

## **Organizational Assessment**

### **El Paso County Sheriff's Office El Paso County, Colorado**

**June 17, 2015**

**Submitted to:  
Sheriff Bill Elder**



**Prepared by KRW Associates, LLC**

**Project Manager: Lorne Kramer, MPA**

**Project Team:  
Jerry Williams, DPA  
Grayson Robinson, MPA  
Rebecca Spiess, MPA  
Alvin J. LaCabe, Esq.  
Al Youngs, Esq.  
Karen Duffala, MPA**

## Table of Contents

<b>Title</b>	<b>Page</b>
Executive Summary	4
Final Report	9
Introduction	10
Acknowledgement	10
Assessment Process	11
Interview and Focus Group Process	12
Themes and Trends	14
Key Issues, Observations and Findings	14
Communications Center Assessment	16
Detentions Operations Overview	17
Detentions Commissary Operations Assessment	21
Detentions Medical Contract Assessment	22
Fiscal Accountability – Records and Reporting Overview	23
Information Technology Assessment	25
Patrol Operations Assessments	26
Investigations Operations Assessment	26
Organizational Alignment	26
Discipline, Professional Standards and Related Issues	27
Staffing, Assignments, Promotions and Human Relations	28
Summary	28
Recommendations	29
Professional Resources	49

Recommended Reading List	50
Appendix A – Principles and Elements of Community Oriented Policing	51
Appendix B – Key Elements of Community Policing	60
Appendix C – Policing Philosophy	61
Appendix D – Police Discipline: A Case Study for Change	63
Appendix E – Sexual Misconduct Rule	84
Appendix F – Charlotte-Mecklenburg Police Dept. Discipline Philosophy	85
Appendix G – Sample Conduct Principles and Disciplinary Guidelines	90
Appendix H – Tucson Police Dept. General Orders and Discipline Matrix	107
Appendix I – Employee Disciplinary Matrix – A search for Fairness in the Discipline Process	123

## **Executive Summary**

KRW Associates LLC (KRW) was retained by El Paso County to conduct an Organizational Assessment of the Sheriff's Office (Office). KRW commenced work on the project in February 2015 by gathering and analyzing data provided by the Sheriff's Office. This contract was based on the formal proposal submitted by KRW on January 19, 2015 which outlined the approach and scope of the project. The research design and methodology focused on collecting quantitative and qualitative data to explore topical issues in the department. The multi-faceted assessment was undertaken to identify how the individual department members assess the agency and organizational environment. Additionally, a sample of external customers was queried about their impressions of the quality of services and their relationship with the Office. The goal was to conduct an in-depth assessment of the organizational climate and environment in order to offer recommendations to enhance morale, organizational proficiency and leadership. The project team conducted a comprehensive review of current operational practices, policies and procedures. Over 200 employees (both sworn and civilian) were interviewed both individually and during 12 focus groups.

The KRW Project Team was comprised of:

**Lorne Kramer, MPA**; Project Manager; former City Manager and Chief of Police, Colorado Springs.

**Gerald L. Williams, DPA**; former Chief of Police, cities of Arvada and Aurora.

**Grayson Robinson, MPA**; former Sheriff, Arapahoe County.

**Rebecca Spiess, MCJ**; Deputy Executive Director of the Colorado Department of Public Safety, and former Sheriff and Undersheriff, Mesa County.

**Alvin J. LaCabe, Esq.**; former Manager of Safety, City and County of Denver.

**Al Youngs, Esq.**; former Division Chief, Lakewood Police Department.

**Karen Duffala, MPA**; former Deputy Director, Colorado Peace Officer Standards and Training Board, and former Captain, Aurora Police Department.

## **Acknowledgement**

- The feedback from a broad range of employees was very positive regarding the need for this assessment. While many expressed appreciation for the timeliness of this assessment, some suggested it should have occurred later in 2015.
- The people interviewed, both internal and external to the Office, were candid and interested in offering observations and ideas directed toward organizational improvement.
- Consultants were impressed with the caliber of employees and their broad commitment to the Sheriff's Office.

## **Assessment Process**

Consistent with the proposal, initial meetings were held with the Sheriff and members of his staff. Their perceptions and objectives were considered as the project team formulated a strategy to

conduct the assessment of the Sheriff's Office including identification and analysis of current issues and challenges as presented by sworn and non-sworn members of the Office.

The project commenced in February 2015 with KRW analyzing data provided by the Sheriff's Office. The research design and methodology focused on collecting quantitative and qualitative data to explore topical issues in the Office. The multi-faceted assessment was undertaken to identify how the individual Office members assess the agency and its service deliveries. Additionally, a sample of external customers was queried about their impressions of the quality of services and their relationship with the Office. The goal was to conduct an in-depth assessment of the organizational climate and environment in order to offer recommendations to enhance those areas identified as needing improvement.

Sheriff Bill Elder distributed a memorandum to all Office personnel and the County Commissioners on February 28, 2015 informing them of the initiation of the assessment, the confidentiality of interviews, and encouraging frank and candid input. This memorandum also introduced the consultants to the organization and explained the purpose, methodology and process.

KRW approaches every assessment with the basic premise that ***“a needs assessment should have as its primary objective the identification and diagnosis of the inherent cultural and performance needs of teams, functional units, individuals and entire organizations”***.

