

BLOCK #2

Nevada POST – First Line Supervisors Course

Introduction to the Supervisor's Fictitious Team (SFT):

Throughout this course you will view numerous videos featuring the members of the SFT. The members are officers and supervisors from the fictitious River City Police Department.

You will be asked to make notes regarding these individuals and their actions, performance, statements, etc. There will be significant discussion regarding how you (in the role of newly promoted Sgt. Foster) would react to and/or deal with these people as a team, and as individuals.

The purpose of the videos is to give you a visual representation of situations that supervisors may face and to have discussions with the course facilitator and your fellow First Line students about the appropriate (or inappropriate) way to deal with the issues as a supervisor and leader. There may often be disagreement in the class on how a particular problem or situation should be approached. This is the primary value of the videos as there are often many options open to a supervisor when dealing with team dynamics. Seldom is leading people a black and white/all-right-all-wrong equation.

The videos may not often flow in a complete logical order as they are designed specifically to examine situations relative to the specific block of instruction taking place. The videos will only be of value if they are taken seriously and in the spirit of which they are intended.

We hope you enjoy the training.

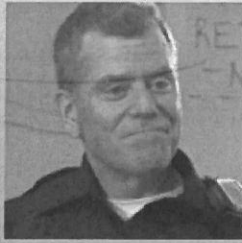
Training Division-Nevada POST



River City Police Dept.



Sgt. Maria Foster



Sgt. Brad Duncan



Ofc. Todd Morgan



Ofc. Nelson Chan



Ofc. Vinnie Delfino



Ofc. Nicole Richards



Ofc. Jason Garcia



Ofc. Amy Sanchez



Ofc. Mark Abrams



CSO Aaron Lewis



UNDERSTANDING YOURSELF (DISC)

Circle only one word in each row that you feel describes you best right now. Then transfer your answers over to the Scoring Sheet. Total up each column. Your highest score is your predominate personality type.

#	A	B	C	D
1.	Restrained	Forceful	Careful	Expressive
2.	Pioneering	Correct	Exciting	Satisfied
3.	Willing	Animated	Bold	Precise
4.	Argumentative	Doubting	Indecisive	Unpredictable
5.	Respectful	Out-going	Patient	Daring
6.	Persuasive	Self-reliant	Logical	Gentle
7.	Cautious	Even-tempered	Decisive	Life-of-the-party
8.	Popular	Assertive	Perfectionist	Generous
9.	Colorful	Modest	Easy-going	Unyielding
10.	Systematic	Optimistic	Persistent	Accommodating
11.	Relentless	Humble	Neighborly	Talkative
12.	Friendly	Observant	Playful	Strong-willed
13.	Charming	Adventurous	Disciplined	Deliberate
14.	Restrained	Steady	Aggressive	Attractive
15.	Enthusiastic	Analytical	Sympathetic	Determined
16.	Commanding	Impulsive	Slow-paced	Critical
17.	Consistent	Force-of-character	Lively	Laid-back
18.	Influential	Kind	Independent	Orderly
19.	Idealistic	Popular	Pleasant	Out-spoken
20.	Impatient	Serious	Procrastinator	Emotional
21.	Competitive	Spontaneous	Loyal	Thoughtful
22.	Self-sacrificing	Considerate	Convincing	Courageous
23.	Dependent	Flighty	Stoic	Pushy
24.	Tolerant	Conventional	Stimulating	Directing

D-I-S-C SCORING SHEET

DISC PROFILE	D	I	S	C
1.	B	D	A	C
2.	A	C	D	B
3.	C	B	A	D
4.	A	D	C	B
5.	D	B	C	A
6.	B	A	D	C
7.	C	D	B	A
8.	B	A	D	C
9.	D	A	C	B
10.	C	B	D	A
11.	A	D	C	B
12.	D	C	A	B
13.	B	A	D	C
14.	C	D	B	A
15.	D	A	C	B
16.	A	B	C	D
17.	B	C	D	A
18.	C	A	B	D
19.	D	B	C	A
20.	A	D	C	B
21.	A	B	C	D
22.	D	C	B	A
23.	D	B	A	C
24.	D	C	A	B
COLUMN TOTALS				

Dominance

- Very goal-driven
- Like authority and are very resourceful
- Self-sufficient, working well in an individual setting
- Like challenging tasks and competition
- Tend to be a direct person

Influence

- Very optimistic
- Like to persuade people
- Relate well to others
- Emotional
- Talkative and personable

Steadiness

- Tend to be steady and stable
- Will be a good team player
- Prefer close, personal relationships
- Sympathetic
- Will resist change

Compliance

- Will be very independent
- Tend to feel restrained by regulations
- Like to be judged on your results
- Detail-oriented
- Precise and accurate in the things they do

<https://www.axiomsoftware.com/disc/interpretations/interactive-guide-to-disc-profile-interpretation.php>

Note your results:

DISC Personality Test Results Interpretation:

To give you a quick overview, here are the key points regarding this personality test:

- The DISC Personality Test is an assessment tool that is used to determine different behavior types.
- Based on your answers during the test, you will be given a personality type. There are four behavior types and it is quite common for the results to be a mixture.
- By taking this test in the workplace, people can become more aware of their own personal actions and behaviors. It is also a great tool for understanding the people who are working around you. It can also; promote strong teams, increase motivation, encourage goal setting, eliminate conflict, strengthen communication and much more.
- The four behavior types are: (1) Dominance, (2) Influence, (3) Steadiness and (4) Compliance/Conscientiousness. Spelling of course; DISC.

It is one thing to understand what the test is and how it can benefit you; it's another to know exactly what your results mean. There are numerous possible outcomes, so it is hard to describe results in detail. With that being said, knowing how to interpret your own personal results is the most crucial component. This test is ultimately a reflection of our behavior. Being aware of how you react in specific situations can be very beneficial down the road (especially within a work environment). Let's break down possible results, so that you have a better idea of what can be expected

Possible results

When you receive your DISC results, there will be no right or wrong answers. This test is an evaluation, so it will not reflect; skills, experience, or knowledge. It's strictly an evaluation of your behavior type.

Most people will not score high on one scale. For instance, high on just the dominance scale, or high on just the steadiness scale. It is most common to have a combination of these scales. For example, you may score high on compliance, but may also show high levels of influence. Here is a break-down of each type to better understand what they mean:

Now that you have an idea of what these four behavior types reflect in terms of personality. Let's look at a couple of possible DISC Personality Test outcomes.

1. Low on Dominance: Will want others to resolve problems and take action. This individual will be; cautious, indirect, patient, a good listener and more. As you can see, there are no 'bad' qualities. Some careers will need a more dominant individual, which may or may not be you.
2. High on Influence: Want to be around people, establish relationships quickly and outgoing. Since they are more focused on people, results and detailed tasks may suffer. You can see why people who rank high on influence, would be great working around people. Any occupation where people are the focus would welcome these results.

These are just a couple examples. There are various possible results. Once you have your results, use them to your advantage. You may take a portion of your results and apply them to your CV. This will show specific strengths you have, that may work to your advantage.

Whether you take the DISC Personality Test at work or on your own, it is a great self-awareness tool. Take the DISC Personality test today and you might find out more about your own behavior than you ever thought possible.

BLOCK # 9

Groupthink is a psychological phenomenon that occurs within a group of people in which the desire for harmony or conformity in the group results in an irrational or dysfunctional decision-making outcome. Group members try to minimize conflict and reach a consensus decision without critical evaluation of alternative viewpoints by actively suppressing dissenting viewpoints, and by isolating themselves from outside influences.

Groupthink requires individuals to avoid raising controversial issues or alternative solutions, and there is loss of individual creativity, uniqueness and independent thinking. The dysfunctional group dynamics of the "ingroup" produces an "illusion of invulnerability" (an inflated certainty that the right decision has been made). Thus the "ingroup" significantly overrates its own abilities in decision-making and significantly underrates the abilities of its opponents (the "outgroup"). Furthermore, groupthink can produce dehumanizing actions against the "outgroup".

Antecedent factors such as group cohesiveness, faulty group structure, and situational context (e.g., community panic) play into the likelihood of whether or not groupthink will impact the decision-making process.

Groupthink is a construct of social psychology but has an extensive reach and influences literature in the fields of communication studies, political science, management, and organizational theory,^[1] as well as important aspects of deviant religious cult behaviour.^{[2][3]}

Groupthink is sometimes stated to occur (more broadly) within natural groups within the community, for example to explain the lifelong different mindsets of those with differing political views (such as "conservatism" and "liberalism" in the U.S. political context^[4]) or the purported benefits of team work vs. work conducted in solitude.^[5] However, this conformity of viewpoints within a group does not mainly involve deliberate group decision-making, and might be better explained by the collective confirmation bias of the individual members of the group.

Most of the initial research on groupthink was conducted by Irving Janis, a research psychologist from Yale University.^[6] Janis published an influential book in 1972, which was revised in 1982.^{[7][8]} Janis used the Bay of Pigs disaster (the failed invasion of Castro's Cuba in 1961) and the Japanese attack on Pearl Harbor in 1941 as his two prime case studies. Later studies have evaluated and reformulated his groupthink model

Block #10

many decisions are overturned on appeal, and the entire process leaves one with a sense that there should be a better way to help officers stay within the boundaries of acceptable behavior and learn from the mistakes made in an increasingly difficult and challenging job.

This paper focuses on discipline process issues and purposes within the context of the organizational challenge of managing and modifying officer behaviors. It begins by discussing the task of creating an environment in which officers understand expectations and avoid the formal disciplinary process altogether. It then describes the issues with traditional approaches to discipline and reviews different approaches that some police agencies are trying. These include the Charlotte-Mecklenburg Police Department's discipline philosophy, now used for almost 10 years, and the Education-Based Discipline approach recently implemented by the Los Angeles County Sheriff's Department and others. The paper will also offer a way forward for police to implement more effective approaches to discipline.

Creating the Right Environment

The best situation for a police department, its employees and the community is to create an environment in which the formal disciplinary process to deal with employee mistakes and misconduct is both the last option and the one least used. Creating that environment requires the department's leadership to pay close attention to several essential elements that play central roles in an effectively managed organization. These areas include:

- **The Hiring Process.** Finding and employing the right people is the foundation for creating an organization that effectively serves the community. Employment standards must be clear. For example: How is prior illegal or prescription drug abuse handled? What is the standard for driving and arrest records? What are the educational requirements? Do candidates have the right personality and character? With clear standards the selection process can identify and screen out candidates that may have difficulty maintaining the conduct and ethical behavior expected of a police officer.
- **Training.** Officers must have the skills and knowledge to effectively do their jobs. High-quality, entry-level, field and in-service training programs are key to ensuring that officers not only understand the department's expectations but have the skill level to meet them. Police departments and their employees must commit to a regimen of lifelong learning.
- **Clear Expectations.** Training is an important aspect of ensuring that officers understand the department's expectations, but more is required. The department's mission, vision, values and ethical standards convey essential messages to employees, as do formalized departmental goals and objectives. The policies and procedures the department has developed to guide decisions provide a framework for acceptable performance. These must not only be written in clear, understandable language but must also be reinforced in daily operations. For example, a pursuit that begins in conflict with the department's policy

but for which no disciplinary proceeding ensues because of a positive outcome sets the stage for confusion and contributes to questions about consistency and fairness in the disciplinary process. Likewise, a policy that prohibits gratuities in an organization where a substantial number of people at all levels routinely accept them sends confusing messages and undermines all efforts at accountability.

- **Effective Supervision.** One of the most important steps in creating a healthy work environment is the frontline supervisor and the level just above. These are also the most challenging jobs in police organizations as these levels have the most direct interaction with frontline employees and the community. These front-line supervisors are largely responsible for translating the department's mission, vision, values, policies, rules and regulations into operational practice. By emphasizing some things and not others, they establish the organizational expectations for officers and shape the culture. Effective supervision is critical to creating an environment in which coaching, not the threat of discipline, helps mold officers into professionals.
- **Performance Standards and Review.** Officers need to know what the work standards are and periodically review with their supervisor how they are doing. This is a difficult process for most police agencies. Setting standards is very challenging given the workload and types of problems officers encounter in different parts

of the community and at different times of the day. Some officers are assigned to areas where the only work they are able to do is handle calls for service while others must self-initiate the majority of their work. Whatever the standards and review processes are in the department, it is important that officers understand them and that supervisors are helping to achieve them.

- **Complaint Reception and Investigative Procedures.** The department must have effective complaint reception protocols and investigative procedures. It should not be overly difficult for a citizen to lodge a complaint against a police employee. Like employees, citizens should be informed of the steps that will be taken to follow up on the complaint and should also be informed of the outcome. The investigative process should also have defined time frames for completion, with complainants notified of any delays.
- **Technology.** Police agencies have increasingly turned to technology to help deter misconduct and investigate it when it occurs. Automatic vehicle locators and in-car camera systems have become standard equipment in many police agencies in America. Some agencies are testing head-mounted cameras that record what officers see and hear when they are away from their vehicle handling a call. Although this technology has not been subjected to rigorous evaluation as an investigative aid or deterrent to misconduct, most police agencies believe that it serves that purpose.
- **Code of Silence.** The "code of silence" has been a significant issue for policing for many

years. Creating the right environment to discourage misconduct requires that police executives confront this issue. Even with indications that things may be improving, research suggests the code of silence is alive and well in policing (Rothwell and Baldwin, 2007). The code severely hampers a police department's ability to learn about and investigate misconduct. It also undermines credibility in the eyes of the community.

Paying attention to all of these elements will help department leaders reduce employee mistakes and misconduct and contribute to creating the right environment, even though it will not eliminate the need for effective disciplinary processes that have legitimacy both internally and externally.

Effective disciplinary processes serve a number of important functions in a police agency. They punish, change behavior, signal organizational expectations internally and externally, respond to citizen complaints and serve as an early warning tool about potential problem behaviors and tensions in the community. Ineffective processes do the same things except they have a tendency to punish without an appropriate behavior change, send the wrong signals and frequently leave the public with a sense that its complaints have not been taken seriously. Persistent problems with current disciplinary processes have limited their effectiveness.

Disciplinary Process Issues

In a nation where citizens have always valued individual liberties and have been reluctant to grant too much authority to government, police officers are given significant powers and are

expected to use them judiciously. Citizens also expect that the police will be held accountable for the manner in which they use their authority and that any misconduct will be dealt with appropriately. The disciplinary process plays an important role in holding police officers accountable for their behavior. It also helps sort out situations in which officer misconduct has been alleged but in fact the officer acted appropriately. Obviously, there is a lot at stake for the community, for the officers and for the department. Effective policing depends on a disciplinary process that is capable of serving the interests of all three parties in a fair and equitable manner. In many cases the current disciplinary systems fail to do this, reducing police legitimacy and effectiveness. Some current issues with police disciplinary processes include:

The disciplinary process is an ongoing source of conflict with employees and unions. The majority of police officers will not be the subject of an internal affairs investigation or significant disciplinary action during their careers. Yet, because of the potential for complaints or innocent mistakes, they are always concerned about the possibility of being investigated by Internal Affairs. Officers are influenced by the locker room talk about Internal Affairs investigations and general perceptions of not being treated fairly in the process¹ (Curry, 2004).

The disciplinary process is a source of mistrust and tension for some in the community, particularly in minority communities where many believe too many police decisions are influenced by race. Although there has been improvement, minority communities report

lower levels of confidence in the police and their honesty and integrity than white communities² (Bureau of Justice Statistics, 2009). Obviously, many factors contribute to citizens' views of the police, but one that has substantial influence is a sense that police officers are not always held accountable for their behavior. A 2006 *Seattle Post-Intelligencer* editorial board poll revealed that 66 percent of respondents did not believe that complaints against the police were handled fairly and openly (*Seattle Post-Intelligencer* Editorial Board, 2006).

The focus of discipline is predominately punishment, not behavior change. Most police executives would say the purpose of punishment is to deter future misconduct by the officer involved and send a message to others that such behavior will not be tolerated. Alternative courses of action that would lead to behavioral change are seldom part of the sanctions imposed on officers who have had sustained misconduct charges. Punishment for misconduct is appropriate at times, and it may lead to behavioral change, but it also brings resentment and at times contributes to the sense of unfairness that many officers have about how discipline is handled. In an Op/Ed piece, Ted Hunt (2009), the former president of the Los Angeles Police Protective League, noted:

One of the things that officers often complain about when they are disciplined is the way it was done. "I was not treated with respect," said one officer. It wasn't long until that officer's humiliation turned into anger and then to resentment. An angry, resentful officer is not good for the organization.

For the most part, the disciplinary process fails to deal adequately with the small group of officers who are the source of a disproportionate share of complaints received and use-of-force situations. It is common knowledge that a small number of officers account for an inordinate number of complaints and use-of-force situations. The Independent Commission on the Los Angeles Police Department (1991) found 44 officers with extremely high rates of citizen complaints who could have been identified from department records. Journalists have noted departments in which 2 percent of the officers accounted for as much as 50 percent of the complaints (Walker, Alpert and Kennedy, 2000). This realization has resulted in the establishment of early intervention systems to help identify problem officers.

