the disadvantage of the investigator only processing the bare minimum of information to save time. This procedure has also proven to be inconsistent not only in completing the investigation, but has at times been inconsistent depending on the particular officer or employee under investigation, showing favoritism if you will. The Hillsboro Police Department not only needs to meet standards expected by citizens of the city but, has to meet the needs and standards required by a professional employee, to ensure that the employee's loyalty, integrity, and morals are not tarnished by unfounded or unsubstantiated claims. This paper will address developing an effective Internal Affairs policy and procedures for the Hillsboro Police Department.

What is the most effective way to build an Internal Affairs policy, which would ensure complaints are handled in a thorough, swift, fair, and professional manner for the Hillsboro Police Department? Answering this question will not only benefit the police department, but would also benefit the City of Hillsboro and its citizens, by ensuring that an expected quality of service is maintained by the department.

Answering this question, and developing a policy and procedures for internal investigations can be accomplished in several different ways. One possible way is interviewing and surveying Internal Affairs Investigators, and departmental employees from the Hillsboro

Police Department, and other departments around the state of Texas, to see what is generally perceived or expected from an Internal Affairs policy. Another possible way to accomplish this task is to review existing and working Internal Affairs policies from other police departments. Since law enforcement officers have been around, there have been complaints against them, which will provide years and years of possible literature to be researched.

Internal Affairs investigations in today's society are an essential part of a working law enforcement organization. When law enforcement fails to police its own, and basically fosters a negative environment, the result will be disorganization, distrust, misguided loyalty, and unfortunately possible uncontrolled criminal activity, both inside and outside the department. The beneficiaries of developing this policy and procedure are very simple, the Hillsboro Police Department and its officers by allowing accurate and timely resolutions to complaints and investigations filed with the Internal Affairs Division of the Hillsboro Police Department, the citizens of Hillsboro because of the professional standards developed and maintained by the police department, and obviously the City of Hillsboro who would be protected from undue liability.

REVIEW OF LITERATURE

The information gathered during this study was located in various books, journals, existing departmental policies from other departments, and twenty-one questionnaires presented to the Law Enforcement Management Institute of Texas Module II, Fifty-first class. This information dates as far back as 1972. These items will assist in the comparison, or different views of how an Internal Affairs Policy should be constructed for a department the size of the Hillsboro Police Department. What needed to be considered while going over this material, is that not one police department is exactly the same as another. What is good for one is not always

good for another. For instance, views of the Houston Police Department will not exactly reflect that of the Hedwig Village Police Department, and the Hedwig Police Department will not exactly reflect the views of the Balch Springs Police Department. Obviously, the Houston Police Department is much larger than the Hedwig Village Police Department, but Hedwig and Balch Springs Police Departments are relatively the same size, but each department caters to a completely different class of citizen, which will have a certain effect on how a department handles an internal investigation. Reviewing these different policies along with the Round Rock Police Department policy, location was made of few commonalities. Basically the policies agree that there is a formal and an informal complaint, and disciplinary action resulting in verbal or non-verbal reprimand, suspension from duty, and obviously termination. Procedurally these departments have completely different ways of dealing with an internal investigation. This research is not to say one is right or another is wrong, it is to locate and examine the information contained in the policies and determine what information, will assist in the production of a policy that will fit the Hillsboro Police Department only. It was discovered that a policy of this sort can be constructed in a basic form, or it can completely lay out every single move an investigator can or should take, giving little if no room at all for error. For example, Round Rock's policy specifically lays everything out for you in a fifty-five page policy with sample forms attached, whereas the Houston policy is four and one half pages long, with both policies covering exactly what the particular departments feel is necessary to come to a quick and fair conclusion to an internal investigation.