KRW began the assessment in February 2015. As stated above KRW conducted a comprehensive review of operational practices, policies and procedures and interviewed over 200 employees both sworn and non-sworn of the EPSO. These interviews were conducted either individually, or in teams or in a series of 12 focus groups. Included in the number of interviews were a selected group of external stakeholder interviews. Included in this group were El Paso County Commissioners, the El Paso County Executive, attorneys from the El Paso County Attorney's Office, El Paso County District Attorney and the Colorado Springs Chief of Police.

The following process was utilized:

- To the extent possible conduct a review of the investigations/inquiries previously conducted or in progress by external entities.  
(KRW is aware of several inquiries or investigations being conducted by Mountain States Employers Council, Colorado Bureau of Investigation, El Paso District Attorney's Office, Federal Bureau of Investigation and reportedly Independent Counsel.)

**Note: KRW did not have access to the above but did meet with the El Paso County Attorney to discuss the past and ongoing investigations.**

- Thorough consideration of recommendations and/or conclusions from the above investigations to determine the direction and needs for the assessment.
- Formulate a protocol of pertinent questions to allow an organized, thoughtful interview process.
- Conduct interviews of the Executive Staff, Command Staff and the Lieutenants.
- Conduct a series of focus groups with various groups within the Office such as first-line supervisors, detectives, records, communications, special units, patrol and detentions.
- Conduct a series of interviews with a sample of stakeholders such as elected officials, County Attorney, District Attorney, County Administrator, other County leadership and regional law enforcement agency personnel.

**Note:** Information obtained in interviews and focus groups will not be attributed to any individual and the source(s) will be confidential to encourage candid input and constructive participation.

- Using information obtained from the above process, assess the organizational climate and culture and provide a written final report with assessment results, conclusions and recommendations. This phase may also suggest further analysis of specific organizational issues or processes.
- If requested, conduct a staff retreat after the project to discuss the findings of the assessment and implementation of the recommendations.

The Observations, Conclusions and Recommendations included in this report are the product of both a qualitative and quantitative examination of the data accumulated during the assessment and include professional analysis of the project interviews, observations, notes, and discussions of the consultants during the course of the project.

## **Key Issues, Observations and Findings**

### **Communication**

- Although the Sheriff and his executive staff are to be commended for the steps they have taken in just a few short months to increase communication and trust in the organization, much more needs to be done to restore the confidence and trust of employees. Although employees acknowledge communication in the organization has improved in the past few months, management needs to accept responsibility to improve communication with the organization at all levels. The area of effective communication needs to address concerns to include favoritism in re-hires, promotions and disciplinary system. A consistent manner of informing all employees of proposed changes should be enhanced and improved. The name of this document (The Informer) should be changed to something that does not have multiple meanings. Further, information relative to this assessment, its conclusions and recommendations should also be communicated to the organization.

### **Trust**

- Due to the previous organizational environment, there is wide-spread dissatisfaction and mistrust within the work force. Those issues are discussed in the Interview Responses section of this report.
- There was a past-practice of releasing sensitive, confidential employee information concerning Internal Affairs to the media. This practice should be discontinued barring a legal mandate.
- There has been a pattern of not protecting sensitive, confidential FMLA information that should be firmly prohibited by policy.
- There is a need for a facilitated team building process to revisit the organizational mission, core values and vision for the Office. This process should include a discussion of the philosophy of policing for the agency as well as defining community policing if that remains a part of the philosophy of policing for the EPSO.

### **Leadership**

- There is a lack of understanding throughout the department relative to what leadership means and how it is defined.

- There has been an absence of leadership and supervisory training and accountability. This lack of supervisory training is critical to organizational improvement and is most evident at the rank of Sergeant.
- Although “empowerment” was referred to by employees during this project, the concept has not been defined nor has there been any discussion at the organizational level as to what it means. Consequently, supervisors and mid-level managers are unsure of their authority to make decisions which often results in decisions being either passed on up the chain of command or not made in a timely and appropriate manner.
- Although the Office espouses a commitment to community policing there is a general cynicism in the organization concerning the issue and no evidence of a commitment to either community policing or problem-solving over the past several years and no organization-wide accepted definition of the elements of community policing.
- There is no routine supervisory review of the amount of time spent on calls for service (CFS) and the time available by officers for pro-active patrol and problem-solving.
- The Office has become increasingly isolated from other regional law enforcement agencies and the military over the past several years.
- There exists an unproductive relationship with some County departments, another result of the isolation mentioned above.

### **Strategic Planning and Operation**

- The organizational alignment and reporting relationships require additional review.
- Engage in “Business Process Analysis” to identify the details of every function within the organization; how it relates to internal and external customers; if it is still meaningful and necessary; identify improved process delivery methods; and develop and implement a comprehensive, detailed strategic plan for “Business Process Re-engineering” including the utilization of appropriate technology.
- Develop an organization-wide commitment to the concept of “Single Point of Data Capture” to eliminate redundancy of individual system inputs.
- Initiate a Training Committee involving both sworn and civilian personnel to identify current training needs.