Inconsistent messages are sent to officers by the department heads handling complaints and misconduct allegations. A common myth in policing is that aggressive officers working in high-crime areas can expect to receive a higher number of complaints and encounter a greater number of situations where they will have to use force. Supervisors and managers often reinforce this belief in the way they handle complaints and reviews of use-of-force situations from these areas of the community. In police agencies where officers are required to file a report when they use force, supervisors are expected to investigate the circumstances under which force was used. Too often, these are pro forma investigations that focus on whether the degree of force used was within policy, not whether force should have been used. This tends to reinforce officers' behavior and misses

an opportunity to provide coaching on how these encounters might have been handled differently.

The disciplinary appeal processes often weaken the purpose of discipline. Police executives' disciplinary decisions are frequently overturned or reduced by review boards and arbitrators, undermining the impact of the discipline. Anglen and Horn (2001) found that in Cincinnati,

Nearly 37 percent of cases involving more than three days of discipline were reduced, compared to 14 percent of cases with lesser punishments.... Part of the reason is that officers who get the stiffest punishments are more likely to appeal. And when fired officers appeal to an outside arbitrator, they get their jobs back every time.

In both Chicago and Houston, arbitrators reduced the initial sanction imposed by the chief in 50 percent of the cases (Iris, 2002). Are police executives wrong half of the time when they determine sanctions for misconduct or do those hearing the appeal just disagree with the sanction? What is the impact of the frequency with which disciplinary decisions are overturned? Do officers in the organization believe this shows the process works, or are they more likely to believe this shows that the sanctions imposed were harsh and inappropriate? In high-profile cases, what is the impact on community confidence and trust when officers in the department are known to have been involved with misconduct?

Processes generally take an excessive amount of time to complete. In large departments, it

takes about six months to complete a complaint investigation, reach a finding and determine the disciplinary action if the allegation is sustained. In the most serious cases this time can be increased significantly and, when discipline is appealed, it can take well over a year or longer to completely resolve the matter. An article in the *Atlanta Journal-Constitution* described a police officer who had been on administrative leave for four years for a criminal allegation before he was charged with a felony sexual assault. He was only one of 26 officers who had been placed on administrative leave for a long period of time pending case investigation (Torpy, 2009). The impact of discipline on the officer and the messages to the department and to the community are severely compromised the longer it takes from the time the misconduct occurred to its resolution.

Processes and outcomes often do not appear to be fair to employees. Several factors contribute to the impression held by many employees that the disciplinary process is not fair. First, discipline is a personnel matter and in many states and cities personnel issues are confidential.³ In these locations, departments cannot disclose the discipline or the circumstances that led to the decision. Second, there may be real or perceived variations in the punishment for similar offenses. These variations most often arise when different people are making the decisions. A commander in one part of the department may view the misconduct differently than another, producing different outcomes. Third, the amount of time that has elapsed from the time the misconduct occurred to when the sanctions are imposed sometimes influences employees' opinions about

fairness. For example, an officer suspended a year after the misconduct, but who has performed well in the interim, is likely to resent the imposition of the sanction; in such instances, the officer's colleagues frequently believe that imposition of the sanction is unfair. Finally, there are instances in police agencies where an officer is commended for his or her actions yet is disciplined for the same incident. Officers almost always see this as unfair disciplinary action. "Fair" is a tricky standard to establish in the best of circumstances and almost always requires some careful explanation.

Processes and outcomes may be influenced by the amount of publicity the alleged misconduct receives. A high-profile incident of officer misconduct may affect the investigation and the outcome of the discipline process. In some cases the process is expedited while others are slowed down considerably by all the attention. In a case in Portland, Ore., that received extensive news media attention, it took more than three years for the chief to reach a decision in an incident where a Taser was used and the person being arrested died. The chief determined the officer acted within policy but the officer was suspended because he did not send the victim to the hospital soon enough (Bernstein, 2009). In another case three years later, the same officer was placed on administrative leave for shooting a 12-year-old girl with a bean bag shotgun because she was resisting arrest. Union leaders claimed the suspension was more about the visibility of these cases than the behavior of the officer (Pitkin, 2009).

High-profile cases are particularly difficult for police executives and the community. The news

media may disseminate information, video or photo images provided by citizens before the departmental hierarchy even knows something has happened. Executives then have to make statements as soon as possible with very limited information, and what they say may change (and often does) as the investigation gets under way and progresses. The community struggles with sorting out what happened as they hear conflicting statements or see segments of videotapes that include only part of the encounter with officers.

Discipline in some states is very public (e.g., Florida and Texas) but in most, it is a personnel matter protected by privacy laws (e.g., North Carolina). Debate continues about whether discipline of police officers should be open to public scrutiny. Some believe that open records serve as a deterrent to police officers and other public officials. They also believe the transparency that comes from being open improves confidence and trust in the police. In an article written to help gain access to disciplinary records, communications lawyers Steven Zansberg and Pamela Campos (2004) argue that: "Public access would help assure citizens that their complaints are taken seriously, investigated thoroughly in an unbiased fashion, and that officers who are found to have violated departmental policies are appropriately sanctioned."

Others believe it is unfair to officers to have personnel records completely open to the public — particularly internal affairs records. They believe that being a police officer does not mean they have to give up their right to privacy. They are concerned that unsubstantiated misconduct

allegations could damage their reputations and careers if open to the public. They point out that officers are sometimes the subject of false allegations made by people trying to get back at them simply for doing their job.

Policies on openness are far from settled and vary significantly from state to state. Florida's public records law is among the most open in the nation. It makes Florida one of two states where access to these records is a right protected by the state constitution. Passed in the late 1970s, Florida's law makes most police records open to the public, including personnel records and internal affairs records (after an investigation has concluded).

The police chief's authority to administer discipline varies widely even though it is a critically important responsibility in the overall operation of the department. An important aspect of leading and managing a police agency is the authority to ensure that law, policy, procedures and organizational expectations are carried out by employees. Disciplinary authority is an important aspect of that authority but surprisingly, it is limited for many police executives. In a 2006 report to the Board of Supervisors on police disciplinary procedures, a survey of 25 California police departments, including the state's eight largest, revealed that the chief's authority to implement disciplinary sanctions ranged from none at all to officer termination. In most cases, the authority was limited to suspensions of less than 10 days with greater sanctions requiring the city manager's or some type of board approval (Van de Water, 2006).

The administration of discipline in police departments has taken on the characteristics of a criminal process in the way the investigation is conducted, testimony and evidence are considered and, in many respects, the way sanctions are imposed. This observation applies to policing within and beyond the United States. The *Review of Police Disciplinary Arrangements Report* (Taylor, 2005) noted the adoption of legal system procedures for handling discipline as an impediment to effective discipline. Following are excerpts from the report:

The language and environment for handling police discipline should be open and transparent. It should be much less quasi-judicial. Investigations need not be centered on the crime model, the style of hearing should be less adversarial and similarities with a 'military court martial model' avoided (p. 5).

The language in which the regulations are written and the processes operated is often viewed as inaccessible and the judicial style creates a formality which does not aid understanding, openness and simplicity. This is particularly so for the member of the public who becomes embroiled in the process (p. 19).

The report also encourages that involvement of lawyers in the process be limited except in the appeal stage. The new procedures in the United Kingdom are designed to provide a fair and open way of dealing with misconduct and performance problems, creating an environment in which the

emphasis is on learning and development, both for the employees and for the organization.

The overall impact of the issues described above will vary from one community to another, but all are affected by at least some of these issues. It seems clear that police disciplinary processes are in need of revision, but what is not clear is *what* should be done or *how*.

Alternative Police Discipline Processes

Recognizing the shortcomings of current approaches to police disciplinary practice, and in an effort to respond to concerns, some police departments have begun to explore alternatives and make changes. Some of the alternative approaches are relatively new, while others have been tried in some places, abandoned and then tried again in other places. Because of the complexity of the processes and the range of influences, most alternate approaches are not complete revisions of the process. Rather, they are designed to address one or more issues that cause major concern for individual departments.

Discipline Matrix

Although not a new idea, a number of departments have developed matrices that spell out the options for sanctions when there is a sustained violation of the rules of conduct or other policies. These departments believe that in addition to letting employees know in advance, a matrix will help make the sanctions applied both fair and consistent. In late 2003, the Oakland Police Department and the University of Nebraska at Omaha cosponsored a conference on the use of a

disciplinary matrix as an effective accountability tool. The matrix was described as follows (Walker, 2004: 2):

A discipline matrix is a formal schedule for disciplinary actions, specifying both the presumptive action to be taken for each type of misconduct and any adjustment to be made based on an officer's previous disciplinary record.

The primary purpose of a discipline matrix is to achieve consistency in discipline: to eliminate disparities and ensure that officers who have been found to have committed similar forms of misconduct will receive similar discipline.

Conference participants concluded that a matrix has the potential to improve accountability and consistency. They also cautioned that successful implementation is not guaranteed, as many of the precise details of using a matrix to guide disciplinary decisions remain to be worked out (Walker, 2004).

Several police departments are moving forward in an effort to work through the details required to put a discipline matrix in place. Denver's efforts represent one of the most comprehensive revisions of the disciplinary process that includes a matrix.⁴ The Denver Manager of Safety appointed an 80-member Disciplinary Advisory Group to review the entire process in an effort to administer discipline in a fair and timely manner. It was a diverse group that represented all of the stakeholders. The members worked for more than three years to understand the process that

was in place and develop a process that included spelling out sanctions in a matrix.

The Washington State Patrol adopted a discipline matrix in January 2002 that contains three different levels of misconduct from minor to major and defines sanctions for each level based on the number of offenses. The resulting process provides an opportunity for officers to “admit their mistake and move on.” Officers can choose to acknowledge their mistake and accept the sanction from the matrix without a lengthy investigation and hearing. In 2002, the patrol resolved 43 percent of its complaints without a formal investigation and most were resolved in less than 14 days. The process also facilitated resolution of level 3 (minor) complaints at the first line supervisory level rather than through a full-scale investigation as required by the old system. The first full year of implementation saw a reduction in lengthy investigations, reduced costs, a

reduction in citizen complaints and considerable cost savings (Serpas, Olson and Jones, 2003).

More recently, the Tucson Police Department adopted a matrix to guide disciplinary decisions. Union President Jim Parks said, “While no disciplinary system will ever be foolproof, I believe that we at the Tucson Police Department took a step in the right direction” (Parks, 2006). Tucson followed the lead of the Phoenix Police Department, which began using the matrix several years before.⁵ Table 1 is an example of a discipline matrix recommended to the Vancouver (Wash.) Police Department (Matrix Consulting Group, 2009). The “Offense Class” represents the seriousness of the offense.

Overall, matrices have become a more commonly used device for improving disciplinary decision-making processes for police agencies, and it seems many officers see this as an improvement.

Table 1. Vancouver Discipline Matrix

Offense Class	First Offense		Second Offense		Third Offense	
	Minimum	Maximum	Minimum	Maximum	Minimum	Maximum
1	N/A	Memo of Correction	N/A	Written Reprimand	Memo of Correction	1-Day Suspension
2	Memo of Correction	Written Reprimand	Memo of Correction	Written Reprimand	1-Day Suspension	3-Day Suspension
3	Memo of Correction	1-Day Suspension	Written Reprimand	3-Day Suspension	1-Day Suspension	5-Day Suspension
4	Written Reprimand	3-Day Suspension	1-Day Suspension	5-Day Suspension	3-Day Suspension	15-Day Suspension
5	1-Day Suspension	5-Day Suspension	3-Day Suspension	15-Day Suspension	10-Day Suspension	Termination
6	5-Day Suspension	Termination	15-Day Suspension	Termination	Termination	N/A
7	Termination	N/A	N/A	N/A	N/A	N/A

They provide a better sense of what the range of sanctions might be for classes of misconduct, which officers generally believe is a positive step. Even so, in some cases, the old system has been re-arranged to fit in a matrix and the punishment orientation remains. Although a discipline matrix provides a range of sanctions, it does not remove discretion entirely (nor should it) and leaves the department open to the criticism of inconsistent application of discipline when the luster of a new approach begins to fade.

Education-Based Discipline⁶

Education-Based Discipline (EBD) is the creation of Sheriff Leroy Baca and the Los Angeles County Sheriff's Department (LASD). It represents the most significant departure from traditional police disciplinary practice in the United States and perhaps the world. As the name implies, the process is designed to focus on behavioral change through education rather than punishment. The process gives the individual the option of voluntarily participating in a personally designed remedial plan that can include education, training or other options designed to address the misconduct issue, including writing a research paper. Moreover, all of the activities related to the plan are conducted during on-duty time. The option to participate is open to employees who are facing a one- to 30-day suspension. One mandatory component of the program is an eight-hour training session developed specifically for EBD called the Lieutenants' Interactive Forum for Education (LIFE) Class. It is conducted by lieutenants and middle managers from LASD

and focuses on understanding the influences that affect decision-making. In a Leadership Message from Sheriff Baca (2007), he said:

Our leadership values require us to believe that until a Department member leaves our service, he or she will always be our responsibility. We must always care for all of our personnel, work closely with those who are experiencing problems, and be straightforward in building a trustworthy relationship.

We must care and give to those in need whether they like us or not. Ineffective discipline is when we fail to be fair. Not listening to why Department members have acted in violation of a policy is widely believed to be unfair, especially by me.

The focus of discipline should be on creation of a corrective action plan rather than punishment for punishment's sake. The plan should emphasize training and remediation along with more creative interventions designed to correct deficits in performance and maximize the likelihood of the Department member and his or her peers responding appropriately in the future.

EBD is just getting under way at LASD but has attracted the interest and encouragement of union leaders across the country — traditionally the loudest critics of punishment-based practices. Sheriff

Baca has clearly demonstrated considerable leadership and courage in implementing a system that is likely to have as many critics as supporters.

Mediation

Although not widely used, some police agencies have turned to mediation between officers and citizens as a way of resolving complaints. A national survey identified 16 police departments with mediation programs (Walker, Archbold and Herbst, 2002). Some suggest that the approach has had value in helping both officers and citizens understand their own actions during the encounter. Mediation is often used as an alternative to the formal disciplinary process and usually it is the officer's decision to participate. This approach is most suitable for complaints involving discourtesy, insensitivity and minor procedural issues.

The Denver (Colo.) Police Department has made mediation a part of its overall approach to handling citizen complaints and discipline. A complaint is dropped if officers involved volunteer to participate in mediation regardless of the outcome. With professional mediators, officers and citizens meet at a neutral location to discuss the circumstances of the complaint. The satisfaction level of both officers and citizens in the way complaints have been handled in the three years the program has been operating has increased from 10-15 percent to 75-85 percent (Proctor, Clemmons and Rosenthal, 2009).

An evaluation of the mediation approach used by the Pasadena (Calif.) Police Department in 2005 indicated that it had great promise for improving

understanding and trust between the police and the community (Police Assessment Resource Center, 2008).

Peer Review

In the early 1970s, the Oakland and Kansas City Police Departments implemented a peer review process based on work that social psychologist Dr. Hans Toch did in a correctional setting with corrections officers. The process involved experienced senior officers reviewing the behavior of officers who received a complaint or reached a predetermined threshold volume in areas such as use of force, resist arrests and vehicle collisions. Identifying officers, through analysis of variables of this type, represented one of the first forms of early intervention.

Officers could elect to participate in peer review rather than the formal disciplinary process if they were facing charges or exceeded the thresholds. The peer review panel considered the circumstances and suggested behavior changes they believed would help minimize further complaints. In one situation, the panel conducted a role play session with the officer and learned he was violating the personal space of people during the interaction, which tended to intimidate them. The panel suggested he move back a few feet to put him in a safer position and to reduce the potential for intimidation. He complied and had no further difficulty in his interactions with citizens.⁷

A project evaluation determined that officers who participated in peer review when compared to a control group were not significantly different in

their behaviors, attitudes and peer ratings (Pate et al., 1976). The idea was not adopted on a permanent basis by either department following the trial, nor is there any indication it has been tried by other agencies — a disappointing outcome given the overall power of peer influence on officer conduct and the focus of the program on behavior change rather than punishment. It seems that peer review is worthy of further exploration as a formal — or perhaps informal — initiative aimed at encouraging and reinforcing positive attitudes and behavior.

Early Intervention⁸

Early intervention systems are designed to track various indicators and provide early identification of officers whose performance indicates emerging problems and then intervene in a useful way. In large departments, these are often complex database management systems that track a wide variety of performance indicators, including citizen complaints, use of force, sick leave, performance evaluations, training, failure to appear in court and car stops, among others. Thresholds are established that let the officer and supervisor know there may be a problem that needs correction before it becomes a disciplinary issue. These systems are not a part of the police disciplinary process, although they are closely connected as they help resolve potential performance issues before an officer reaches the stage where the disciplinary process is engaged. They also serve as one important way of addressing the challenges presented by that small group of officers who account for a large number of citizen complaints and other misconduct issues. Such officers can

be identified sooner and steps can be taken to address the behavioral problems.