What was found to be common among the different articles was that they all found that it is necessary to maintain a healthy relationship with the general public while at the same time maintaining professionalism within the department. The determination of criminal and civil

plays a tremendous roll in the internal world, because of the possibility of damaging the integrity of one investigation to prove or clear the other. Strict guidelines should definitely be outlined to ensure that this does not occur. Discussion was also made of the perception received by the public. For instance, an officer is cleared of a wrong doing, but the investigation and the final results of the investigation is kept from the public, or the complainant and the assumption is that the police take care of their own, when in fact a thorough investigation was conducted and a fair and just conclusion was dealt clearing the officer. Because the information was not made available to the public, or complainant, it is widely felt in most cases that the police department can not be trusted to police their own. This is not to say that the entire investigation has to be relayed to the public, but ensuring the public that proper procedures are being followed, and possibly laying out the procedures, and making them aware of a conclusion could make all the difference in the world. Obviously this won't keep everyone from complaining, but it will give a good percentage of the public a better feeling of what is going on.

Also a questionnaire was passed out to the Fifty-first class of the Law Enforcement Management Institute Module II. Basically all that was asked was the size of the officers department and to provide one thing they really like and one thing they really dislike about their prospective policy and procedure. What was discovered is that most officers like the form of checks and balances, but dislike vaguely written policies and secrecy during the investigations.

Finally, an interview of Hillsboro Police Department personnel was completed. Only five employees were interview from different areas and divisions of the department and all five provided information that they believe should be part of the Hillsboro Police Department Internal Affairs Policy and Procedure.

Each of these resources will provide different areas of information that can assist in the building of an effective policy and procedure for the Hillsboro Police Department.

METHODOLOGY

What is the most effective way to build an Internal Affairs Policy, which would ensure complaints are handled in a thorough, swift, fair, and professional manner for the Hillsboro Police Department? Customized building of departmental policies and procedures will entail a process of researching and studying materials that are already available, along with new research in the form of questionnaires and interviews from law enforcement officials and obviously officers from the Hillsboro Police Department.

Most of the information located for this topic was located in journals and periodicals. The documentations either came in the form of specifically building a policy for internal affairs or simply discussing some of the issues surrounding internal affairs investigations, such as the perceptions from the investigator, departmental employees (civilian and certified), and the general public. Some of these articles also give detailed descriptions or steps to follow during an internal investigation, where others discuss repercussions of false allegations as well as the repercussions of inadequate investigations. Information also provided explains that there must be policy support from the command level staff as well as complete understanding from the majority if not all of other departmental employees.

The most helpful of the resources will most likely come from existing policies from other departments, such as the Houston Police Department, who's policy will give an insight of a larger department views of internal investigations. Houston's policy has more than likely undergone extensive scrutiny over the years due to the size of the department. A policy from the Hedwig Village Police Department, will give insight from a department that is smaller than the

Hillsboro Police Department, but may give an understanding of the “Small Town Mentality”, or in other words give insight to the perceptions of people in smaller towns, relative to the police department. Another policy that will be studied is the Policy and Procedure for the Round Rock Police Department. This document has proven to be very intensive as to the procedural side, which is unavailable in other policies studied. You might say that it is possible that the policy and procedure could somewhat of a hindrance because of constriction. And then finally, the code of conduct provided by the Balch Springs Police Department, which could provide information on why complaints against department personnel are filed in the first place.

Another helpful tool in this process is a general questionnaire provided to the twenty-one students, who also happen to be command staff personnel from police agencies around the State of Texas. The students, who, at the time of the questionnaire, were attending the Fifty-first class of the Law Enforcement Management Institute Module II, were asked about the size of their departments, who is subject to the internal affairs investigations, and what they like best and worst about their respective internal affairs policies and procedures. Of the twenty-one questionnaires sent out, response was received by nineteen. This questionnaire should be able to provide the important issues as seen through the command staff level of the departments.

And finally, a single question interview was conducted with five Hillsboro Police Department employees, basically asking what they would like to see in an internal affairs policy and procedure. These answers will serve as sort of a base for the construction of the policy to assist in giving the policy direction.