## **Recommendations**

Although the primary purpose and scope of the assessment was to evaluate the organizational climate and culture, many issues unrelated to that subject but pertinent to improving organizational direction, operations and procedures as well as internal and external behavioral expectations came to our attention. KRW felt it important to include those observations for consideration.

The Assessment resulted in 40 Recommendations. A detailed discussion of each recommendation can be found in the Final Report. The Recommendations are organized in the following categories:

1. **Leadership and Cultural Climate**
2. **Communication**
3. **Strategic Planning and Operations**
4. **Detentions Operations**
5. **Policy and Procedure/Disciplinary Process**

## Conclusion

This external review and assessment by KRW has identified some very positive aspects of the El Paso County Sheriff's Office - primarily the employees and the capacity to once again regain a position as a respected and admired law enforcement organization. The assessment also identified areas where improvement is needed. The last few years of negative media stories are not a reflection of the dedicated men and women of the organization. Unfortunately, they were dramatically impacted by what some identified as a total breakdown in morality and professionalism and in some cases there was vindictiveness. It was clear there was significant "vicarious trauma" throughout the organization. It is also clear a large segment of the workforce felt abandoned and isolated from those in leadership positions.

Now, the El Paso County Sheriff and his staff must use the observations, conclusions and recommendations from this assessment as an impetus for change. The recommendation to develop a well thought out strategy to share the results of this assessment with employees was not made lightly. In our opinion they must be allowed to participate in the changes and the future decision-making process. Every good strategy starts with building a relationship. The restoring of trust and confidence in employees is essential to the success of the change effort. We emphasize not to underestimate the challenge ahead. It will take persistence and constant reaffirmation of the plan and progress. A firm approach to ensure transparency and responsiveness to employees' complaints and concerns is a must. Simply stated, the culture of an organization exists between the CEO's vision and what is being transmitted (both by words and behavior) to the line level. It is the environment created by mid-level supervisors and managers that creates the culture. Accountability for everyone to be in alignment with the established vision is indispensable. Leadership is important and after those in leadership positions are given the appropriate training and direction, they should be held accountable for performing and being a constructive part of the change and rebuilding process. If they are not up to the task, they should be removed.

KRW would like to express our appreciation to everyone who participated and offered frank, constructive input. We would like to acknowledge the efforts of Lt. Tim Williams who was designated as our primary contact for this assessment. He did an outstanding job of arranging meetings, providing material and documents and offering his insight. We are grateful to Sheriff Bill Elder who was always available if needed, and helped to ease concerns regarding the purpose of the assessment with employees.

# **Final Report**

# Final Report

## Introduction

KRW Associates LLC (KRW) was retained by El Paso County to conduct an Organizational Assessment of the Sheriff's Office (Office). KRW commenced work on the project in February 2015 by gathering and analyzing data provided by the Sheriff's Office. This contract was based on the formal proposal submitted by KRW on January 19, 2015 which outlined the approach and scope of the project. The research design and methodology focused on collecting quantitative and qualitative data to explore topical issues in the department. The multi-faceted assessment was undertaken to identify how the individual department members assess the agency and organizational environment. Additionally, a sample of external customers was queried about their impressions of the quality of services and their relationship with the Office. The goal was to conduct an in-depth assessment of the organizational climate and environment in order to offer recommendations to enhance morale, organizational proficiency and leadership. The project team conducted a comprehensive review of current operational practices, policies and procedures. Over 200 employees (both sworn and civilian) were interviewed both individually and during 12 focus groups.

KRW approaches every assessment with the basic premise that ***“a needs assessment should have as its primary objective the identification and diagnosis of the inherent cultural and performance needs of teams, functional units, individuals and entire organizations”***.

The KRW Project Team was comprised of:

**Lorne Kramer, MPA**; Project Manager; former City Manager and former Chief of Police, Colorado Springs.

**Gerald L. Williams, DPA**; former Chief of Police, cities of Arvada and Aurora.

**Grayson Robinson, MPA**; former Sheriff, Arapahoe County.

**Rebecca Spiess, MCJ**; Deputy Executive Director of the Colorado Department of Public Safety, and former Sheriff and Undersheriff, Mesa County.

**Alvin J. LaCabe, Esq.**; former Manager of Safety, City and County of Denver.

**Al Youngs, Esq.**; former Division Chief, Lakewood Police Department.

**Karen Duffala, MPA**; former Deputy Director, Colorado Peace Officer Standards and Training Board, and former Captain, Aurora Police Department.

## Acknowledgement

- The feedback from a broad range of employees was very positive regarding the need for this assessment. While many expressed appreciation for the timeliness of this assessment, some suggested it should have occurred later in 2015.
- The people interviewed, both internal and external to the Office, were candid and interested in offering observations and ideas directed toward organizational improvement.
- Consultants were impressed with the caliber of employees and their broad commitment to the Sheriff's Office.

## Assessment Process

Consistent with the proposal, initial meetings were held with the Sheriff and members of his staff. Their perceptions and objectives were considered as the project team formulated a strategy to conduct the assessment of the Sheriff's Office including identification and analysis of current issues and challenges as presented by sworn and non-sworn members of the Office.