Police agencies that have adopted early intervention systems believe they have value. The U.S. Department of Justice frequently includes in its consent decrees or memoranda of understanding the requirement to put such systems in place.⁹ Although they have not been the subject of rigorous evaluations to determine their effectiveness at dealing with problematic behavior, these systems continue to evolve as more police agencies adopt them. A closer look at early intervention systems may provide greater insight on the most appropriate behavioral indicators, suitable thresholds and most effective intervention strategies.

The Charlotte-Mecklenburg Police Department Discipline Philosophy¹⁰

In 2000, the Charlotte-Mecklenburg Police Department (CMPD) restructured its internal affairs investigative process in response to concerns about the length of time involved and officers' concerns about the consistency and fairness of discipline. It adopted the disciplinary philosophy developed and implemented in St. Petersburg, Fla., in 1993. The original philosophy was devised by the then-chief of the St. Petersburg Police Department¹¹ for several reasons. The first purpose was to inform the department and the community about how disciplinary decisions would be made. Florida's public records law made the outcomes known in St. Petersburg, but the decisions were made behind closed doors and neither the public nor police employees knew what was considered in determining sanctions for misconduct. The philosophy contributed to

a better understanding of how these decisions would be made.

The second purpose was to provide operational definitions of “consistency” and “fairness.” For employees and their unions, these are the two most frequently voiced concerns with discipline. Officers and their representatives want to know that similar misconduct will receive the same sanctions regardless of who violated the rules. Employees are particularly concerned that supervisors, managers and favored people in the organization might be treated more leniently than they would be. This helps explain the favorable view unions often hold toward the use of a disciplinary matrix because the sanctions are spelled out for various levels and types of misconduct.

For the Charlotte-Mecklenburg Police Department, **consistency** is defined as holding everyone equally accountable for unacceptable behavior and **fairness** is understanding the circumstances that contributed to the behavior while applying the consequences in a way that reflects this understanding (Charlotte-Mecklenburg Police Department, 2001).

This definition formally introduces the notion that “fairness” includes an understanding of the circumstances in which the misconduct took place. A violation of a rule or policy can take place because the officer made an honest mistake in judgment. It also can occur when the officer is fully aware of the rule but goes forward with the conduct anyway. The officer in both cases should be held accountable for the violation, but the two cases beg for different treatment.

The third purpose was to provide guidance to supervisors and managers participating in the disciplinary process on the factors they should consider when making their decisions. Factors to be considered, with brief explanations, are as follows (Charlotte-Mecklenburg Police Department, 2001):

- **Employee Motivation.** The police department exists to serve the public. One factor in examining an employee’s conduct will be whether or not the employee was operating in the public interest. An employee who violates a policy in an effort to accomplish a legitimate police purpose that demonstrates an understanding of the broader public interest inherent in the situation will be given more positive consideration in the determination of consequences than one who was motivated by personal interest. Obviously there will be difficulty from time to time in determining what is in the public interest. For example, would it be acceptable for an employee to knowingly violate an individual’s First Amendment right to the freedom of speech to rid the public of what some might call a nuisance? Or is it acceptable as being in the public interest to knowingly violate a Fourth Amendment right against an unlawful search to arrest a dangerous criminal? Although it would clearly not be acceptable in either case for an employee to knowingly violate a Constitutional right, these are very complex issues that officers are asked to address. The police have a sworn duty to uphold the Constitution. It is in the **greater public interest** to protect those Constitutional guarantees in carrying out that responsibility

even though it might be argued the public interest was being better served in the individual case. But if an employee attempts to devise an innovative, nontraditional solution for a persistent crime or service problem and unintentionally runs afoul of minor procedures, the desire to encourage creativity in our efforts at producing public safety will carry significant weight in dealing with any discipline that might result.

- **The Degree of Harm.** The degree of harm an error causes is also an important aspect in deciding the consequences of an employee's behavior. Harm can be measured in a variety of ways. It can be measured in terms of the monetary cost to the department and community. An error that causes significant damage to a vehicle for example could be examined in light of the repair costs. Harm can also be measured in terms of the personal injury the error causes such as the consequences of an unnecessary use of force. Another way in which harm can be measured is the impact of the error on public confidence. An employee who engages in criminal behavior — selling drugs for example — could affect the public confidence in the police if the consequences do not send a clear, unmistakable message that this behavior will not be tolerated.
- **Employee Experience.** The experience of the employee will be taken into consideration as well. A relatively new employee (or a more experienced employee in an unfamiliar assignment) will be given greater consideration when judgmental errors are

made. In the same vein, employees who make judgmental errors that would not be expected of one who has a significant amount of experience may expect to receive more serious sanctions.

- **Intentional/Unintentional Errors.** Employees will make errors that could be classified as intentional and unintentional. An **unintentional** error is an action or decision that turns out to be wrong, but at the time it was taken, seemed to be in compliance with policy and the most appropriate course based on the information available. A supervisor for example, might give permission for a vehicle pursuit to continue on the basis the vehicle and occupants met the general description of one involved in an armed robbery. The pursuit ends in a serious accident, and it is learned the driver was fleeing because his driver's license was expired. Under these circumstances, the supervisor's decision would be supported because it was within the policy at the time it was made. **Unintentional** errors also include those momentary lapses of judgment or acts of carelessness that result in minimal harm (backing a police cruiser into a pole for example, failing to turn in a report, etc). Employees will be held accountable for these errors but the consequences will be more corrective than punitive unless the same errors persist.

An **intentional** error is an action or a decision that an employee makes that is known to be in conflict with law, policy, procedures or rules (or should have [been] known) at the time it is taken. Generally, intentional errors will be treated more seriously and

carry greater consequences. Within the framework of intentional errors there are certain behaviors that are entirely inconsistent with the responsibilities of police employees. These include lying, theft, or physical abuse of citizens and other equally serious breaches of the trust placed in members of the policing profession. The nature of the police responsibility requires that police officers be truthful. It is recognized however, that it is sometimes difficult to determine if one is being untruthful. **The department will terminate an employee's employment when it is clear the employee is intentionally engaging in an effort to be untruthful. Every effort will also be made to separate individuals from the department found to have engaged in theft or serious physical abuse of citizens.**

- **Employee's Past Record.** To the extent allowed by law and policy an employee's past record will be taken into consideration in determining the consequences of a failure to meet the department's expectations. An employee who continually makes errors can expect the consequences of this behavior to become progressively more punitive. An employee who has a record of few or no errors can expect less stringent consequences. Also, an employee whose past reflects hard work and dedication to the community and department will be given every consideration in the determination of any disciplinary action.

Laying out these factors helps police commanders think through the circumstances involved in the misconduct. The philosophy explicitly

points out that unintentional mistakes are to be treated differently from intentional misconduct and that officers who run afoul of policy while genuinely trying to serve the public good should be given consideration in determining sanctions. Although thoughtful chiefs and commanders undoubtedly consider these factors when faced with the responsibility of making discipline decisions, it is important to put them in writing as a part of the department's directive system. Not only does this let employees know how they will be treated, the transparency also adds legitimacy to the process inside and outside of the organization.

However, laying out these factors in writing within the directives system is not, by itself, enough. In Charlotte-Mecklenburg, the philosophy was presented to both the civil service board and the citizens review committee before it was adopted. This also provided the opportunity for news media review. The philosophy was presented and discussed by the chief before supervisory and command staff, officer-in-service training, promotional classes and every class of recruit officers. In July 2005, the department published a widely circulated guidebook titled *Employee Conduct: Investigations and Discipline* that was aimed at audiences inside and outside the department. The disciplinary philosophy was also addressed in the guidebook. All of these steps served to ensure that both employees and the community were informed of the department's approach to discipline.

Other Alternatives

Conversations about improving police disciplinary processes often turn to the use of civilian

review or approaches that professional associations of lawyers, doctors and others use to guide and control members. Civilian review is widely used in the United States with the hope that it will improve the legitimacy of handling, investigating and resolving citizen complaints. The closest equivalent within the police profession is where state-level police standards boards have the authority to revoke an officer's certification, effectively taking away his or her ability to work in the state as a sworn officer. There are as many variations of civilian review as there are cities that have implemented this process. Some review boards receive complaints and forward them on to the police department for investigation and resolution. In other communities, an appointed group of civilians conducts the investigation. Some review boards have the authority to recommend disciplinary action. Many such review boards come into play after an investigation is complete, and some are focused on specific misconduct categories like use of force. Some act only when a citizen appeals directly to them. Civilian review boards are certainly an important ingredient in disciplinary processes and constitute one of many possibilities that ought to be considered when reviewing alternatives to traditional discipline. The models that other professions use to sanction their members do not seem to offer much promise. One of the most significant obstacles is that they do not offer any greater legitimacy — perhaps less — than the processes currently in use in policing.

None of the alternatives discussed above represent complete departures from the traditional police disciplinary processes. They represent

efforts to change the things that can be changed within the plethora of constraints imposed by law, contracts and tradition. They represent steps toward what may potentially be more effective methods of handling discipline.

A Way Forward

In a perfect world, employees would fully understand the organization's expectations, report to work on time and always do the right thing. In such a world, employees would manage their own behavior with little need for elaborate disciplinary processes. Although that perfect world does not exist in policing today, a large majority of employees have no experience with the formal disciplinary processes because they do understand the expectations, treat people respectfully and consistently do their jobs in an acceptable manner. In exchange, these employees expect to be treated in a fair and consistent manner should they run afoul of a policy, rule, or regulation, or are the subject of a citizen complaint. Given all of the issues and concerns with disciplinary processes, how do police executives create systems that address mistakes and misconduct fairly while meeting the expectations of the community and employees? What would that process look like? Is it a matter of implementing one of the approaches described above? Is it a matrix that specifies sanctions, or an education-focused approach, or creation of a philosophy that guides how sanctions are determined? Is it some combination of these approaches, or something that has yet to be invented?

There are no definitive answers to these questions. As one works toward answering them, the complexity of the administration of discipline in

a police organization must be taken into account. A police chief does not have complete control of all the factors that influence disciplinary outcomes, but they should all be considered. Court decisions, state law, local ordinances, union contracts, civilian review, civil service, arbitrators, politics, complaint processes, investigative practices and organizational culture are all in play when disciplinary actions are taken. With all of this complexity, police executives might understandably shy away from a complete overhaul of the disciplinary process and focus on those parts over which they have some control or influence and that they believe might, with a little persuasion, be acceptable to stakeholders.

One approach to improving discipline might be the use of a problem-solving process to engage as many of the stakeholders as possible in examining how discipline is handled. It might also be of value to identify specific characteristics of a discipline process that would respond to the agreed deficiencies of current approaches and therefore be regarded as priorities for any changes made.

Problem Solving

Problem solving offers great potential as a way to approach the development of better disciplinary processes and a helpful way of looking at misconduct and other disciplinary problems at both the organizational and individual levels. Police officers in many parts of the world have received problem-solving training over the past 25 years and often apply their knowledge to crime and other problems. One of the more commonly used approaches is the SARA¹² model developed

by Police Executive Research Forum staff and members of the Newport News (Va.) Police Department in the mid-1980s (Eck and Spelman, 1988). SARA guides officers through a four-step process to problem solving:

Scanning: Identifying and selecting problems for further study.

Analysis: Breaking the problem down and looking at all aspects.

Response: Developing responses based on the analysis.

Assessment: Determining if the response had the desired impact.

It can be used to look at disciplinary problems from a number of perspectives. The SARA model is applied to discipline problems in table 2 (p. 20). Problem solving seems to be helpful in looking at specific areas where policies or procedures are frequently violated.

Disciplinary Process Characteristics

Even an organization with all the right policies, training and effective supervision needs a disciplinary process that deals with mistakes and misconduct in the most appropriate manner. Given the vast differences in police agencies, state laws, union contracts, forms of government and communities, it is unlikely that one model would meet the requirements of all agencies. Rather than try to focus on one or two approaches, it seems more helpful to identify characteristics that will contribute to an effective disciplinary process:

Table 2. SARA Model

	Scanning	Analysis	Response	Assessment
Discipline Problems	<ul style="list-style-type: none"> • Complaints <ul style="list-style-type: none"> – Citizens – Officers/supervisors – Other agencies • Use-of-force reports • Arrest reports/charges • In-car camera screening • Early intervention criteria • News stories • Division/unit statistics • Internal investigations 	<ul style="list-style-type: none"> • Individual with multiple complaints/misconduct • Types of complaints (e.g., discourtesy, excessive force, court absences) • Concentration of complaints (e.g., midnight patrol shift, narcotics, particular supervisor) • Frequency of complaints/misconduct • Demographics of complainant/officer (e.g., race, gender, age, experience) • Department policy, procedures • Training 	<ul style="list-style-type: none"> • Warning • Counseling • Training • Policy/procedure change - • Mentor/coach • Reassignment • Suspensions/fines • Employment termination 	<ul style="list-style-type: none"> • Complaint/misconduct reduction • Satisfaction survey improvements • Commendations • Media coverage

- **Early intervention at the lowest level possible.** A key part of effective discipline is recognizing mistakes and misconduct as soon as they occur and taking appropriate corrective action. It is not unusual for police officers to say on learning an officer has been severely disciplined or terminated that it was about time the department addressed the behavior. Officers are often aware of the misconduct of others but fail to see that bringing it to the attention of supervisors is one of their responsibilities. The best intervention, and likely the most effective, comes from peers and first line supervisors. Peers can and do influence behavior in both positive and negative ways. An environment that encourages employees and supervisors to take corrective action on minor mistakes helps create a culture in which everyone takes responsibility for their own behavior and for the behavior of others who may need guidance from time to time. It should also be clear, at

the same time, that serious misconduct will be handled and properly documented through the formal investigative and disciplinary processes.

- **Fair and consistent application of discipline.** One of the most difficult challenges for discipline in a police organization is ensuring both the perception and reality of fairness and consistency. Employees who experience the discipline process must understand the reasons for the actions taken by the department and how they can avoid similar problems in the future. They must have the sense that everyone in the organization is held accountable for their behavior, and if the sanctions are different for similar behaviors, that they are appropriate for the circumstances.

Developing a sense of fairness and consistency among employees is difficult to achieve. It requires that department and hopefully union

leadership will spend time in recruit and in-service training explaining the complaint, investigation and disciplinary processes. Chief executives must invest time in these forums explaining their perspective on discipline. They must also be ready to explain their decisions to employees and the community within the framework allowed by state and local law.

- **Behavioral focus.** The primary focus of discipline should be on changing unacceptable behavior. If the behavior can be changed by a supervisor cautioning the employee or showing the proper way to handle a situation, that should be all that is required. If the disciplinary decision includes sanctions, the employee is entitled to an explanation of the reasons for the sanctions and their connection to the behavior problem. Training should be an option for addressing honest mistakes. It is one thing for officers to make judgmental errors because they do not know the correct procedure or have the right knowledge. It is quite another for them to know what to do but intentionally fail to follow policy and procedures. The latter may require more severe sanctions to reinforce departmental guidelines. Even punishment must be carried out with a view toward behavioral change.
- **Timely.** Both internal investigations protocol and the disciplinary process must have established completion deadlines. To ensure these deadlines are met, a monitoring component that tracks progress on the case

from the initial complaint to its resolution is an important piece of the process.

- **Transparent.** While respecting individual privacy rights and staying within the framework of the law, police agencies must be as open as they can possibly be to their employees and the community they serve. Transparency increases the community's confidence that mistakes and misconduct are treated seriously. Transparency helps employees see that the department leadership supports employees but is also willing to publicly acknowledge mistakes. Openness helps contribute to an environment in which accountability is an important individual and organizational value.

This means that police agencies must, at a minimum, share statistical data with the community on police misconduct, sustained complaints and disciplinary action. Many police departments do this by publishing an annual report that is made available to the news media and the public. It also means that complainants receive timely feedback on the outcome of their complaint.

Consideration should be given to including a peer on disciplinary review boards so a street officer's perspective is considered when arriving at the decision. Some agencies have citizens sit in on the board hearings either as observers or as voting members of the board.

Disciplinary processes that contain these characteristics are likely to have greater legitimacy in the eyes of the employees and the community.

Both are wary of a process that they do not understand, that is not transparent in many communities and that takes an inordinate amount of time to complete.

Conclusion

The purpose of police discipline is to help employees serve the public while staying within the framework of law, policy, procedures, training and organizational expectations for their behavior. Effective discipline requires that employees understand these boundaries and expectations. When officers stray, measured consequences are consistently and fairly applied to hold them accountable and to change their behavior. Ideally, employees clearly understand the relationship between their behavior and the consequences, and naturally make the appropriate adjustments. In this ideal system, the complainant and the general public know employees will be held accountable for their behavior, and this assurance contributes to their confidence in the police. It seems police discipline should be a straightforward process that everyone understands. Clearly it is not.