FINDINGS

Interviews were conducted with five Hillsboro Police Department employees. These employees represented all levels of rank and civilian employees inside the department with the

exception of the Chief of Police. During the interviews, a major commonality among the employees was that there needed to be a set standard of checks and balances to ensure that the investigations are handled fairly across the board, and that minor violations should not be handled by internal affairs unless there is a subsequent violation. It was also frequently mentioned during the interviews that an administrative review board should be utilized to recommend disciplinary action to ensure that punishment is standardized, or fits the misconduct in question. None of the employees agreed with conducting investigations without the target employee being aware of the investigation against them (Lt. A. Cox, Sgt. Best, Cpl. Nevill, Off. Haber, Disp. Bettis, 10/2002). These interviews should help develop this policy and procedure due to the professionalism these employees would like to see in the department. Their commitment to the positions they hold should definitely be considered.

A survey of twenty-one command level officers from different cities and counties from around the State of Texas was conducted, and of these officers the mass majority felt that their policies provided a needed set of checks and balances, which ensured fairness where all employees are concerned. Here are common complaints among the officers surveyed: the policy is too structured, too secretive, not all complaints should go to internal affairs, frivolous complaints should not go into a personnel file, policy is not strict enough, more emphasis on the employee under investigation, anonymous complaints should not be handled, and the employees perception of the internal affairs investigator is poor.

DISCUSSION

All the information gathered through the interviews and the survey should be considered when developing this policy and procedure. The thoughts and ideas from these officers and

employees should set some bases for the policy. It may not be possible to implement all of the suggestions, but they should be highly considered.

According to Courtney (1996), the first and most critical step for any size department is to ensure that there is an established expectation of conduct developed to fit the department. This code of conduct must be accompanied by policies and procedures, which set out guidelines for conducting police business. Since the Hillsboro Police Department already has a well established Code of Conduct, all that is pending is the development of a policy.

The Hillsboro Police Department is made up of twenty-four sworn police officers and nine civilian employees. The basic structure of the department consist of the following: Chief of Police, two Lieutenants, one over the Patrol Division, and one over Criminal Investigations and Support Personnel. The Patrol Division is made up of four Sergeants, four Corporals, and twelve Patrol Officers. The Criminal Investigation, Records, and Dispatch Divisions are made up of one Criminal Investigator, two records clerks, and six dispatchers. The Animal Control Division has only one non-sworn officer. The size of this department must be considered during the development of this policy and procedure.

Obviously any policy (general order) should begin with some type of statement that will briefly explain the purpose of the general order, as illustrated in the general orders provided by the Houston, and Hedwig Village Police Departments. The Round Rock Police Department begins their general order with a preface, an introduction, and a goal, which is possibly too intense for the Hillsboro Police Department. The Hillsboro Police Department Internal Affairs general order might say something to the effect of:

The purpose of this order is to ensure that complaints filed
against members of the Hillsboro Police Department are

handled in a thorough, swift, fair, and professional manner.

The general order should also identify who will investigate the complaints and what chain of command should be followed during the investigations. The Chief of Police, because he is the executive officer of the department, has several choices he could make in this department: he can investigate all complaints personally, assign all complaints to an individual officer designated to investigate all complaints, assign each individual complaint to a supervisor as the complaint is made, or consider allowing another law enforcement entity to investigate the complaint (Courtney 1996). Because all complaints vary in degree of seriousness, it would be appropriate to allow the Chief all of the above. Even now, in the Hillsboro Police Department as well as other departments, such as Houston, Round Rock, Hedwig Village, and Balch Springs Police Departments, complaints are categorized as Formal and Informal Complaints. Formal is defined by the Houston Police Department as a complaint in writing, signed and notarized by the complainant, or a complaint made by a peace officer. Informal is also defined by the Houston Police Department as an oral or an unsigned complaint. Once the complaint is received, the department must choose one of three levels of case processing (Conroy; Dillion, 1981): Level I would indicate that there was an allegation of a violation of federal or state law, local city ordinance, or alleged use of excessive force (e.g., hitting, slapping, kicking, striking with an object, causing pain, or some other excessive force that results in bodily injury). Level II would indicate an allegation of less serious or of a non-criminal nature concerning violations of departmental policy. Or Level III, which would indicate an allegation that is administrative in nature (tardiness, missed court, improper radio procedure, etc.) normally handled by a shift supervisor (Houston P.D., 2000). The general order must also guide any employee who has an allegation of misconduct brought to their attention. In this case the information or the