The project commenced in February 2015 with KRW analyzing data provided by the Sheriff's Office. The research design and methodology focused on collecting quantitative and qualitative data to explore topical issues in the Office. The multi-faceted assessment was undertaken to identify how the individual Office members assess the agency and its organizational environment. Additionally, a sample of external customers was queried about their impressions of the quality of services and their relationship with the Office. The goal was to conduct an in-depth assessment of the organizational climate and environment in order to offer recommendations to enhance those areas identified as needing improvement.

Sheriff Bill Elder distributed a memorandum to all Office personnel and the County Commissioners on February 28, 2015 informing them of the initiation of the assessment, the confidentiality of interviews, and encouraging frank and candid input. This memorandum also introduced the consultants to the organization and explained the purpose, methodology and process.

The following process was utilized:

- To the extent possible conduct a review of the investigations/inquiries previously conducted or in progress by external entities.  
(KRW is aware of several inquiries or investigations being conducted by Mountain States Employers Council, Colorado Bureau of Investigation, El Paso District Attorney's Office, Federal Bureau of Investigation and reportedly Independent Counsel.)
- Thorough consideration of recommendations and/or conclusions from the above investigations to determine the direction and needs for the assessment.
- Formulate a protocol of pertinent questions to allow an organized, thoughtful interview process.
- Conduct interviews of the Executive Staff, Command Staff and the Lieutenants.
- Conduct a series of focus groups with various groups within the Office such as first-line supervisors, detectives, records, communications, special units, patrol and detentions.
- Conduct a series of interviews with a sample of stakeholders such as elected officials, County Attorney, District Attorney, County Administrator, other County leadership and regional law enforcement agency personnel.

Note: Information obtained in interviews and focus groups will not be attributed to any individual and the source(s) will be confidential to encourage candid input and constructive participation.

- Using information obtained from the above process, assess the organizational climate and culture and provide a written final report with assessment results, conclusions and recommendations. This phase may also suggest further analysis of specific organizational issues or processes.

- If requested, conduct a staff retreat after the project to discuss the findings of the assessment and implementation of the recommendations.

The Observations, Conclusions and Recommendations included in this report are the product of both a qualitative and quantitative examination of the data accumulated during the assessment and include professional analysis of the project interviews, observations, notes, and discussions of the consultants during the course of the project.

## **Interview and Focus Group Process**

The project team was present in the organization throughout March and April, 2015. In addition to a comprehensive review of operational practices, policies and procedures, over 200 members were interviewed individually, in teams, or in the 12 focus groups that were conducted. (Some members were also interviewed regarding specific operational issues.) The questions posed were:

### **El Paso County Sheriff's Office Interview Questions**

#### **1. Describe the strengths of the El Paso Sheriff's Office (EPSO.)**

The primary response from participants centered on "the people." Responses demonstrated members' positive attitudes, service-orientation and willingness to "get the job done." The other area of response focused on the level of service that is provided; it is professional, courteous, and meets the needs of the citizens.

#### **2. Describe the weaknesses or areas in need of improvement within the EPSO.**

Areas of weakness were consistently identified as: communication, trust and leadership.

The majority of participants identified communication as a significant organizational weakness. Many cited as an example, the elimination of the distribution of staff meeting minutes and it being replaced with "The Informer" which they view as a "social news sheet". Others discussed not knowing who is assigned where or what their duties are. A large number of participants discussed not having information. They explained that when they went to their supervisors and managers with questions they were told by the supervisors and managers that they did not know the answers either.

Participants reported being distrustful not only of leadership but of some of their fellow employees as well. (This was mentioned by many participants who had answered that the strength of the organization is the people.) Many participants mentioned having a new sheriff and not being specifically distrustful of him but having a "wait and see" attitude toward the direction he would be taking the organization and how his leadership would evolve. Most participants reported seeing some positive changes since the new sheriff took office which makes them "cautiously optimistic".

#### **3. If you could recommend one internal change within the EPSO what would it be?**

Participants overwhelmingly identified enhanced communication as necessary for the effective operation of the Office. Also mentioned repeatedly was building trust between the administration and the organization. Examples of problems in both of these areas included: hiring/promotion/special assignment processes that are unclear or non-existent which give the impression of favoritism; the disciplinary process and the performance appraisal process not

being fairly applied; decisions being made without apparent input from those in the organization with direct knowledge of the situation; and information not being thoroughly and openly shared across the organization in a timely manner.

**4. If you could recommend one external change (services offered or support from others) what would it be?**

The primary recommendation centered on building and/or rebuilding relationships with outside organizations such as the Colorado Springs Police Department, other County departments and offices, and with the military. Many reported these relationships are in the process of being improved already and they are appreciative for those efforts and encourage they be continued.

**5. How would you describe the organizational culture of the EPSO?**

Consistent with the problems identified in question 1, participants reported the culture is one of distrust, some confusion, and hopelessness. Many noted that because the Office is in transition, some of the disruption is expected. Some participants noted the changes at times appear rapid and uncoordinated – and that some of these changes are changed again within a few days. Many participants complained that change is not occurring fast enough; that there has been much discussion and many announcements regarding change but those changes have not been implemented.

Overall, participants outlined a personal commitment to the Office and the services they provide as the primary reason they are still there.