In reality, police discipline is a messy, complicated and controversial process. It takes a long time from the misconduct to the outcome and, more often than not, the outcome is appealed and the sanctions are reversed. In the majority of communities, the feedback that complainants receive is limited to the investigative outcome: quite commonly a finding of “not sustained” that they struggle to understand.

This is a process that could do with a great deal of improvement. It is encouraging to see that some police agencies, such as the Los Angeles County Sheriff’s Department, are pursuing cutting-edge changes. But far too many agencies are unwilling to take the risks involved in engaging stakeholders in a sincere effort to relieve the frustrations in a process that frequently fails to achieve its core purposes.

Endnotes

1. In a study of the Lansing (Mich.) Police Department, researchers found that officers believed that discipline was unfairly and inconsistently applied. They felt that command-level personnel were treated differently than officers and that publicity, rather than behavior, dictated the disciplinary outcome.
2. See the *Sourcebook of Criminal Justice Statistics* section on public opinion, http://www.albany.edu/sourcebook/toc_2.html (accessed August 11, 2009). On honesty and ethical standards in 2003, 56 percent of white respondents rated the police as “high/very high” while only 31 percent of black respondents did. In 2008, white ratings were 55 percent while blacks increased to 46 percent. On confidence in 2004, 70 percent of whites indicated “a great deal” or “quite a lot,” while blacks were at 41 percent. In 2009, ratings by both whites and blacks dropped to 63 percent and 38 percent, respectively.
3. A case in Charlotte, N.C., involving a 15-month employee goes to this point. The officer has been criminally charged with sexually assaulting six women while on duty and the case has attracted

WHAT WILL MATTER

By Michael Josephson

Ready or not, some day it will all come to an end.

There will be no more sunrises, no minutes, hours or days.

All the things you collected, whether treasured or forgotten will pass to someone else.

Your wealth, fame and temporal power will shrivel to irrelevance.

It will not matter what you owned or what you were owed.

Your grudges, resentments, frustrations and jealousies will finally disappear.

So too, your hopes, ambitions, plans and to do lists will expire.

The wins and losses that once seemed so important will fade away.

It won't matter where you came from or what side of the tracks you lived on at the end.

It won't matter whether you were beautiful or brilliant.

Even your gender and skin color will be irrelevant.

So what will matter? How will the value of your days be measured?

What will matter is not what you bought but what you built, not what you got but what you gave.

What will matter is not your success but your significance.

What will matter is not what you learned but what you taught.

What will matter is every act of integrity, compassion, courage, or sacrifice that enriched, empowered or encouraged others to emulate your example.

What will matter is not your competence but your character.

What will matter is not how many people you knew, but how many will feel a lasting loss when your gone.

What will matter is not your memories but the memories that live in those who loved you.

What will matter is how long you will be remembered, by whom and for what.

Living a life that matters doesn't happen by accident.

It's not a matter of circumstance but of choice.

Choose to live a life that matters.

Block #11



Display PowerPoint Slide # 4 refer class to manual to complete inventory

Discuss result after class has completed

Communications Style Inventory

Alessandra, T. & O'Conner, M. (1996). *The platinum rule*. New York: Warner Brooks

Circle A or B in each pair of statements below, which shows the one that best describes you.

1. A) I'm usually open to getting to know people personally and establishing relationships with them.
 B) I'm not usually open to getting to know people personally and establishing relationships with them.

2. A) I usually react slowly and deliberately.
 B) I usually react quickly and spontaneously.

3. A) I'm usually guarded about other people's use of my time.
 B) I'm usually open to other people's use of my time.

4. A) I usually introduce myself at social gatherings.
 B) I usually wait for others to introduce themselves to me at social gatherings.

5. A) I usually focus my conversations on the interests of the people involved, even if that means straying from the business or subject at hand.
 B) I usually focus my conversations on the tasks, issues, business, or subject at hand.

6. A) I'm usually not assertive, and I can be patient with a slow pace.
 B) I'm usually assertive, and at times I can be impatient with a slow pace.
7. A) I usually make decisions based on facts or evidence.
 B) I usually make decisions based on feelings, experiences or relationships.
8. A) I usually contribute frequently to group conversations.
 B) I usually contribute infrequently to group conversations.
9. A) I usually prefer to work with and through others, providing support when possible.
 B) I usually prefer to work independently or dictate the conditions in terms of how others are involved.
10. A) I usually ask questions or speak tentatively and indirectly.
 B) I usually make empathic statements or directly expressed opinions.
11. A) I usually focus primarily on ideas, concepts, or results.
 B) I usually focus primarily on persons, interactions, and feelings.
12. A) I usually use gestures, facial expressions, and voice intonations to emphasize points.
 B) I usually do not use gestures, facial expressions, and voice intonations to emphasize points.

13. A) I usually accept others' points of view (ideas, feelings, and concerns).
B) I usually don't accept others' points of view (ideas, feeling, and concerns).
14. A) I usually respond to risk and change in a cautious or predictable manner.
B) I usually respond to risk and change in dynamic or unpredictable manner.
15. A) I usually prefer to keep personal feelings and thoughts private, sharing only when I wish to do so.
B) I usually find it natural and easy to share and discuss my feelings with others.
16. A) I usually seek out new or different experiences and situations.
B) I usually choose known or similar situations and relationships.
17. A) I'm usually responsive to others' agendas, interests, and concerns.
B) I'm usually directed toward my own agendas, interests, and concerns.
18. A) I usually respond to conflict slowly and indirectly.
B) I usually respond to conflict quickly and directly.

Total the numbers of items circled in each column. Compare the "O" with the "G" column and circle the letter that has the highest total. Compare the "D" with the "I" column and circle the letter that has the highest total.

	O	G		D	I
	1A	1B		2B	2A
	3B	3A		4A	4B
	5A	5B		6B	6A
	7B	7A		8A	8B
	9A	9B		10B	10A
	11B	11A		12A	12B
	13A	13B		14B	14A
	15B	15A		16A	16B
	17A	17B		18B	18A
Totals	<input type="text"/>	<input type="text"/>		<input type="text"/>	<input type="text"/>

display PowerPoint Slide # 5 and discuss the results

Interpreting the Results

GD=Controller/Director

Commander

Decisive risk taker

Not shy but private about personal matters; comes on strong in conversation

Values getting the job done

Good at delegating work to others

Likes to be where the action is

Take charge, enterprising, competitive, efficient approach

Fearless; no obstacle is too big to tackle

Results oriented

OD=Promoter/Socializer

Entertainer

Values enjoyment and helping others

Full of ideas and impulsive in trying them

Wants work to be fun for everyone

Talkative and open about self; asks others' opinions; loves to brainstorm

Flexible; easily bored with routine

Intuitive, creative, spontaneous, flamboyant approach

Optimist; nothing is beyond hope

Celebration oriented

OI=Supporter/Relater

Harmonizer

Values acceptance and stability in circumstances

Slow with big decisions; dislikes change

Builds networks of friends to help do work

Good listener; timid about voicing contrary opinions; concerned for others' feelings

Easy-going; likes slow, steady pace

Friendly & sensitive; no person is unlovable

Relationship oriented

GI=Analyzer/Thinker

Assessor

Values accuracy in details and being right

Plans thoroughly before deciding to act

Prefers to work alone

Introverted; quick to think and slow to speak; closed about personal matters

Highly organized; even plans spontaneity

Cautious, logical, thrifty approach

Thoughtful; no problem is too big to ponder

Idea oriented

Nonverbal cues can do five different things:

1. Repeat the verbal message
2. Contradict the verbal message
3. Substitute for the verbal message
4. Complement or add to the verbal message
5. Emphasize the verbal message

Article: Five Body-Language Tips from the Presidential Debates - 5/08/2012

Carol Kinsey Goman, Keynote speaker on body language and leadership.

During the 2008 presidential debates, I blogged about the candidates' nonverbal behavior on the State Department's website. In the process I learned a lot about the immediate and powerful impact of body language on audience reactions. I also saw that my coaching clients (people like you — executives, team leaders, senior managers), faced many of the same communication challenges.

For example: In a debate setting, most people judge politicians based on how they make them feel rather than on their talking points. If the candidate appears anxious, uncertain, arrogant, or unfeeling, the audience reaction is instant and negative. The nonverbal debate "winner" is the candidate who makes the audience feel secure and comfortable by displaying the greatest amount of positive body language cues — relaxed stance, upright posture, smooth gestures, genuine smiles, etc. and the least amount of negative cues — including rapid blinking, forced smiles, jerking motions, finger pointing, and body sways.

You may never find yourself in the high-stakes, high-pressure world of a presidential debate. But if you are addressing a group of employees, chairing a meeting with your staff, or interviewing for a job, your body language impacts the way those audiences feel about you. Here are five body language tips for President Obama, Governor Romney, and you.

1) With nonverbal communication, it's not how the sender feels that's most important; it's how the observer perceives the sender feels.

A famous debate signal occurred in 1992 when incumbent President George H.W. Bush looked at his watch while his opponent, Bill Clinton, who would win the election, spoke.

Why did he look at his watch? It doesn't matter. What does matter, is that to the viewing audience, President Bush's gesture conveyed boredom — as if he had better things to do with his time and was wondering when this annoying inconvenience would end.

This is a common problem with body language: often your nonverbal signals don't convey what you intended them to. The key is to understand how most people will judge a gesture. You may be slouching because you're tired, but your team will most likely read it as a sign of disinterest. You may be more comfortable standing with your arms folded across your chest (or you may be cold), but others see you as resistant and unapproachable. And keeping your hands stiffly by your side or stuck in your pockets can give the impression that you're insecure or hiding something — whether you are or not.

2) Watch those facial expressions.

In 2008, both candidates made facial expression errors. In most of the debates, (then) Senator Obama minimized his emotional reactions and reinforced the impression that he was remote and "cold." Senator McCain's forced grins and eye rolling in the third debate sent a negative signal that was reflected instantly in polls rating likability: Obama scored 70% to McCain's 22%.

If you have been interviewed by the media or answered questions in a Town Hall meeting, you have probably had to deal with unexpected issues that you hoped wouldn't come up. How did you look when you addressed those issues? Did you clench your jaw, raise your eyebrows in amazement, and grimace to show your annoyance? Did you sigh, smile condescendingly, and shake your head? If so, you sent a nonverbal signal that was "louder" than any spoken response.

3) Don't underestimate the power of touch.

While Obama shook hands with audience members after the debates, only McCain touched anyone during a debate. Toward the end of the second debate, he walked into the audience and patted a U.S. military veteran on the back and then shook his hand, which produced a genuinely warm smile from the veteran. McCain's gesture was exquisitely done and worked very much in his favor.

Underused by business leaders, touch is widely considered to be the most primitive and essential form of communication. We are programmed to feel closer to someone who's touched us. The person who touches also feels more connected. It's a compelling force and even momentary touching can create a human bond. A touch on the forearm that lasts a mere 1/40 of a second can make the receiver not only feel better but also see the giver as being kinder and warmer.

4) When your body language is out of sync with your words, people believe what they see.

Anytime McCain was speaking in the first 2008 debate, Obama oriented his body toward McCain and looked directly at him. (Doing so sends a nonverbal signal of interest and respect. And it's a behavior that Governor Romney exhibited with his rivals in the 2011 GOP debates.) McCain's decision to avoid looking at Obama was not only dismissive, it was counter to McCain's stated position that Democrats and Republicans need to work together on behalf of the American people. In fact, his failure to look at Obama was so off-message that if I had been coaching McCain, I would have strongly advised against it.

In a similar way, the business leader who stands in front of employees and talks about how much he welcomes their input derails that message if he hides behind a lectern, or leans back away from his audience, or shoves his hands in his pockets, or makes a "push back" gesture (actually done by a committee leader). All of those are nonverbal signals of withholding or dismissal – while the intended message is about openness and inclusion

5) Remember – you are never "off camera."

When the second debate was over, and their wives were on stage, McCain tapped his rival on the back. Obama turned around to offer his hand, but it was not reciprocated. McCain, instead, pointed to his wife, Cindy – an action that many viewers took for a nonverbal brush-off.

As a leader, you are always communicating. People are unrelenting leader-watchers, and your "off-record" actions are being closely monitored. In the words of one savvy executive, "What I do in the hallway is more important than anything I say in the meeting room."

So there you are: Five body-language tips for the 2012 presidential candidates that can also make you a more effective leader and communicator.

About the author: Carol Kinsey Goman, Ph.D., is an executive coach, author and keynote speaker who addresses association, government, and business audiences around the world. Her latest book and program topic is *The Nonverbal Advantage: Secrets and Science of Body Language at Work*.

What can we learn from this article?

Block #14

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Section 5 of this bill requires a peace officer to: (1) intervene to prevent or stop another peace officer from using unjustified physical force if the peace officer observes or reasonably should have observed the use of such unjustified physical force and it is safe for the peace officer to intervene; and (2) if the peace officer who observes the use of unjustified physical force is a supervisor of the peace officer using the unjustified physical force, issue a direct order to stop the use of such physical force. **Section 5** also requires any peace officer who observes the use of unjustified physical force to report the observation to his or her immediate supervisor or, if the observation involves his or her immediate supervisor, the supervisor of his or her immediate supervisor. **Section 5** additionally prohibits a member of a law enforcement agency from disciplining or retaliating in any way against a peace officer solely for intervening in the use of unjustified physical force or reporting the observation of the use of unjustified physical force. **Section 5** further requires each law enforcement agency to train its peace officers on the duty to intervene in the use of unjustified physical force and the reporting of any observation of the use of unjustified physical force.

Section 6 of this bill: (1) requires each law enforcement agency to adopt a written policy regarding the drug and alcohol testing of a peace officer following an officer-involved shooting or when the conduct of a peace officer results in substantial bodily harm to or the death of another person; and (2) establishes certain requirements concerning such a written policy.

Section 9 of this bill requires each law enforcement agency in this State to provide a report to the Legislature on or before November 1, 2020, that includes certain information relating to: (1) traffic stops and other stops by law enforcement officers; and (2) the software used to process the identity or driver's license number of a person during such a traffic stop or other stop.

Section 34 of Assembly Bill No. 236 of the 2019 Legislative Session reduced the maximum period of probation or suspension of sentence that can be imposed upon a person. Such a change became effective on July 1, 2020. (Chapter 633, Statutes of Nevada 2019, at pages 4399 and 4488) **Section 8** of this bill provides that such a change applies to: (1) any offense committed on or after July 1, 2020; and (2) any offense committed before July 1, 2020, if the person is sentenced on or after July 1, 2020. **Section 10** of this bill provides that any person who is sentenced on or after July 1, 2020, and before the date that this bill becomes effective is entitled to have his or her period of probation or suspension of sentence reduced to the maximum applicable period set forth pursuant to the change in law that became effective on July 1, 2020.

EXPLANATION - Matter in *bolded italics* is new; matter between brackets [omitted material] is material to be omitted.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 171 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person who is not under arrest or in the custody of a peace officer may record a law enforcement activity and maintain custody and control of that recording and any property or instruments used by the person to record a law enforcement activity. A person who is under arrest or in the custody of a peace



officer does not, by that status alone, forfeit the right to have any such recordings, property or instruments maintained and returned to him or her. This subsection must not be construed to authorize a person to engage in actions that interfere with or obstruct a law enforcement activity or otherwise violate any other law in an effort to record a law enforcement activity.

2. *A peace officer shall not act to interfere with a person's recording of a law enforcement activity, including, without limitation, by:*

(a) Intentionally preventing or attempting to prevent the person from recording a law enforcement activity;

(b) Threatening the person for recording a law enforcement activity;

(c) Commanding that the person cease recording a law enforcement activity when the person was nevertheless authorized by law to record the law enforcement activity;

(d) Stopping, seizing or searching the person because he or she recorded a law enforcement activity; or

(e) Unlawfully seizing property or instruments used by the person to record a law enforcement activity, unlawfully destroying or seizing any recorded image of a law enforcement activity or copying such a recording of a law enforcement activity without the consent of the person who recorded it or obtaining approval from an appropriate court.

3. *As used in this section:*

(a) "Law enforcement activity" means any activity by a peace officer acting under the color of law.

(b) "Peace officer" means any person upon whom some or all of the powers of a peace officer are conferred pursuant to NRS 289.150 to 289.360, inclusive.

(c) "Record" means to capture or attempt to capture any moving or still image, sound or impression through the use of any recording device, camera or any other device capable of capturing audio or moving or still images, or by means of written notes or observations. The term includes, without limitation, the capturing of or the attempt to capture any moving or still image, sound or impression through the use of any such device for the purpose of broadcasting an event or occurrence in real time.

Sec. 2. NRS 171.122 is hereby amended to read as follows:

171.122 1. Except as otherwise provided in subsection 2, the warrant must be executed by the arrest of the defendant. The officer need not have the warrant in the officer's possession at the time of the arrest, but upon request the officer must show the warrant to the



defendant as soon as possible. If the officer does not have a warrant in the officer's possession at the time of the arrest, the officer shall then inform the defendant of the officer's intention to arrest the defendant, of the offense charged, the authority to make it and of the fact that a warrant has or has not been issued. The defendant must not be subjected to any more restraint than is necessary for the defendant's arrest and detention. If the defendant either flees or forcibly resists, the officer may, except as otherwise provided in NRS 171.1455, use ~~the~~ *only the amount of reasonable force* necessary ~~to~~ to effect the arrest.