complainant should be forwarded to that employee's immediate supervisor, who should then immediately contact the division Lieutenant who would then contact the Chief of Police at which time the Chief would assign a level of processing. The Chief would then either investigate the allegation or assign the case as indicated earlier. Before the investigation can begin, the internal affairs investigator must be aware of constitutional guidelines as mandated by State and Federal Courts (Conroy; Dillion, 1981). The investigator must protect the integrity of the case at all times in the event that the allegation is filed for prosecution (Tully, 1987). Even if the case is not criminal, the case should be treated as so in determining the facts of the case (Arnold, 1998). If the target employee is to be interviewed, the employee must be advised of his rights, such as the Garrity Warning and/or the Miranda Warning. The Garrity Warning emphasize that an employee can be required to answer questions or face disciplinary action up to and including termination. It must be understood that any incriminating information provided under the Garrity Warning can not be used against the target employee in criminal proceedings, but is subject to further civil proceedings. Tools available for investigation, such as polygraph examinations, administering physical test for obtaining evidence, search and seizure, and lineups should be applied in a manner consistent with legislation and the employee's constitutional rights (International Association of Chief's of Police, 1980). Judicial precedent has established that the chief of police may require an officer to submit to polygraph examination as part of a bona fide internal investigation or be subject to employment termination (Mays; Davis, 1981).

Once an investigation is completed, there are several options available to the department. The investigating officer can make a disciplinary recommendation to the Chief of Police, an administrative committee can review the case and recommend disciplinary action to the Chief of Police, or a citizen review committee can review the case and recommend disciplinary action to

the Chief of Police. It is also possible to use all three having each one provide review for different case levels. Which ever the department chooses to use, it should be stated that if disciplinary action is too lenient, it could undermine the priority that should be given to officer integrity, but if the disciplinary action is too harsh, it could alienate line officers from command personnel (Rothlein; Lober, 1996).

CONCLUSION

Law enforcement employees are among the most conspicuous representatives of their community and to the majority of the people, they are symbols of stability and authority who they rely upon (Balch Springs P. D., 1995). Small town police departments are trusted members of their communities who have a vested interest in maintaining a healthy working relationship with that community. Residents tend to see their police as community advocates who will address any community problem with the best interest of the community in mind. This builds a bond of trust between the community and the police which is necessary for the police department to be effective (Falcone; Wells; Weisheit, 2002). One thing that can destroy that trust is unanswered allegations or inadequate investigations of officer misconduct. If an internal affairs investigator has no guidelines to follow when conducting an investigation, any discrepancy in the investigation could lead the public to believe that there was bias involved in the investigation. A frequent criticism is that the police themselves exercise too great a role in the investigation of complaints against their own members, or at least against fellow police officers. In fact, the practice of the police investigating themselves has raised questions not only about whether their investigations are in any real sense impartial but also about whether their responses to substantiated complaints are adequate (Goldsmith; Farson, 1987). Thus, guidelines should be in

place to ensure that internal investigations do not go unattended and that they are investigated without bias in a completely professional manner.

The Hillsboro Police Department is currently handling internal investigations through an unwritten procedure which has proven to be effective, but has the disadvantage of incomplete or unprocessed investigations. What is the most effective way to build an Internal Affairs policy, which would ensure complaints are handled in a thorough, swift, fair, and professional manner for the Hillsboro Police Department? This question was answered through information gathered from interviewing select Hillsboro Police Department employees, surveying other law enforcement professionals from around the State of Texas, existing policies from other police departments, and locating information from other existing research.

The existence of a policy to handle complaints against employees of the Hillsboro Police Department will not only protect the employee from unsubstantiated claims, but will assist the Hillsboro Police Department in conducting everyday business in a very professional manner by ensuring that complaints against department personnel are dealt with in an accurate and timely manner, and assuring that resolutions are fair and standard across the board. The City of Hillsboro and its employees will then have some degree of protection against undue liability, and the departments relationship with the citizens of Hillsboro should grow to form an even tighter bond.

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