**6. What has been your opinion regarding communication within the EPSO? Could it be improved and, if so, how?**

As noted previously, communication was the primary problem identified by participants. Suggestions for improvement of communication were: to reinstate distribution of the weekly staff meeting minutes; regular distribution of information internally across the organization – especially prior to releasing it to the media so that employees are aware of what is happening within the Office before reading it in the paper; and the development of specific timelines and communication plans that so employees know what the plans are for the future of the Office.

**7. Have the existing organizational culture and communications always been this way? If so, why? If not, at what point in time did the organization start to change and why?**

Participants ranged in tenure from over 25 years of service to under 2 years of service. Many with significant tenure reported the organizational culture and communication processes have changed little over the years. They described the Office of the Sheriff in El Paso County as historically being rather authoritative. The majority of participants said the culture and communication issues internally became far more negative over the last 2 years.

**8. How would you describe your expectations of the EPSO leadership?**

The majority of participants reported expecting leadership to provide focus, direction and leadership to the organization. They expect leadership to set the tone for everyone in the organization by demonstrating professionalism and dedication. Participants expect fairness, objectivity, adherence to rules and accountability for all including leaders in the organization.

**9. To create the atmosphere where employees want to remain and work long-term for the EPSO, what must occur? Please be specific.**

Participants who responded to this question generally reiterated their responses to the preceding question, #8. They believe improvements in communication, trust and professionalism will enhance the internal and external working environments.

**10. Describe your vision for the future of EPSO. What will the SO look like in 3-5 years? Try and be specific.**

Participants responded in general terms of increased regionalization and teamwork between external organizations.

**11. Do you have any additional thoughts?**

Those participants who responded noted the value of this process and the hope for improvements across the Office.

## **Themes and Trends**

The responses of participants were consistent across organizational lines, assignments, tenure and job classifications:

- Communication
- Trust
- Leadership
- Strategic Planning and Operations

In essence, these four areas are intrinsically related and the solutions to each of them rely on addressing all components. Improvements in one area will also provide improvements in the other areas. Conversely, failure to appropriately address issues in one area will also impact efforts in other areas.

## **Key Issues, Observations and Findings**

### **Communication**

- Although the Sheriff and his executive staff are to be commended for the steps they have taken in just a few short months to increase communication and trust in the organization, much more needs to be done to restore the confidence and trust of employees. Although employees acknowledge communication in the organization has improved in the past few months, management needs to accept responsibility to improve communication with the organization at all levels. The area of effective communication needs to address concerns to include favoritism in re-hires, promotions and discipline. A consistent manner of informing all employees of proposed changes should be developed. The name of current newsletter (The Informer) should be changed to something that does not have multiple meanings. The Office needs to develop a communications plan to determine what information is disseminated, who it is disseminated to, how it is disseminated, and ensure it is done in a timely fashion.

## **Trust**

- Due to the previous organizational environment, there is wide-spread dissatisfaction and mistrust within the work force. Those issues are discussed in the Interview Responses section of this report.
- There was a past-practice of releasing sensitive, confidential employee information concerning Internal Affairs to the media. This practice should be discontinued barring a legal mandate.
- There has been a pattern of not protecting sensitive, confidential FMLA information that should be firmly prohibited by policy.
- There is a need for a facilitated team building process to revisit the organizational mission, core values and vision for the Office. This process should include a discussion of the philosophy of policing for the agency as well as defining community policing if that remains a part of the philosophy of policing for the EPSO.

## **Leadership**

- There is a lack of understanding throughout the department relative to what leadership means and how it is defined.
- There has been an absence of leadership and supervisory training, and accountability. This lack of supervisory training is critical to organizational improvement and is most evident at the rank of Sergeant.
- Although “empowerment” was referred to by employees during this project, the concept has not been defined nor has there been any discussion at the organizational level as to what it means. Consequently, supervisors and mid-level managers are unsure of their authority to make decisions which often results in decisions being either passed on up the chain of command or not made in a timely and appropriate manner.
- Although the Office espouses a commitment to community policing, there is a general cynicism in the organization concerning the issue and no evidence of a commitment to either community policing or problem-solving over the past several years as well as no organization-wide accepted definition of the elements of community policing.
- There is no routine supervisory review of the amount of time spent on CFS and the time available by officers for pro-active patrol and problem-solving.
- The Office has become increasingly isolated from other regional law enforcement agencies and the military over the past several years.
- There exists an unproductive relationship with some County departments, another result of the isolation mentioned above.

## **Strategic Planning and Operations**

- The organizational alignment and reporting relationships require additional review.
- Engage in “Business Process Analysis” to identify the details of every function within the organization. These functions should be analyzed to determine how they relate to providing and enhancing service delivery to internal and external customers. If that function is determined to still be meaningful and necessary, it should be further analyzed to identify improved process delivery methods. The resulting information becomes the foundation on which to develop and implement a comprehensive, detailed strategic plan for “Business Process Re-engineering” including the utilization of appropriate technology. This should be a significant component of the strategic plan for the Office.
- Develop an organization-wide commitment to the concept of “Single Point of Data Capture”. This concept is intended to eliminate redundancy, lower the rate of information error, and enhance the timely availability of information across the organization. For example, when “John Doe” telephones dispatch to request a deputy respond, dispatch enters some caller information into the computer-aided dispatch center (CAD). Currently, that information “stalls” at that point. A deputy responds and completes a written report, identifying John Doe (albeit, more thoroughly than dispatch has done.) The report is

forwarded to Records where the information is entered into the database. Three separate employees have recorded the same information before it is captured in the database. If John Doe happens to be arrested during this contact, the same identification information is compiled by Detentions personnel, further consuming employee time, and providing yet another opportunity for human error, in tracking identical information.