2. In lieu of executing the warrant by arresting the defendant, a peace officer may issue a citation as provided in NRS 171.1773 if:

(a) The warrant is issued upon an offense punishable as a misdemeanor;

(b) The officer has no indication that the defendant has previously failed to appear on the charge reflected in the warrant;

(c) The defendant provides satisfactory evidence of his or her identity to the peace officer;

(d) The defendant signs a written promise to appear in court for the misdemeanor offense; and

(e) The officer has reasonable grounds to believe that the defendant will keep a written promise to appear in court.

3. The summons must be served upon a defendant by delivering a copy to the defendant personally, or by leaving it at the defendant's dwelling house or usual place of abode with some person then residing in the house or abode who is at least 16 years of age and is of suitable discretion, or by mailing it to the defendant's last known address. In the case of a corporation, the summons must be served at least 5 days before the day of appearance fixed in the summons, by delivering a copy to an officer or to a managing or general agent or to any other agent authorized by appointment or by law to receive service of process and, if the agent is one authorized by statute to receive service and the statute so requires, by also mailing a copy to the corporation's last known address within the State of Nevada or at its principal place of business elsewhere in the United States.

Sec. 3. Chapter 193 of NRS is hereby amended by adding thereto the provisions set forth as sections 4 and 5 of this act.

Sec. 4. 1. *In carrying out his or her duties, a peace officer shall not use a choke hold on another person.*

2. A peace officer shall not place a person who is in the custody of the peace officer in any position which compresses his or her airway or restricts his or her ability to breathe. A peace



officer shall monitor any person who is in the custody of the peace officer for any signs of distress and shall take any actions necessary to place such a person in a recovery position if he or she appears to be in distress or indicates that he or she cannot breathe.

3. If a peace officer, in carrying out his or her duties, uses physical force on another person, the peace officer shall ensure that medical aid is rendered to any person who is injured by the use of such physical force as soon as practicable.

4. As used in this section:

(a) "Choke hold" means:

(1) A method by which a person applies sufficient pressure to another person to make breathing difficult or impossible, including, without limitation, any pressure to the neck, throat or windpipe that may prevent or hinder breathing or reduce intake of air; or

(2) Applying pressure to a person's neck on either side of the windpipe, but not the windpipe itself, to stop the flow of blood to the brain via the carotid arteries.

(b) "Peace officer" means any person upon whom some or all of the powers of a peace officer are conferred pursuant to NRS 289.150 to 289.360, inclusive.

(c) "Physical force" means the application of physical techniques, chemical agents or weapons to another person.

Sec. 5. 1. Except as otherwise provided in this subsection, a peace officer shall, without regard for chain of command, intervene to prevent or stop another peace officer from using physical force that is not justified in pursuance of the other peace officer's law enforcement duties in carrying out the arrest of a person, placing a person under detention, taking a person into custody or booking a person. The duty to intervene in the use of physical force that is not justified as required by this subsection only applies if:

(a) A peace officer observes the use of physical force that is not justified or reasonably should have observed the use of physical force that is not justified; and

(b) The circumstances are such that it is safe for the peace officer to intervene.

2. If a peace officer who observes the use of physical force that is not justified is a supervisor of the peace officer who is using such physical force, the peace officer making the observation shall issue a direct order to stop the use of such physical force.

3. A peace officer who observes the use of physical force that is not justified shall report the observation to his or her immediate



supervisor unless the observation involves his or her immediate supervisor, in which case the peace officer shall report the observation to the supervisor of his or her immediate supervisor. Such a report must:

(a) Include, without limitation:

(1) The date, time and location of the incident;

(2) The identity, if known, and a description of the participants; and

(3) A description of the actions taken as a result of the observation.

(b) Be made in writing not later than 10 days after the occurrence of the use of physical force and observation and appended to all other reports of the incident.

4. A member of a law enforcement agency shall not discipline or retaliate in any way against a peace officer solely for:

(a) Intervening in the use of physical force that is not justified as required by subsection 1; or

(b) Reporting the observation of the use of physical force that is not justified as required by subsection 3.

5. Each law enforcement agency in this State shall train its peace officers on the provisions of this section.

6. As used in this section:

(a) "Peace officer" means any person upon whom some or all of the powers of a peace officer are conferred pursuant to NRS 289.150 to 289.360, inclusive.

(b) "Physical force" has the meaning ascribed to it in section 4 of this act.

Sec. 6. Chapter 289 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Each law enforcement agency shall adopt a written policy regarding the drug and alcohol testing of a peace officer following an officer-involved shooting or when the conduct of a peace officer results in substantial bodily harm to or the death of another person. The written policy adopted by the law enforcement agency must include the following requirements:

(a) Each peace officer who is involved in an officer-involved shooting or whose conduct resulted in substantial bodily harm to or the death of another person must submit to drug and alcohol testing, including, without limitation, testing for the use of cannabis, prescription drugs and illegal drugs; and

(b) The drug and alcohol testing must be completed as soon as practicable after the officer-involved shooting or the conduct of the peace officer that resulted in substantial bodily harm to or the



death of another person, but not later than the end of the involved peace officer's shift.

2. *As used in this section, "officer-involved shooting" means any instance when a peace officer discharges his or her firearm during the performance of his or her official duties or in the line of duty and thereby causes injury or death to one or more persons.*

Sec. 7. NRS 289.010 is hereby amended to read as follows:

289.010 As used in this chapter, unless the context otherwise requires:

1. "Administrative file" means any file of a peace officer containing information, comments or documents about the peace officer. The term does not include any file relating to an investigation conducted pursuant to NRS 289.057 or a criminal investigation of a peace officer.

2. ~~["Choke hold" means the holding of a person's neck in a manner specifically intended to restrict the flow of oxygen or blood to the person's lungs or brain. The term includes the arm bar restraint, carotid restraint and lateral vascular neck restraint.~~

~~—3—~~ 3. "Law enforcement agency" means any agency, office, bureau, department, unit or division created by any statute, ordinance or rule which:

(a) Has a duty to enforce the law; and

(b) Employs any person upon whom some or all of the powers of a peace officer are conferred pursuant to NRS 289.150 to 289.360, inclusive.

~~4—~~ 3. "Peace officer" means any person upon whom some or all of the powers of a peace officer are conferred pursuant to NRS 289.150 to 289.360, inclusive.

~~5—~~ 4. "Punitive action" means any action which may lead to dismissal, demotion, suspension, reduction in salary, written reprimand or transfer of a peace officer for purposes of punishment.

Sec. 8. Chapter 633, Statutes of Nevada 2019, at page 4488, is hereby amended by adding thereto a new section to be designated as section 135.3, immediately following section 135, to read as follows:

Sec. 135.3. The amendatory provisions of section 34 of this act apply to:

1. *An offense committed on or after July 1, 2020; and*

2. *An offense committed before July 1, 2020, if the person is sentenced on or after July 1, 2020.*

Sec. 9. 1. On or before November 1, 2020, each law enforcement agency in this State shall provide a report containing



recommendation, the peace officer or any representative may review and copy the entire file concerning the internal investigation.

Under existing law, if an arbitrator or court determines that evidence was obtained during an investigation of a peace officer which was in violation of the rights of peace officers, the arbitrator or court, as applicable, is required to dismiss with prejudice the administrative proceeding or civil action. (NRS 289.085) **Section 4** of this bill requires, instead, the arbitrator or court to: (1) exclude such evidence if the evidence may be prejudicial to the peace officer; and (2) dismiss the administrative proceeding or civil action, with prejudice, if such evidence was obtained by a law enforcement agency in bad faith.

EXPLANATION - Matter in *bolded italics* is new; matter between brackets [omitted material] is material to be omitted.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 289.020 is hereby amended to read as follows:

289.020 1. A law enforcement agency shall not use punitive action against a peace officer if the peace officer chooses to exercise the peace officer's rights under any internal administrative grievance procedure.

2. If a peace officer is denied a promotion on grounds other than merit or other punitive action is used against the peace officer, a law enforcement agency shall provide the peace officer with an opportunity for a hearing.

3. If a peace officer requests representation while being questioned by a superior officer on any matter that the peace officer reasonably believes could result in punitive action, the questioning must cease immediately and the peace officer must be allowed a reasonable opportunity to arrange for the presence and assistance of a representative before the questioning may resume.

4. If a peace officer refuses to comply with an order by a superior officer to cooperate with the peace officer's own or any other law enforcement agency in a criminal investigation, the agency may charge the peace officer with insubordination.

~~{5. Except as otherwise provided in this subsection, any statement a peace officer is compelled to make pursuant to this chapter shall not be disclosed or used in a civil case against the peace officer without the consent of the peace officer. Such a statement may be used in an administrative hearing or civil case regarding the employment of the peace officer. In a civil case, the court may review the statement in camera to determine whether the statement is inconsistent with the testimony of the peace officer and release any inconsistent statement to the opposing party for purposes of impeachment.}~~



32nd Special Session (2020)

POBR
CHANGES

#2

LANGUAGE ADDED
IN 2019 & THEN
REMOVED IN 2020

Sec. 2. NRS 289.057 is hereby amended to read as follows:

289.057 1. Except as otherwise provided in this subsection, an investigation of a peace officer may be conducted in response to a complaint or allegation that the peace officer has engaged in activities which could result in punitive action. *Any such investigation of a peace officer must be commenced by the law enforcement agency within a reasonable period of time after the date of the filing of the complaint or allegation with the law enforcement agency.* A law enforcement agency shall not conduct an investigation pursuant to this subsection if the *complaint or allegation is filed with the law enforcement agency more than 5 years after the activities of the peace officer occurred.* ~~{more than 1 year from the date of the filing of a complaint or allegation with the law enforcement agency unless the alleged misconduct would be a crime punishable pursuant to state or federal law.}~~

2. Except as otherwise provided in a collective bargaining agreement, a law enforcement agency shall not suspend a peace officer without pay during or pursuant to an investigation conducted pursuant to this section until all investigations relating to the matter have concluded.

3. After the conclusion of the investigation:

(a) If the investigation causes a law enforcement agency to impose punitive action against the peace officer who was the subject of the investigation and the peace officer has received notice of the imposition of the punitive action, the peace officer or a representative authorized by the peace officer may, except as otherwise prohibited by federal or state law, review any administrative or investigative file maintained by the law enforcement agency relating to the investigation, including any recordings, notes, transcripts of interviews and documents.

(b) If, pursuant to a policy of a law enforcement agency or a labor agreement, the record of the investigation or the imposition of punitive action is subject to being removed from any administrative file relating to the peace officer maintained by the law enforcement agency, the law enforcement agency shall not, except as otherwise required by federal or state law, keep or make a record of the investigation or the imposition of punitive action after the record is required to be removed from the administrative file.

~~{(c) If the law enforcement agency concludes that the peace officer did not violate a statute, policy, rule or regulation, the law enforcement agency shall not reopen the investigation unless the law enforcement agency discovers new material evidence related to the matter.}~~

- LANGUAGE ADDED IN 2019
3 REMOVED IN 2020.
1 YEAR STATUTE INCREASED
TO 5 YEARS. -



~~4. Except as otherwise provided in subsection 5, a law enforcement agency shall not reassign a peace officer temporarily or permanently without his or her consent during or pursuant to an investigation conducted pursuant to this section or when there is a hearing relating to such an investigation that is pending.~~

- LANGUAGE REMOVED

~~5.] 4. A law enforcement agency may reassign a peace officer temporarily or permanently without his or her consent during or pursuant to an investigation conducted pursuant to this section or when there is a hearing relating to such an investigation that is pending. If the law enforcement agency finds, based on specific facts or circumstances, that reassignment of the peace officer is necessary to maintain the efficient operation of the law enforcement agency.]~~

- LANGUAGE REMOVED

Sec. 3. NRS 289.080 is hereby amended to read as follows:

289.080 1. Except as otherwise provided in subsection 5, a peace officer who is the subject of an investigation conducted pursuant to NRS 289.057 may upon request have two representatives of the peace officer's choosing present with the peace officer during any phase of an interrogation or hearing relating to the investigation, including, without limitation, a lawyer, a representative of a labor union or another peace officer.

2. Except as otherwise provided in subsection 5, a peace officer who is a witness in an investigation conducted pursuant to NRS 289.057 may upon request have two representatives of the peace officer's choosing present with the peace officer during an interview relating to the investigation, including, without limitation, a lawyer, a representative of a labor union or another peace officer. The presence of the second representative must not create an undue delay in either the scheduling or conducting of the interview.

3. A representative of a peace officer must assist the peace officer during the interview, interrogation or hearing.

4. The law enforcement agency conducting the interview, interrogation or hearing shall allow a representative of the peace officer to:

(a) Inspect the following if related to the investigation and in the possession of the law enforcement agency:

- ~~(1) Physical evidence;~~
- ~~(2) Audio recordings, photographs and video recordings; and~~
- ~~(3) Statements made by or attributed to the peace officer.~~

} LANGUAGE REMOVED

(b) Explain *explain* an answer provided by the peace officer or refute a negative implication which results from questioning of the peace officer but may require such explanation to be provided after the agency has concluded its initial questioning of the peace officer.



5. A representative must not otherwise be connected to, or the subject of, the same investigation.

6. Any information that a representative obtains from the peace officer who is a witness concerning the investigation is confidential and must not be disclosed.

7. Any information that a representative obtains from the peace officer who is the subject of the investigation is confidential and must not be disclosed except upon the:

- (a) Request of the peace officer; or
- (b) Lawful order of a court of competent jurisdiction.

→ A law enforcement agency shall not take punitive action against a representative for the representative's failure or refusal to disclose such information.

8. The peace officer, any representative of the peace officer or the law enforcement agency may make a stenographic, digital or magnetic record of the interview, interrogation or hearing. If the agency records the proceedings, the agency shall at the peace officer's request and expense provide a copy of the:

- (a) Stenographic transcript of the proceedings; or
- (b) Recording on the digital or magnetic tape.

9. After the conclusion of the investigation, *if a law enforcement agency intends to recommend that punitive action be imposed against the peace officer who was the subject of the investigation [or any representative of the peace officer may, if] , the law enforcement agency must notify the peace officer of such fact and give the peace officer or any representative of the peace officer a reasonable opportunity to inspect any evidence in the possession of the law enforcement agency and submit a response. The law enforcement agency must consider any such response before making a recommendation to impose punitive action against the peace officer. If the law enforcement agency recommends punitive action be imposed against the peace officer and the peace officer appeals [a] the recommendation to impose punitive action, the peace officer or any representative of the peace officer may* review and copy the entire file concerning the internal investigation, including, without limitation, any evidence, recordings, notes, transcripts of interviews and documents contained in the file.

Sec. 4. NRS 289.085 is hereby amended to read as follows:

289.085 If an arbitrator or court determines that evidence was obtained during an investigation of a peace officer concerning conduct that could result in punitive action in a manner which violates any provision of NRS 289.010 to 289.120, inclusive, *and*



that such evidence may be prejudicial to the peace officer, such evidence is inadmissible and the arbitrator or court shall ~~dismiss with prejudice the~~ exclude such evidence during any administrative proceeding commenced or civil action filed against the peace officer. If the arbitrator or court further determines that such evidence was obtained by a law enforcement agency in bad faith, the arbitrator or court must dismiss the administrative proceeding or civil action with prejudice.

Sec. 5. NRS 289.090 is hereby amended to read as follows:

289.090 The provisions of subsections 2 ~~to 5, inclusive,~~ , 3 and 4 of NRS 289.057 and NRS 289.060, 289.070 and 289.080 do not apply to any investigation which concerns alleged criminal activities.

Sec. 6. This act becomes effective upon passage and approval.

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GARRITY RIGHTS FOR LAW ENFORCEMENT OFFICERS

By Aaron Nisenson

1. What is Garrity Protection?

When and how is it used by Law Enforcement Officers?

The Garrity protections are some of the most fundamental in law enforcement. In *Garrity v. New Jersey*, the Supreme Court held that Officers are not required to sacrifice their right against self-incrimination in order to retain their jobs. 385 U.S. 493 (1967). The basic premise of the Garrity protection is straightforward: First, an Officer cannot be compelled, by the threat of serious discipline, to make statements that may be used in a subsequent criminal proceeding; second, an Officer cannot be terminated for refusing to waive his Fifth Amendment right to remain silent. *Gardner v. Broderick*, 392 U.S. 273 (1968). Therefore, if an Officer gives a coerced statement, the statement is "protected," and cannot be used in a subsequent criminal prosecution.

However, the practical application of Garrity has been complicated and uncertain. The Courts have been all over the map in their application of Garrity: with some Courts applying Garrity to protect Officers' Constitutional rights, and other Courts seeming to try to evade Garrity. Thus, in the Garrity area, Officers are best served by following the old adage: prepare for the worst, and hope for the best. The initial issue in the application of Garrity is the Department's actions in extracting a statement from an Officer. In order for Garrity protection to apply, the government must have "coerced" a statement from an Officer. Generally, this coercion consists of an order, under threat of termination, to give a statement on a work related matter.

The first issue is what is required for an "order." One Court recently explained the general rule: "Before a Police Officer's testimony will be considered 'coerced' within the meaning of Garrity, he must show that he subjectively believed that he would lose his job if he refused to answer questions and that his belief was objectively reasonable." *U.S. v. Waldon*, 363 F.3d 1103 (11th Cir. 2004). Generally, Officers are able to show that they had a subjective fear of job loss, or other discipline. However, Officers must remember that, even in the best of circumstances, certain statements are generally not protected under Garrity: these include voluntary or spontaneous statements, statements to non-supervisory coworkers, and statements to third parties.

In Florida, the Courts recognize that explicit threats are not necessary for the Officer to feel coerced into giving a statement. *United States v. Friedrich*, 842 F.2d 382, 395 (D.C.Cir. 1988); *United States v. Camacho*, 739 F.Supp. 1 504, 1 514-15 (S.D.Fla. 1990). For example, in one case an Officer was told that his job depended on going to an interview, and was reminded of departmental policies requiring cooperation. The Court found Garrity protection, explaining that while the Officer was not "explicitly told he would be terminated if he did not talk to Franco, . . . those conclusions were logical and reasonable ones to draw from the totality of the circumstances." *State v. Chavarria*, 1 31 N.M. 1 72, 33 P.3d 922 (2001).

However, even though explicit threats of discipline are not required, the employees' fear of discipline must be "objectively reasonable," and there must be some governmental action leading to the employees fear. For example, one Court recently denied Garrity protection, explaining, "A subjective belief is not objectively reasonable unless it derived from actions of the governmental unit. The government argues that Waldon has failed to identify any law or regulation that required him to testify [before a Grand Jury] under threat of sanctions. Indeed, it appears that the regulations he relies upon

reflect only a general expectation that Police Officers will cooperate and testify.” Waldon at 111 2. Thus, most Courts have held that rules requiring the filing of reports, answering of questions, or testifying before a grand jury, are not sufficient to constitute an order. *People v. Sapp*, 934 P.2d 1 367 (Col.1997).

In the end, Officers should prepare for the worst by ensuring that 1) management gives a direct explicit order to provide a statement, and 2) management explicitly states that failure to comply with the order may result in termination. However, if an Officer gives a statement without these safeguards, the Officer can seek Garrity protection, and hope for the best.

2. Why is Garrity Protection Necessary?

The two following cases provide examples.

The first case comes from the Court of Appeals for the State of Wisconsin. Since this is from a state Court, not a federal Court, it should not create too much damage. However, it is an example of how courts can view Garrity protections very narrowly.

In *Wisconsin v. Brockdorf*, 2004 WL 28521 1 8, Docket No. 04-1 51 9-CR (Dec. 14, 2004) (attached) a Police Officer gave two contradictory statements regarding the treatment of a prisoner by her partner. The Officer was then criminally prosecuted for “obstructing an officer.” The issue for the Court was whether the first statement should be excluded due to Garrity.

The Appeals Court explained:

“The pivotal issue in this case is whether Brockdorf’s October 3rd statement was given voluntarily. The State argues that Brockdorf was not threatened with job loss if she exercised her Fifth Amendment right to remain silent. Rather, the only “threat” was that if she did not answer questions, she could be charged with obstruction. Brockdorf admits that she was never told that she would be fired if she refused to answer questions, but that she believed if she was charged with obstruction and caught lying, then she would be fired. The trial court, relying on Garrity, concluded that Brockdorf’s statement was coerced because it was made under threat of an obstruction charge and fear of job loss. This court concludes that Brockdorf’s statement was not coerced; rather, it was voluntarily made and therefore should not have been excluded. ”

The Court relied heavily on the fact that the Officer was not TOLD she would be fired if she refused to answer:

“She was not told that she would be fired if she exercised her Fifth Amendment right to remain silent. She was told that she would be charged with obstruction if she refused to answer questions in the criminal investigation. This, however, does not rise to the level of coercive conduct so as to negate the voluntariness of her statement. ”

We believe that this is an incorrect interpretation of Garrity, and that the Court went too far in appearing to require that the Officer actually be told that she would be fired in order for Garrity protection to attach. We want to ensure that this interpretation does not spread further. Therefore, if you know of any pending cases where this is an issue, please let me know, and I.U.P.A. may be able to help.

In the meantime, this case highlights the need to have Officers give an explicit Garrity protection disclaimer. A Garrity disclaimer will provide use immunity so long as it is given to, or approved by, a governmental official with apparent authority to grant immunity. We recommend that the following

language be placed on any written statement, and be told to an investigator if there is an oral statement.

This Florida Garrity case demonstrates the need for clarity during investigations.

The United States District Court in Florida recently issued a decision illustrating why it is essential for officers to be clear on whether they are being interviewed as part of a criminal investigation or as part of internal affairs investigation. *U.S. v. Green*, 2006 WL 2947830 (M.D. Fl. Oct. 16, 2006).

In this case, the Officer was called in for questioning regarding a child pornography case. The Officer was questioned by Detectives who read the Officer his Miranda rights. The Officer waived his Miranda rights and responded to questions. However, the Detective "did not tell the Defendant at the outset of the interview that it was a criminal investigation. He did state that as a 'courtesy' he was giving the Defendant his Miranda warnings. The questions concerning any criminal activity began after an hour of questioning." Further, the Court found that the Department never told the Officer it was conducting a criminal inquiry.

There was a dispute on one key point. The Officer asserted he was told that he "had to speak to investigators or else he would lose his job." The Department denied ever threatening the Officer. After reviewing the testimony and the audio tapes of the interviews, the Court found that none of the departmental officials told the Officer he would lose his job if he cooperated.

Ultimately, the Court found that the statements were not protected by Garrity. The Court recognized the clearly established Garrity rule that Officers cannot be terminated for refusing to waive Miranda rights, and that statements given under threat of termination are coerced and must be suppressed. In determining whether the latter occurred, the Court set forth the familiar Garrity standard:

Before determining whether a police officer's testimony is coerced, the officer must show that he "subjectively believed that he would lose his job if he refused to answer questions and that his belief was objectively reasonable." United States v. Waldon, 363 F.3d 1103, 1112 (11th Cir.2004), citing United States v. Vangates, 287 F.3d 1315, 1322 (11th Cir.2002)). To show that a subjective belief is objectively reasonable, the officer must show that his belief derived from the actions of the governmental entity.

The Court accepted for the sake of argument that the Officer subjectively believed that he was compelled to respond. However, the Court then ruled that:

The Defendant's subjective belief that he would lose his job if he did not cooperate was not objectively reasonable. Objectively, the Defendant should have known that he was not in an administrative investigation, and that he was in fact, in a criminal investigation. The Court determines that the Defendant had the choice whether to cooperate with the investigators and waive his Fifth Amendment rights to self-incrimination or remain silent.

This case illustrates several very important points:

- 1) Officers called in for questioning should clearly understand, and should confirm with the Departmental officials, whether the questioning is conducted as part of a criminal investigation or an internal investigation.

2) If Officers are EVER read Miranda rights, they must be extremely careful. Officers should understand that in most jurisdictions, if they give statements after voluntarily waiving their Miranda rights, these statements can be used in both a criminal and departmental proceedings.

3) Whenever Miranda rights have been read, Officers should clarify whether they will be subject to discipline if they exercise their Miranda rights.

4) If there are ever threats of termination or punishment, these threats should be repeated and confirmed on the record, preferably both in writing and on tape in a section that cannot be "accidentally " erased (for example, after the official interview has actually started).

5) Finally, if Officers are actually threatened that if they do not waive Miranda they will be terminated, the Officers could challenge either outcome: if they are terminated they can contest the termination: and if they give the statement they can move to suppress the use of the statement in a criminal trial. However, it is generally easier to overturn a termination for refusal to waive Miranda, than it is to suppress a statement that was made after Miranda rights were waived. In addition, as this case illustrates, the Officer must be able to prove that there was an actual threat.

Since this is such an important issue for Officers, they need to be clearly aware of their rights in such investigations. Further, sometimes there are local variations on the law in this area, and locals and their members should consult with local counsel regarding the law in their jurisdiction.

3. The Garrity Rights Card

To prepare for a departmental internal investigation interview or interrogation, the following procedures are recommended to protect your rights:

- Request the presence of a Union Representative before questioning begins.
- Review your rights under any collective bargaining agreement and any state or local Law Enforcement Officers Bill of Rights.
- Request the identity of the complainant. Request to see all documents relative to the charges. Read these documents for content regarding facts, truthfulness and accuracy. Take notes to address any discrepancies noted.
- Ask whether you are the subject of the investigation or a witness and inquire as to the specific nature of the charges.
- Is the investigation administrative or criminal? If criminal, invoke your right to counsel immediately. Decline to give a statement. Do not succumb to pressure to give a statement.
- Require that you be given a reasonable amount of time to prepare properly before the interview begins.
- Answer all questions honestly. Be brief in your answers. Do not guess, if unsure of an answer, you may state, "I need to check my records." "I am not sure." "I do not recall." Always be honest in your response, but do not volunteer information.
- In internal or administrative interviews and criminal matters, you should refuse to submit to a polygraph without consulting your attorney.
- At the beginning of any statement, read Garrity Statement.

4. Garrity Constitutional Protection Statement

If ordered to give a statement without your counsel present, state or write this at the beginning of your statement:

On (date & time) at (place), I was ordered to submit this statement by (name and rank). I give this statement at his/her order as a condition of employment. I have no alternative but to abide by this order or face termination. It is my belief and understanding that the department requires this statement solely and exclusively for internal purposes and will not release it to any other agency. It is my further belief that this statement will not and cannot be used against me in any subsequent proceedings. I authorize release of this report to my attorney or designated union representative.

I retain the right to amend or change this statement upon reflection to correct any unintended mistake without subjecting myself to a charge of untruthfulness.

For any and all other purposes, I hereby reserve my Constitutional right to remain silent under the Fifth and Fourteenth Amendment to the United States Constitution and any other rights prescribed by law. I rely specifically upon the protection afforded me under the doctrines set forth in Garrity and Spevack should this statement be used for any other purpose.

As always, there are significant variations in the law from jurisdiction to jurisdiction, and Officers should contact their local counsel if they have specific questions on the procedure in their department.

Block #16



Destroying Myths & Discovering Cold Facts
with Force Science Institute

Feeding the animals: 10 tips for winning with the media after an OIS

Aug 2, 2012

At the latest ILEETA training conference, Rick Rosenthal, a veteran TV news anchor who's now a law enforcement consultant, delivered some mixed metaphors you might find comforting as you contemplate the possibility of an OIS in your jurisdiction and the publicity firestorm that may well ignite in its aftermath.

- The media are not the bone-crushing, "900-pound gorilla" that many in police work imagine, he said. "That's a myth."
- When the media show up and try to get you to jump, you don't have to "play frog."
- With proper planning, you won't become "media roadkill."
- You (or someone from your agency) will have to deal with reporters when news breaks. "Engagement is inevitable," Rosenthal said. "Victory is only optional."

These days, after more than 30 years in broadcast journalism, many of them with Chicago superstation WGN, he spends full time training law enforcement in "key strategies and tactics for winning with the media."

After his generalized presentation at ILEETA, Force Science News asked him specifically how agencies and their personnel can best deal with reporters after an OIS or other major use of force.

Here are 10 steps he recommends for winning under such crisis conditions:

1.) Build rapport with reporters before you need it. An OIS obviously is a special media event, but the kind of media relationship you need to build to handle it successfully is an ongoing process that needs to begin well before a shooting occurs, Rosenthal believes. Much of the advice he offers for managing the media after an OIS can be put in place and practiced beforehand, through routine, daily interactions, to build a bridge of trust and credibility.

"Part of the media's job is to witness what law enforcement does, but that doesn't necessarily make them the enemy," he says. "Working with them and helping them now on other stories will give you a better chance of exercising some control over them when a crisis hits."

2.) Provide 24/7 accessibility. Your pre-event preparation should include designating and training one or more spokespersons to represent your agency when an OIS or other critical incident goes down. Except in large, highly active departments, "this cabinet-level position does not have to be a full-time assignment," Rosenthal explains, but whoever is recruited "should have some rank and street experience and want to do the job — not someone being punished with the assignment."

Since shootings don't happen when convenient, an information specialist must be on call 24/7, Rosenthal says. From a news viewpoint, prompt and easy accessibility may be the single most winning characteristic of a spokesperson — that, and an authoritative knowledge base.

The spokesperson must have "access to all incident scenes, to decision-makers, to the latest relevant developments, and to current policies and organizational decisions, plus a relatively free hand in speaking for the agency," Rosenthal says.

He likens trained spokespersons to a SWAT team — "an insurance policy... they're ready for things that may never happen, and you hope you never need them."

But like SWAT operators, "you don't just turn 'em loose and hope they can muddle through by flying by the seat of their pants. Hope is not a strategy and wishful thinking is not a substitute for a planned and practiced response."

3.) Protect your officer and the scene. Rosenthal opposes giving the media access to involved officers after an OIS, considering the emotional stress they're likely to be under and the potential legal ramifications of what they might say. Likewise, he's firm about setting strict media limits at the shooting scene.

"The media are not entitled to any greater right to penetrate the incident scene — don't call it a crime scene — than any other private citizen," he says. "The police get the incident scene, the media get everything beyond the taped perimeter."

"Reporters can be arrested for interfering with law enforcement if they intrude on the scene against orders, but by the same token for the police to try to control the media's movement outside the perimeter is a dreadful mistake. That opens you up immediately to charges of suppression and cover-up."

"The department spokesperson should be at the scene, all questions should be directed to him, and he should promise that the media will receive a news briefing shortly at a location of the agency's choosing, most likely away from the drama of the shooting location."

4.) Feed the animals early and often. In Rosenthal's terminology, talking to the media is "feeding the animals." And the more information they are fed after an OIS, "the less likely they'll go foraging on

their own, finding far less knowledgeable and far less credible 'sources' for 'news' that is often based on innuendo, hearsay, speculation, vengeance, and biased personal opinion."

In the wake of a shooting, the media basically have a three-ply need, he says:

- Information (who, what, when, where, why, and how) and what you (your agency) are going to do about it...
- In a user-friendly form (i.e., some pithy sound bites)...
- With pictures (so the TV audience can "see what the story looks like").

He recommends that the first press briefing be held no longer than two hours after the incident. Then, depending on how "high-profile" (controversial or complex) the case is, you should follow with three formal updates per day:

- midmorning to accommodate noon newscasts
- mid-afternoon for the evening shows
- and early evening for nighttime news filings

These briefings, conducted either by the department spokesperson or top brass, should convey as much factual information as possible, as timely as possible, without truly jeopardizing a successful investigation or possible prosecution. Despite law enforcement skepticism, he argues that "most mainstream media reporters do try to be fair and accurate, and by giving them solid information, you significantly increase the probability that the truth will be printed and broadcast."

He suggests that the provisions of the federal Freedom of Information Act can serve as guidelines in achieving a reasonable working balance between what can be shared and what should be withheld (exemptions under the Act that pertain to law enforcement can be [checked here](#)).

"If you do choose to withhold facts, help the media understand why you are doing so," he advises.

He offers these cautions to keep in mind during a briefing for reporters:

- Videotape every encounter you have with the media, whether it's a press conference or individual interview. This is good protection against being misquoted or quoted out of context.
- Avoid saying, "No comment." Verbally stonewalling or putting your hand over a camera lens makes you look guilty. "In short, you lose."
- Language that works within police circles may sound less tactful when used for a civilian audience. Calling the use of deadly force against a suspect a "good" shooting, for example, may not set as well with some civilian sensitivities as terming it "within policy."
- The more controversial a shooting is, the tougher the media questions will be. Anticipate what aggressive reporters will ask and rehearse concise, confident answers ahead of time.

5.) Skip the spin cycle. "To win with the media, you have to give it to them straight," Rosenthal says. "The minute you get imaginative and try to spin the facts or speculate about elements that are unknown, you have chosen to be stupid, because that kind of creativity will ultimately trip you up."

"If the facts of a shooting are not fully known, say so. Stress that your agency always takes these matters very seriously and that a thorough investigation is underway to determine what did or did not happen. Promise that to the extent possible, you will keep the media and the public fully informed every step of the way. And in turn, ask that the media not speculate on or judge what transpired, pending confirmation of the full picture.

Again, he has some cautions:

"Never stage a 'perp walk' of a suspect with the sole purpose of satisfying the media. This has been declared a violation of a suspect's constitutional rights." Of course, you want to shield the involved officer from becoming a media exhibit, as well.

If you don't know the answer to a question, admit it. "Then promise to share that information when you do know it, if allowed to by policy, procedure, and the law."