- Develop a formal change management plan. While committed to a variety of tactical and strategic organizational changes, the El Paso County Sheriff's Office should ensure that Change Management (the people element of change) training is provided to all personnel, while implementing changes through project management efforts.

## **Communications Center Assessment**

The Communications Center is operating effectively in spite of several challenges. The Center is under-staffed, does not have a full complement of sufficiently operational work stations, experiences an extremely heavy ratio of field units being monitored by a single dispatcher at any given time, and the physical operation center is deficient. In many ways, the Communications Center is operating solely on the will and commitment of the majority of staff members. This unit, as with the rest of the Office, is suffering from a lack of communication, focus, direction and goals within the context of the Office as a whole.

The unit is understaffed. Routinely 1 dispatcher will be responsible for 75-90 field units at any given time. This is well beyond established norms for the safety of the public and the field units as well as the effectiveness of all personnel involved.

Not all of the dispatch consoles (work stations) are identically equipped concerning hardware and software. This presents employees with an inability to access all necessary tools when assigned to certain work stations.

The physical Communications Center is inadequate. There is no restroom, no break area (or even access to water or a coffee pot), and no access to personal lockers within the Center. In order to access any of the above, employees must leave the Center entirely which is potentially detrimental to service delivery. Further, the Center is at space capacity for consoles. If additional agencies/responsibilities were to be placed on the Center staff, and sufficient personnel were hired to address the current and projected workload, there is not an adequate amount of room to accommodate these increases.

While the Communications Center is already a regional center, discussions are well underway regarding the inclusion of additional agencies under the EPSO dispatch umbrella. These relationships are subject to contractual agreement. Most entities receiving dispatch services pay some type of fee, usually based on calls for service. There are some organizations who receive dispatch services at no cost due to a low budget and inability to pay for these critical services. Efforts should continue to identify true cost of service delivery and ensure, to the best of the Office's ability, that they are being at least minimally financially compensated, particularly for major events such as fire and other OEM responses. While continued consolidation and regionalization is a valuable option, care needs to be taken to ensure such endeavors are well thought out and well planned in advance and are in keeping with the overall strategic goals of the EPSO and in the best interests of the Office and the community. This includes staffing considerations for leadership of these projects..

## Detentions Operations Overview

The majority of one day was spent participating in a tour of the El Paso County Criminal Justice Center (CJC) detentions facility in order to better understand the facility design, operational issues and the confinement environment specific to the organization. The CJC was found to be clean, well maintained and professional in appearance, as well as representing a relatively effective detentions facility design.

- Facility capacity of 1733, with an actual population of 1,443 on March 23, 2015 (1,198 male inmates and 245 female inmates).
- The Average Daily population of the CJC for 2014 was 1,483 inmates, which has been relatively consistent during the past five years.
- Length of Stay (LOS) data is effectively collected and appears to be within industry standards, particularly in consideration of the pre-trial/convicted status of inmates incarcerated at the CJC.
- The CJC consists of 25 Wards (housing units).
- The El Paso County Sheriff utilizes the direct supervision model within the CJC.
- 49.27% of the average daily population is pre-trial status.
- 15% of the average daily population is DOC inmates.
- Appropriate facility measures are in place and consistently applied.
- EPSO CJC is a 457.g facility under ICE agreements.
- Intake process is effective, efficient and well organized.
- No reported escapes.
- The use of force within the CJC is effectively documented and each incident is properly evaluated by the chain of command of the facility. During each of the past five years the CJC has experienced increasing reports of use of force, which is attributed to modifications to policy and protocol. Following are use of force incident data for the past five years;

Year	# Use of Force Reports
2014*	458
2013*	322
2012	272
2011	261
2010	130

\* Policy/Procedure modifications and enhanced supervisory awareness to incidents involving the use of force were initiated in 2013 and have continued since then. These changes account for the marked increase in annual Use of Force Reports beginning in 2013. The El Paso County Sheriff's Office must continue to monitor and analyze use of force data to ensure policy compliance.

Although the use of force within the CJC appears to be appropriate, all incidents of use of force should be closely monitored and evaluated to ensure full compliance with the law, training protocols and policy/procedure.