Beware of talking "off the record." Don't do it, Rosenthal counsels, unless two criteria are both met: "there's something important to be gained for your organization in doing so and you are fully confident in trusting the reporter involved with your professional life. Otherwise, don't take the chance."

6.) Consider an outside investigation. In some jurisdictions, OISs are automatically investigated by an outside agency, to forestall any suspicion of a whitewash. "Even if you don't have to do this, it's smart public relations," Rosenthal says. And from a practical standpoint, it takes some of the pressure off of you for keeping the media fed with updates as the process progresses.

7.) Promptly douse flaming arrows. If it's possible to milk any controversy or air time out of a shooting, it won't be long before professional activists and aggrieved relatives of the "victim" try to dominate the TV cameras. "It's important to respond immediately — in the same news cycle — to their accusations and allegations," Rosenthal says. "Every time they shoot a flaming arrow onto the tarpaper roof of your department, somebody'd better be up there putting out the fire. If you choose to say nothing, you lose."

When critics' statements can be countered with facts, clearly itemize them, he advises. When the facts are still unknown or uncertain, point out that the accusers are "entitled to their opinion, but that's all it is" until the investigation is complete. Encourage the media to come to you for a response before reporting outsiders' statements. Their compliance may be one of the payoffs of long-term rapport building.

If you feel you're getting the short end of biased coverage by news outlets themselves, it may help to remind media brass that reporters are expected to adhere to a detailed Code of Ethics issued by the Society of Professional Journalists. This provides specific guidelines for "seeking truth and reporting it," which specify, among other things, that distortion of the truth "is never permissible."

The Code can be accessed in full [here](#).

"Law enforcement often feels it has no recourse against mistreatment by the media, but there is accountability," Rosenthal says. "If you're treated unfairly, you need to rear up on your hind legs and fight back."

8.) Don't swat every mosquito. In some cases, Rosenthal concedes, you may realistically be best off to ignore ethical transgressions. Bloggers, for example, aren't bound by the same restraints as professional reporters.

"They can annoy you, like a mosquito in a camping tent," he says, "but they can't really do you much harm if the facts are on your side and you argue them forcefully with the mainstream media. You need to know what bloggers are saying, but you can't swat every mosquito. If you're open, the conventional media will report what you're doing and this will be enough to significantly tip the scales in your favor."

If your shooting has drawn national attention, a greater threat will be what Rosenthal calls "the down-and-out hacks from trash TV, like Nancy Grace and Geraldo Rivera." Tactics with them — and their occasional local counterparts — are simple: don't cooperate.

"What they do is spectacle, and that is not a game you should play. Odds are that cooperating with these sensationalists will be a losing proposition. You're within your rights to say no."

9.) 'Fess up to UgSits. "When you mess up, 'fess up and dress up" — that's a good mantra for winning with the media when something ugly, like a bad (out of policy) shooting, occurs, Rosenthal insists. He calls such challenging events "UgSits" and says they're best met head on, not dodged. "Failing to deal with an UgSit is not an option," he says.

"Within no more than two hours from the time the first media inquiries are made, hold a full-dress news conference, confront the issue with a brief statement by your agency head, and then take questions. The longer you wait, the more time the naysayers and other critics will have to hammer you unopposed.

"You'll take hits, but don't try to defend the seemingly indefensible, justify the unjustifiable, or excuse the inexcusable. In the case of an unjustified shooting, stress that it was the behavior of an individual officer, not of the agency. Empathize with the situation and the complainants. Focus on discipline and, where appropriate, on changes in policy, procedures, and/or training."

10.) Have the patience of a saint. "Reporters aren't stupid but they are generalists and in some cases they may be ignorant about specialty areas," such as law enforcement policies and procedures and the realities of use-of-force, Rosenthal says. Take the time and patience to educate them if they ask "dumb" questions or exhibit knowledge gaps.

"They may argue with you, repeat questions you've already answered, criticize you and the department, bait you, and frustrate you," he notes. But above all, you must not respond in kind. Ever. You must always be deliberate, calm, cool, and courteous. If you lose your head, you will become the focus of the story instead of the OIS, and your outburst will inevitably end up forever on YouTube, a personal and professional nightmare."

Even if you master Rosenthal's 10 tips, remember that media relations, especially in a crisis situation, are always a bit dicey, he says. "No one will ever hit a home run every time at bat. But by following 'best efforts' strategies and tactics, you can achieve far greater influence over the coverage you get and your batting average will go way up."

Rick Rosenthal offers one-, two-, and three-day, in-depth, law enforcement-specific courses on "how to work with the media so they don't work on you." His training includes a lifetime guarantee for future consultation on media issues, free of charge. He can be reached at 847-446-6839 or via email at: rarcomm@sbcglobal.net.

About the author

The Force Science Institute (FSI) was launched in 2004 by Executive Director Bill Lewinski, PhD, who has a doctorate in police psychology. FSI conducts sophisticated scientific research studies in human behavior to document the physical and mental dynamics of life-threatening events, including officer-involved shootings. Its findings impact officer training and safety and the public's perceptions of police use of force.

For more information, visit www.forcescience.org. If you would benefit from receiving updates on FSI's findings, as well as a variety of other law enforcement-related articles, visit www.forcescience.org/news/ and click on "Subscribe Now" link. Subscriptions are free.

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7 habits of unsuccessful departments  68

Block #17

#1

Report Writing Scenario:

A Sergeant's Review of an Arrest Report (Jetmore, L.F. (2008, February).
Investigative report writing. *Law Officer Magazine*, 2008, 26-30.)

INSTRUCTOR READ THE FOLLOWING: Officer Paul Brown has placed a man under arrest for public indecency and interfering with an officer. After booking the suspect, Brown meets with the shift sergeant to review and sign the report. After reading the report, the sergeant asks the following questions:

Role Play have the two students read the following dialogue:

Sergeant: How much police experience do you have?

Officer: I've been on the job three years.

Sergeant: That's not in your report. Why were you on directed patrol on foot in that area at that time of day?

Officer: You assigned me there because it's an area with a high incidence of street mugging between 1800 HRS and 2000 HRS.

Sergeant: That's not in your report. You heard a woman's screams coming from an alley between two bars, notified the dispatcher via radio and proceeded to walk down the alley to investigate?

Officer: Yes, sir.

Sergeant: It's January. What was the lighting like in the alley?

Officer: It was dark and there were no lights in the alley, just a little light coming from the windows of the bars.

Sergeant: That's not in your report. Your report states you observed a naked man coming toward you and you instructed him to place his hands against the wall of the alley?

Officer: Yes, sir.

Sergeant: How far away were you from the man when you first saw him? Was he completely naked? Isn't he about 6'5" to your 5'7"? Doesn't he go about 250lbs to your 150lbs?

Officer: He wore boxer shorts, but nothing else. You're right about his height and weight.

Sergeant: None of that is in your report. Why did you instruct the suspect to place his hands against the wall?

Officer: I told him he was under arrest. When he wouldn't put his hands against the wall, I used my Taser on him.

Sergeant: What crime did the man commit?

Officer: Public indecency. I heard a woman scream and went down the alley to see if she was OK. I saw this naked man come out of the dark. I wanted to handcuff him so I could locate the woman.

Sergeant: None of that is in your report. Why not write it exactly like you just told me? Why did you Taser the man?

Officer: When I told him to place his hands against the wall he yelled, "F--- you," and came at me.

Sergeant: When you say the man "came at you," what do you mean?

Officer: I grabbed the guy's right arm and told him to get up against the wall. He yelled, "F--- you" and broke away from me. He then balled his hand into a fist, and I thought he was going to hit me.

Sergeant: None of that is in your report. Did you warn the man you were going to use your Taser?

Officer: There wasn't time, but he saw I had the Taser out.

Sergeant: That's not in your report. What happened to the woman who was screaming?

Officer: I don't know. After I stunned the guy, backup arrived, and we brought the suspect to the hospital and then to booking. I never found the woman.

Sergeant: With the exception of bringing the suspect to the hospital, the rest of that isn't in your report. I want you to rewrite this report detailing exactly what happened in chronological order. Begin by explaining why you were assigned to the area. Include all the details we just discussed. When you're finished, we'll go over it again.

(#2)

NARRATIVE

On 05-16-13, at approximately 0015 hours I was on patrol in my marked [REDACTED] PD unit driving north on N. Third Street in the 500 Block. The City of [REDACTED] had recently been experiencing a rash of thefts from unlocked vehicles during the hours of darkness.

In front of the apartments located at 587 N. Third Street I came upon two male subjects in the roadway. The subjects looked in the direction of my patrol unit and immediately walked in opposite directions, one going east and one west of the roadway.

The abruptness of their actions aroused my suspicion and I thought that I might have just witnessed persons planning to commit a criminal act or perhaps had observed a drug transaction taking place. I have knowledge from working with other Law Enforcement Personnel of both the [REDACTED] PD and [REDACTED] County Sheriff's Department that drug trafficking was allegedly taking place in this area.

With this in mind, I drove my unit to the Elm Tree Trailer Park and parked within the trailer park. I exited my unit and walked back towards N. Third Street where I observed the males a few moments earlier. I went to an area of darkness to remain hidden from view and was conducting a visual surveillance of the area. I observed a subject I recognized as one of the males from earlier walking around the front of the apartments on the east side of the roadway. I watched him for approximately fifteen minutes. He went to the northern most apartment in the apartment complex and went upstairs and was sitting on the porch for approximately five minutes. He then went inside the apartment for less than a minute and then came back outside. He walked down the stairs and disappeared amongst vehicles parked in the carports that are attached to the apartments. Based on the hour and my experience and training, my suspicion was further aroused. I'm aware that drug transactions often take place at odd hours and that purchase of controlled substances from residences are often characterized by short term visits and entries inside by customers who obtain their drugs and then leave.

I did not recognize this subject as someone I knew that lived in the apartments and his disappearance in the area of the vehicles gave me concern that perhaps this subject might be looking to commit a theft from one of those vehicles. I am aware through my training and experience that persons who use drugs often support their habits through thefts and other criminal acts for personal gain. I left the area where I was conducting surveillance and walked across the street to the carport area of the apartments. I was walking south through the carports when the subject, later identified as [REDACTED] appeared from behind a white colored pick-up truck. My initial reaction was that the subject had been hiding or concealing himself from view.

He startled me and I asked him what he was doing. It should be noted that I was in full Police uniform. He stated that he was just smoking a cigarette. I noted that [REDACTED] was sweating and his hands were shaking as he was smoking his cigarette. I asked him where he lived and he stated number four. I asked him if he owned any of the vehicles within the car port. He shook his head, from side to side indicating, no. I asked if he had any identification that showed where he lived and he told me he did not. He did provide his name and date of birth to me upon my asking for the information.

I asked [REDACTED] if he had any drugs or weapons on him. At this time, he looked away and started fidgeting with his phone and cigarette. Through my training and experience I recognized this as anxiety based behaviors and I became more suspicious and concerned that the subject might be in possession of

Prepared By:

Date:

Approved By:

Date:

CONTROLLED DOCUMENT

CONTROLLED DOCUMENT

NARRATIVE

some type of contraband or was engaged in some type of criminal behavior. I then asked him if he had any Methamphetamine or Marijuana on him. He again looked away and said "no" and continued fidgeting with his phone. In order to confirm the identifying information provided by the subject, I transmitted this information to the Police dispatch in order to run a computer check on the subject. Based on my suspicions and the subject's behaviors, I began to be concerned for my personal safety, Officer Gutierrez started heading towards my location when he heard me running [REDACTED]. With Officer Gutierrez we had a tactical advantage over the subject. [REDACTED] spontaneously stated that he was not on probation any more. This statement further solidified my suspicions as the subject had now confirmed to me that he had previously been involved in some type of criminal behavior for which he had been previously placed on probation.

When Officer Gutierrez arrived at my location I asked the subject [REDACTED] to turn around so that I could conduct a cursory or "pat down" search of his person. I suspected that the subject [REDACTED] was attempting to either take items from the vehicles or had perhaps already taken items from them. Through my experience and training, I am aware that persons who commit these types of thefts often carry tools such as screwdrivers or pliers and I am also aware that these items can be used as weapons. I noted that [REDACTED] was sweating and his hands were shaking. [REDACTED] kept stating he was not on probation anymore.

Based on the totality of the circumstances and my suspicions, I felt that I needed to conduct a cursory or "pat down" search of [REDACTED] so that I felt safer while conducting further investigation. I asked [REDACTED] if he had knives or weapons on him. He stated "no" and was simultaneously attempting to turn to walk away. My concern for mine and Officer Gutierrez's safety was immediately increased as I recognized these actions as precursors or cues to a possible fight or flight response. I told [REDACTED] 'I was going to pat him down for weapons and that he needed to turn around and place his hands on his head. [REDACTED] did not comply with my directives and he told me "no", and that he was "not on probation anymore."

Fearful that he did indeed have a weapon or burglary tools used for burglarizing vehicle I told him not to resist and place his hands above his head. At this time Officer Gutierrez and I were both attempting to gain control of the subjects hands and he forcefully pulled his hands from our grasp and was attempting to turn his body to the south in what I believed was an attempt to flee.

Officer Gutierrez and I restrained and attempted to gain control of [REDACTED] by forcing his body against the rear of a parked vehicle. Officer Gutierrez gained control of his hands and I started an exterior grasping search of his waist band area and then his right front pocket. These areas are the most common areas where I would expect to find weapons or other items would could be used as weapons. As I grasped the exterior of the suspect's right front pocket I felt a cylindrical shaped object with a bulbous end, the bulb end was in the bottom of the pocket, and the narrower neck portion was facing up. I recognized that this was not a weapon, however based on my training and experience, I recognized the shape and size as being consistent with a glass pipe commonly used to smoke methamphetamine. Possession of this type of pipe is a violation of H&S 11364. Believing that I now had a misdemeanor being committed in my presence, I continued my cursory search for weapons and felt what I recognized to be a wallet or billfold in his back right pocket. Knowing that most males keep identification in their wallet, I began to suspect that the subject, [REDACTED] might be in possession of some type of identification

Prepared By:

Date:

Approved By:

Date:

CONTROLLED DOCUMENT

and that perhaps he had provided me with false information. After conducting the "pat down" search and finding no weapons, I asked [redacted] if he had a pipe in his right front pocket. He told me he wasn't on probation anymore but did not answer the question regarding the pipe. Believing that the subject, [redacted] was in possession of a meth pipe, in violation of H&S 11364, I placed my hand into his pocket and retrieved the pipe and confirmed that it was a glass Methamphetamine smoking pipe.

I then arrested [redacted] for being in violation of HS section 11364 and then conducted a more thorough search incident to his arrest. In the same pocket where he had been concealing the Methamphetamine pipe, I located a piece of torn twisted plastic grocery bag material, which had been twisted into a knot with a substance in the bottom of it. Commonly referred to as a bindle. In my training and experience I know that Methamphetamine is oftentimes packaged for sale in that way. I opened the bindle and located a white crystalline substance that I recognized as being consistent with methamphetamine. I also located [redacted] wallet with two forms of identification within it. In examining the identification, I discovered that [redacted] did not live at #4 as he claimed during our initial contact, rather I found that he lives in a residence on Hanby Street. I also located a pair of yellow colored women's panties in his left rear pocket.

[redacted] was transported to the [redacted] Police Department by Officer Gutierrez. At the station I tested the suspected Methamphetamine using the NIK drug identification kit appropriate for Methamphetamine. The test indicated through a positive color change that the substance was Methamphetamine. I weighed the Methamphetamine and it weighed .5 Grams gross weight. I photographed all the evidence, (see photo tab), and booked the evidence into the appropriate evidence lockers.

[redacted] was booked for HS sections 11377(A), and 11364. After the booking procedure [redacted] was transported to the [redacted] County Jail be Reserve Officer

Case Status: Closed by arrest, please forward this report to the District Attorneys Office for filing of HS sections 11377(A), and 11364.

Prepared By: [redacted]	Date: [redacted]	Approved By: [redacted]	Date: [redacted]
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Block #18

--- LAW ENFORCEMENT (Minimum staffing case law):

Management did not violate a minimum staffing requirement of six detectives, when it reassigned a uniform officer serving as the bureau's identification officer, from that unit, and replaced him with one of the detectives. The function was still in the same bureau. Hamtramck (City of) and Hamtramck FOP, AAA #54-390-00625-00 115 LA (BNA) 1192 (Daniel, 2001). {N/R}

Michigan arbitrators are bound to enforce a minimum manpower agreement after a contract expires. The issue is a mandatory subject for bargaining and arbitration. Oak Park and P.O.A., 110 LA (BNA) 689 (McDonald, 1998). [1998 FP 169]

NJ Police dept. was not required to perpetuate a contract provision mandating a two-officer minimum per shift, and did not have to negotiate minimum staffing on expiration of the agreement. Readington Twp. and PBA L-2773, PERC #84-7, 9 NJPER (LRP) ¶ 14,218 (1983).

NJ County did not have to bargain with the union over the number of deputy sheriffs assigned to guard prisoners in the hospital ward. Although the number of officers "has a relation to employee safety" and a deputy, working alone, was killed by an inmate at the hospital, the assignment decision is a managerial right. Bergen Co. Sheriff and PBA L-134, PERC #83-110, 9 NJPER (LRP) ¶ 14,071 (1983).

Massachusetts Supreme Court holds that arbitrator could not decide one vs. two-man patrol car issues; decision was a management prerogative. City of Boston v. Police Patrolmen's Assn., 403 Mass. 680, 532 N.E. 640 (Mass. 1989).

City need not bargain with union on number of officers in a patrol car or minimum number of officers on duty each shift. City of Sault Ste. Marie v. Frat. Ord. of Pol., 414 N.W.2d 168 (Mich. App. 1987).

Sheriff loses case seeking additional deputies; state and national manpower studies inadmissible as evidence. Cunningham v. Moore Co., 604 S.W.2d 866 (Tenn. App.).

NYC impasse panel upholds solo police cars for sergeants and lieutenants except in high-risk precincts. Sergeants Benev. Assn. and the City of New York, Case I-145-79, City of New York OCB Panel (1980).

Sheriff's dept. could not abolish patrol and investigation divisions; minimum manpower clause controls. Local 502 Natl. Union of Police Officers and Co. of Wayne, AAA Case #54-39-0141-81 (Friedman, 1981).

Police Tech & Gear

with Tim Dees

5 staffing solutions to save police leaders time and money

Even if your department uses a set rotation that repeats every X days, there are always exceptions that have to be factored in for vacations, training, sick time, and other minutiae of working life

Feb 5, 2015

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One of the more dreary duties of any police supervisor is making up the work schedule. Even if your department uses a set rotation that repeats every X days, there are always exceptions that have to be factored in for vacations, training, sick time, and other minutiae of working life.

This task is usually easier if you can get a computer to do some of the work for you. Here are a handful of options available for your consideration.

DIY with Microsoft Excel

There are commercial software packages available (we'll examine them next), but you may be able to utilize a free solution if your scheduling needs aren't too complex. Users of Microsoft Excel (if you use Microsoft Office applications, you probably are), have many downloadable Excel templates that are pre-formatted for work schedules, requiring only that you key in the details.

Templates are shells for information that need to be presented in an organized, consistent way, similar to a paper form. The Excel templates have color-coding, calculations, formulas, and the like already coded in. You open the template in Excel, save it as a regular workbook with a unique name (like XPD-patrol-Mar-2015.xlsx), and key in the particulars.

You can also input repetitive information into the template itself — like the names of squad members — that doesn't change from one schedule to the next, and save re-keying it each time you make a new edition.

A Google search for "Excel work schedule templates," will net you some suitable scheduling templates, or use the template search function in Excel itself. The results of that one will be limited to templates from Microsoft.

If you don't want to use Excel or have needs that go past what you can do in Excel, there are several commercial software products specially designed for public safety.

Ops Force Deploy

Ops Force Deploy from Corona Solutions excels in optimizing your schedules for the best balance of staffing, cost, and regulation of excess expenses, like overtime. Tell the software how many beats or other positions you have to staff over a time period, and it will tell you how many people you will need to do that. Deploy will also suggest the optimal work schedule (12 hour shifts, 5-8s, 4-10s, etc.), although any changes will probably involve a conference between management and labor.

Deploy is also a great tool if you find yourself repeatedly defending your staffing needs and costs to the people who hold the purse strings. You can show the local honchos exactly the amount and quality of service you can deliver with X officers, and the effect of adding or eliminating staff positions.

Work Scheduling Terms

Average Work Week: Average number of paid hours per week per officer. Does not include overtime hours.

Chronobiology: Branch of biology that studies the effect of time changes on living organisms (e.g., the impact of shift work on health and performance).

Continuous Shift Rotation: A shift rotation scheme in which some groups are rotating to a new shift assignment every week.

Cycle Graph Method: A non-mathematical procedure for designing fixed days off schedules.

Duty Cycle Length: Total number of days in the duty cycle pattern

Duty Cycle Schedule: A repeating pattern of on- and off- duty assignments for each officer (6 on – 2 off and 5 on – 2 off on -3 off are two examples of duty cycle schedules)

Fixed Days Off: A type of duty cycle in which an officer receives the same days off every week.

Flexibility: A work schedule that refers to the ability of an officer to change his/her schedule to accommodate personal needs.

Full Weekend Off: An off-duty period that includes both Saturday and Sunday on the same weekend.

Group: One or more officers that work the same duty cycle pattern together as a team.'

Inconsistent: Description of a schedule in which the staffing level on each day changes from week to week.

Kelly Day: An unpaid off-duty day periodically granted in place of a regularly scheduled on-duty day for the purpose of reducing the average work week. A paid off-duty day is a "comp" day.

Locked: A duty cycle schedule in which each on-duty period and each off-duty period always falls on the same days of the week.

Partial Weekend Off: An off-duty period that includes either Saturday or Sunday but not both from the same weekend.

Uniform Staffing: Staffing in which the number of groups on duty is the same for each day of the week.

The payroll system should be reviewed to determine how many hours after all leave categories have been accounted for that officers are available for shift. This should include the impact of long-term disability, family medical leave, and other factors that take an officer out of the patrol schedule (vacation, sick leave, training, etc.)

Meals and Breaks were assumed to take a total of 45 minutes per shift actually worked (i.e. after regular days off, leave, training, meetings, and court time were accounted for) per officer. This assumption takes into consideration that field personnel need to be covered during these periods except in emergencies.

- **Shift Briefing** was observed and is assumed to take 15 minutes per shift actually worked per officer.

- **Vehicle and Equipment Preparation** was observed and is similarly assumed to take 15 minutes per shift worked per officer. This includes time during the shift to fuel vehicles in service.

- **Training** time was based on in service training hours provided annually –24-40 hours per sworn personnel.

- **Court** is assumed to take 40 hours per year of on-duty time. This is in addition to overtime court time, not performed during on-duty hours.

BLOCK 19

How front-line supervisors impact police officer retention

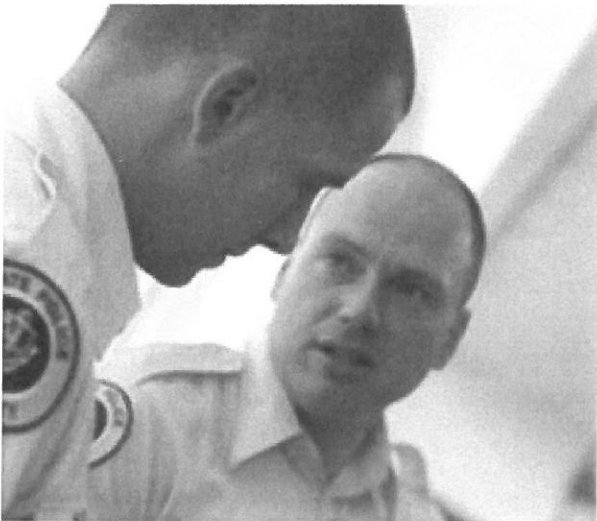
The working relationships the supervisor cultivates (or doesn't) plays a large role in whether people stay or leave their positions

Mar 7, 2019

By Jennifer Kirkland, ENP, CPE, RPL

"People leave their bosses, not their jobs," is a commonly held management tenet. While the validity of that particular statement is up for debate, the principle behind it is not. The impact a supervisor has on those being led cannot be underestimated. It is the direct supervisor who has the most control over the everyday culture, work environment and conditions for his or her employees, and it's an awesome responsibility.

Not surprisingly, it's the working relationships the supervisor cultivates (or doesn't) with each member of the team that plays a large role in regard to whether people stay or leave their positions. In an article about employee disengagement, [Forbes magazine states](#), "The central relationship between manager and employee plays a critical role."



A relationship is a two-way street, and both the employee and the supervisor are responsible for cultivating a positive working relationship. However, the responsibility for opening the door and being intentional about creating that relationship lies with the supervisor. It's the supervisor's job to *lead* that relationship – to open the door, set the stage, allow for open communication and guide the way.

Here are four ways supervisors can LEAD to increase employee engagement and retention.

It is the direct supervisor who has the most control over the everyday culture, work environment and conditions for his or her employees. (Photo/FBI.gov)

LEARN: BUILD REAL RELATIONSHIPS WITH YOUR TEAM MEMBERS

Most leaders know they are supposed to “manage by walking around.” This is useful for getting out with your team, but it’s the tidbits you glean and retain while you’re out there that matter.

Genuine curiosity and interest in people’s lives goes a long way toward building a relationship with each person you supervise. Learning as much as you can about your people pays priceless dividends.

When the supervisor remembers something they’ve been told, and asks about it – “Hey, how was your son’s recital?” – trust is built and relationships are strengthened. Once that has been established, you can build upon it and expand the topics to include work-related issues and challenges. Theodore Roosevelt said, “Nobody cares how much you know, until they know how much you care.” When you demonstrate that you care about your people as people, then they are willing to walk the path with you in work matters as well.

EAT WITH YOUR TEAM: CREATE YOUR CULTURE

Many people believe that culture cannot be created; that it’s an organic thing that “grows,” regardless of management’s intentions. This is not the case. The [Society for Human Resource Management](#) believes that “company leaders play an instrumental role in shaping and sustaining organizational culture” and that “a strong culture is a common denominator among the most admired companies.”

Leaders must define the culture they want to see, design processes to promote that culture, clearly explain the culture and its goals, and then model the behavior that results in the specified culture.

For example, if respect is one of the hallmarks desired in your culture, then you must model respect in every interaction. “Do as I say, not as I do,” does not work in leadership; your people must see you behaving in the way you wish them to behave.

Eating with your people accomplishes two things: (1) It allows you to learn; and (2) it allows you to witness your culture in action and model the culture you wish to build. Eating with your team does not have to include a formal meal: surprise your team with snacks and hang with them while you all enjoy them!

APPRECIATE: CREATE GROWTH OPPORTUNITIES FOR YOUR PEOPLE

The word “appreciate” means “to add value to.” The Harvard Business Review agrees that the relationship between supervisor and employee is critical, but it also states that people leave jobs because of the nature of the job. Stated simply: people get bored.

Add value to your people by creating professional growth opportunities for them. If you can’t create new positions in your agency, help them create career paths from within. Invest in training opportunities for your profession, obviously, but also training opportunities that interest them. Training opportunities that are employee-driven create value both for the employee and the agency.

When employees know their supervisor is committed to supporting their goals and growth – even when they aren't work-related – they become more loyal to the supervisor (and the agency).

DECISIONS: INVOLVE YOUR TEAM

The more control employees can have over their environment and work processes, the happier they are. There are many decisions you can have your team help with, or delegate to them entirely. Depending on how you design your culture, you could even have the vast majority of decisions affecting your employees' day-to-day life either made by your team or weighed in on by your team. Another term for this concept is "autonomy."

According to [HR Dive](#), "[Employees who have control](#) over how they do their work and the pace they set are likely to feel more confident in their jobs and like they are making a difference for the company. In turn, they are more satisfied overall." Many people cite autonomy as a leading factor in deciding whether to leave a position or stay. Take a look at the decisions you make every day, and either involve your team in them or delegate them entirely. Rather than losing control, you gain respect.

Employee engagement and retention are challenges faced by every agency in public safety. The LEAD principles are simple, and, when they are put into practice by individuals, these principles benefit the team, the organization and the profession.

About the author

Jennifer Kirkland is a senior consultant with Fitch & Associates with extensive experience in 911 leadership, customer service, and strategic planning. She serves as faculty and on-site facilitator for the ASM/CCM programs. She also serves as the 911 Operations Administrator for Vail Public Safety Communications Center, after rising through the ranks as dispatcher, trainer, supervisor and interim director. She can be reached at jkirkland@fitchassoc.com.

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RECOMMENDED FOR YOU



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I have purposely waited to write this for quite a long time. Maybe I was in denial of what I was observing or maybe I thought something would change but nothing is changing and despite the efforts of some, I don't see anything changing until the leadership in our profession wakes up to what is happening right under their noses.

For the last 15 years, I have traveled the world as a trainer and consultant while at the same time serving as a law enforcement professional on a full time basis. I absolutely love this profession and I love meeting others that serve throughout the world. I often find myself meeting and talking to officers from agencies with a few officers to those with thousands. I have come to know these tremendous servants in every state in our country and it is remarkable that despite the location and the slang, we all face similar issues.

But in recent the years, the tone has changed. This new tone, has me fearing the worst. While those that serve in law enforcement are more educated, more professional and simply better than ever before, our leaders are failing them and it is that failure that I believe could doom law enforcement as we know it.

That doom lies in the morale, attitude and depression of those behind the badge that is laid at the feet of weak, cowardly leaders that should be serving us. If the damage continues to be done, these fearless heroes, this great calling known as law enforcement, will end as we know it.

BECOME A COURAGEOUS LEADER

In recent years, as I have spoken to law enforcement in classrooms across America, a concerning theme has emerged. While it is one I have suppressed because I was in denial, it is a message that I need to discuss.

These officers fall into primarily three categories and I will discuss what I am hearing from each group. It is something you need to hear and it something that we all must immediately address. While I know I am speaking in general terms and I certainly don't speak for everyone, I have heard this enough to know that it needs to be addressed.

Law Enforcement Service: 20+ Years

These men and women have served their communities for over two decades. When they entered the profession, law enforcement was still about LAW ENFORCEMENT. Bad guys went to jail and the officers took it upon themselves to make sure their community was safe from evil. Car stops, search warrants, arrests and a no-holds attitude to upholding the law was what the job was about. Our leaders were primarily military veterans and many had experience in Vietnam and other arenas. An activist lying about law enforcement wasn't an issue. A politician using us to further a false narrative would not have been accepted.

These leaders called it the way they saw it. A liar is a liar and if law enforcement was right, they defended that right. Today, as this group enters retirement eligibility, they are retiring. They aren't waiting around. They have seen the moral breakdown in the leaders that they once placed their trust in. Some are staying because financially they must but they are looking for a way out and they will find it and we will all suffer from the loss of their experience and their dedication.

Law Enforcement Service: 10-19 Years

These officers are some of the most miserable in our profession and while I know I am not speaking for every single one of them, I've heard from enough of them to know that it's a problem. These men and women are at least half way to their pension. That, combined with their age, has them staying in law enforcement against their better judgment. Many are trying to get off the streets, afraid of the next "viral" video showing them doing nothing wrong but ruining their reputation and ability to work forever. Some are still leaving, despite the financial burden of leaving a few years short of the golden egg but the gold isn't worth what they have to risk. Every day, outrage is blasted on news channels and much of that outrage is just that; outrage and nothing else. These officers are more scared of YouTube than violent criminals and they know that many in leadership roles are either silent or will throw them under the bus for just about anything. They are in regret that the profession they were promised never happened and they are counting the days to leave.

Law Enforcement Service: 1-9 Years

This group of officers is our future. They grew up in the digital age and despite the newly minted "anti-cop" sentiment, they signed up for the job. They are truly heroic for doing it and they are in the middle of chaos. They've seen their fellow officers arrested or fired for simply doing their job. Almost all of them know a fellow officer personally that this has happened to. The fear is real. Many of them have ended up on the internet and blasted as racist or something much worse for doing nothing wrong. **They have now realized that they work in the only profession that can ruin you for doing nothing wrong.** They have stopped working. Some call it the "Ferguson Effect" but they just call it trying to save their ass. It's not worth staying and the majority are looking to leave. Law enforcement may have a recruiting problem but the problem that comes with training and investing in new officers only to see them flee a profession that has bred cowardly leaders, will crush us and it is coming.

The Solution

I know what you are thinking and you are right. I'm not speaking for everyone. There is no doubt that there are some reading this in every category that I'm not speaking for and if that is you, thank you. We need you but if you are honest, you know this is accurate and we must save ourselves. The attacks and lies against law enforcement

are nothing new but how our leaders have responded (or not responded) is new and that is where the root cause of this depression lies.

STOP THE COWARDS, LEARN THE SOLUTION

Law enforcement leaders must go on the offensive in defending those that have done nothing wrong. We must stop with the silence or the proverbial “we are investigating” nonsense. With video technology, we know immediately whether we have done something out of policy or whether we are wrong. We must use the same tools those that look to defame us use. From social media to press conferences to explaining what citizens are viewing on body cameras, we must step up for our officers and we must do it in a proactive fashion.

The great men and women doing this job are truly suffering and that suffering is playing out in every negative you can think about. From suicide to the divorce rate and substance abuse, there is real damage being caused when good officers simply do their job and are in constant fear of what may happen to them.

The bad news is what I wrote above but the good news is that we can change it.

If we don't, the future might be called law enforcement but that will not be what it is and I shutter to think what that will look like.

Travis Yates is the founder of the Courageous Leadership Institute and author of “**The Courageous Police Leader: A Survival Guide to Combating Cowards, Chaos & Lies**”,