- Consultants had the opportunity to observe the use of an emergency restraint chair (ERC) involving an inmate presenting mental health challenges. The use of force related to the ERC was appropriate, well organized and properly applied. The staff involved in the use of the ERC were calm, professional, deliberate and well-organized.
- The EPSO Warrants Section is physically housed within the CJC and is adequately staffed.
- The Warrants section is responsible for the administration of 3,341 active felony warrants and 16,341 active misdemeanor warrants.
- A pre-trial release program has been implemented by the EPSO and is staffed by Sheriff's Office employees and supplemented by volunteer resources under the control of the EPSO. The pre-trial release program could present a significant liability to the EPSO as bond revocation decisions are made administratively, without adequate investigation, without due consideration for probable cause and without adequate extra-judicial review and judicial determination.
- Inmate property is secured within a relatively effective system; however, the process should be reevaluated with consideration for additional space and economies. Reported deficiencies included a lack of panic alarms, camera placement, inferior work stations and phones.
- Inmate property storage system is antiquated and is subject to regular malfunction, causing costly repair and marked operational inefficiencies. The speed of the system creates an hour of lost productivity each day.
- Approximately 100 inmates are transported each morning from the CJC for court appearances in the court facilities located in downtown Colorado Springs, a one-way distance of 2.3 miles. Once the business of the court has been accomplished, the inmates are returned to the CJC.
- Approximately 50 inmates are transported each afternoon from the CJC for required court appearances to the courts facility in downtown Colorado Springs, a distance of 2.3 miles one way. Once the business of the courts has been accomplished, the inmates are returned to the CJC.
- EPSO utilizes a basic inmate classification system which identifies inmates as felony or misdemeanor offenders only. Consideration should be given to an expanded inmate classification/threat identification system with a focus on deputy/facility safety.
- Within the general inmate classifications of felony or misdemeanor, inmates are further classified for housing purposes as minimum security, medium security and maximum security. The current inmate clothing strategy does not permit deputies to immediately identify classification related threats that could impact deputy/facility safety.
- Intake to Classification occurs within 24 hours.

EPSO applies industry/legal standards related to good time calculations for those incarcerated; however, inadequacies and deficiencies of the existing Jail Management System (JMS) bring the credibility of the calculations into question, causing a potential liability for the EPSO related to inappropriate early release and/or delayed release. Although a RFP process to replace or upgrade the current JMS is being considered, the potential for liability and the potential impact upon public safety should serve as cause to make the issue a priority. Class action litigation recently filed against the Colorado Department of Corrections regarding good time calculations may be instructive to the potential for liability related to this matter.

- KRW was told that "80% of the population have mental health problems and over 1/3 of the population are on medications for a mental illness". A review of data provided by the EPSO documents that during 2014, twenty-one thousand five-hundred five (21,505) individuals were received and booked at the CJC. The same data set documents that of the total received at the CJC, two-thousand six-hundred forty-eight (2,648) inmates were formally classified as "Mental Health Inmates". The 2014 data would suggest that approximately 12.3% of the total 2014 inmate population suffered a recognized mental

health condition. Nationally, incarceration rates of those suffering recognized mental health conditions ranges from 18% - 25%. The EPSO should develop and implement a method of determining accurate numbers of inmates suffering mental health issues to ensure that data presented to the public and other interested parties is accurate and validated. The status of "mental health inmate" should be well defined in order to collect credible data, which may then be effectively utilized to ensure integrity, consistency and accuracy of this critical data set.

- Mental health services are included in the medical services contract. Mental health support is on-site from 0700 hrs. to 2100 hrs. each day. Staff is without these mental health service personnel for the remaining 10 hours of the day. For 42% of any day, staff is expected to address the mental health behavior and needs of the population during the absence of the mental health services staff.
- EPSO bills municipalities for the incarceration of municipal inmates, within the guidance of the Colorado Revised Statutes. Colorado Springs pays \$31.20 per day per inmate (in consideration of shared resources); other entities pay \$62.40 per day per inmate.
- Current incarceration costs per day per inmate were determined by an established calculation and have been in place since 2009. The current and actual cost of incarceration should be recalculated and updated to avoid controversy or inaccurate fee collection. The sharing of resources element of the incarceration fees should be revisited to ensure that past practice is consistent with the current environment.
- Overtime payment is minimal due to staffing levels and most overtime compensation is accomplished through compensatory time given during the relevant pay period, rather than cash payment.
- Attrition rate within detentions is estimated to be approximately 2.3 people per month; however, accurate data was not provided. Over the last 12 months, 184 sworn officers have been hired. It is reported that currently there are 23 over hires.
- All deputies within the CJC are Level I state certified peace officers. The EPSO requires and provides a twenty-four (24) week recruit academy for all serving in the capacity of deputy sheriff. Consideration of the elimination of the peace officer certification for some detentions personnel could be a strategic fiscal consideration, although all internal consequences and operational impacts should be evaluated. The comment related to the strategic considerations associated with staffing the Detentions Operation with non-certified officers is provided as one of many possible problem-solving options, based upon stated concerns of the ability to adequately staff Detention functions in the event that 1A Public Safety Tax (PST) revenues are significantly reduced or eliminated in the future.
- The assignment of Investigators to the CJC is an effective and efficient method of ensuring the integrity of criminal investigations within the CJC.
- Central control is properly staffed and equipped. Responsibilities of central control are transferred to other areas of the facility, which allows for an effective security default/redundant system.
- The CJC computer server room is protected by a water only fire suppression system. An upgraded fire suppression system that eliminates the use of water in the specific server environment would be a prudent investment that would represent a future cost avoidance in the event of an intentional or accidental activation of the water based fire suppression system.
- CJC internal security measures include the deployment of 430 separate closed circuit cameras. The captured "video" utilizes individual frame images rather than actual video images. Image storage capacity and the ability to access images in a timely manner is acceptable; however, upgrades to the current system should be a future consideration.
- All medical services are provided through an established contract, which provides for all medical staff to be employees of the service provider, to include a full time health services administrator, appropriate mental health services and dental services. The existing contract has been in place for many years, a situation that should be considered

for future competitive bids to ensure that effectiveness, efficiencies and economies, in the best interests of the community, are in place.

- All medical records are captured and stored in an electronic format that is consistent with best practice and industry standards.
- On March 23, 2015, eighty-eight (88) inmates were seen by medical staff. This represents a relatively light medical workload when compared to other Mondays, which typically account for 110-115 inmate medical visits. The facility has a 15 bed infirmary.
- The El Paso County Sheriff's Office should ensure a complete understanding of the opportunities associated with financial support of inmate health care through certain elements of the Affordable Care Act and Medicaid. The well-considered application of the available funding for inmate health care assistance is in the best interests of the community and supports the mission of the El Paso County Sheriff's Office in an effective and efficient manner. (Details regarding this opportunity are available at the National Institute of Corrections website at [www.ninic.gov](http://www.ninic.gov) or the National Association of Counties (NACO) website at [www.naco.org](http://www.naco.org) )
- Internal supply of pharmacy is properly and effectively audited on a consistent basis.
- The EPSO may consider exploring certain efficiencies and economies associated with inter-agency or public/private partnerships related to pharmacy.
- Two negative air pressure rooms are available to medical staff at the CJC for the proper care and housing of inmates who may be suffering a medical condition that requires isolation.
- Kitchen and food services are provided through a long-established contract with ARAMARK. The food services contract should be considered for competitive bid to ensure the application of effectiveness, efficiency and economies, in the best interests of the community.
- Staff dining is provided within the food services contract from 7am - 7pm at no cost to CJC employees.
- 1A Public Safety Tax (PST) funds provided for the hiring of a "MLK" (Medical, Laundry, Kitchen) deputy to revolve between areas for support and security.
- Inmates are provided with a hot breakfast, sack lunch and hot dinner every day. All meals are consistent with caloric intake standards for those incarcerated.
- Although the CJC facility is clean and well maintained, the kitchen area of the facility is in need of infrastructure upgrades, repair and equipment replacement. The flooring of the kitchen area is in particular need of repair and/or replacement. Some of the industrial level equipment should be considered for upgrade or replacement with a cost avoidance perspective. Staff mentioned that 1A PST funds were slotted to replace the flooring and ovens.
- Daily costs of meals for inmates are within acceptable ranges and caloric content is clearly consistent with food industry guidance and relevant accreditation standards.
- The responsibilities of the laundry operation of the CJC are accomplished in an effective and efficient manner. Inmate labor is critical to the effectiveness and efficiency of the laundry operations.
- The reported "self-funded" CJC Gateway Programs provide an exceptional level of service to inmates and the community. The Gateway programs are a critical element to successful reentry considerations and are having a measurable impact upon recidivism at the local level. Staff reported that 85% of their clients have a substance abuse problem, and that the recidivism rate is 41% (8 year time frame).
- Public/Private partnerships established and fostered through the Gateway programs are critical to the success of the program as well as being key to the reputation of the EPSO. The partnerships should be strongly supported and others should be proactively pursued.
- The El Paso County DETOX program is very effective and a much needed regional service that makes a difference for the community and public safety. Although the DETOX program is marketed as being funded "without tax dollars", the program does receive substantial support and assistance from tax funded resources directly related to

the CJC and has been the recipient of certain levels of funding from the EPSO Commissary Fund. Use of Commissary Funds resources in support of the critical DETOX mission should be closely evaluated to ensure the expenditure meets the spending criteria established in the needed Commissary Fund expenditure policy/guidance (yet to be established). (We would anticipate that the DETOX expenditures would fail to meet reasonable and well-considered commissary fund guidance.)

- Inmate telephone services provided through contract between EPSO and GTL provides a revenue source that is shared with the vendor, El Paso County and ARAMARK. Revenue to ARAMARK is the result of the sale of prepaid calling cards available for purchase through commissary. The revenue source and expenditure of funds should be defined by well-considered policy/guidance and must be the subject of a consistent and meaningful auditing process. The EPSO should evaluate strategic considerations related to the future revenue source provided through inmate telephone services. (We would anticipate that future revenues related to inmate telephone services will be significantly reduced, based upon long-standing fee reduction debates and costing restrictions currently being applied to the Federal Bureau of Prisons.)
- A variety of individuals involved in professional visits within the facility are permitted unescorted, although limited, access to the facility as they walk to professional visitation areas within the secure envelope of the facility. The practice of permitting unescorted professional visitors within the facility should be closely evaluated, with a focus on the potential liability associated with the safety expectations of the unescorted visitor, inmate encounters, potential for the introduction of contraband and staff accountability for a safe and secure facility.
- The community should be well informed of detentions operations and the critical public safety role of the detentions staff.

## **Detentions Commissary Operations Assessment**

- Commissary services are provided through an existing contract with ARAMARK. The contract associated with commissary services should be considered for competitive bid to ensure the application of effectiveness, efficiency and economies, in the best interests of the community.
- Commissary Fund revenues and expenditures are impacted by the traditional commissary program, the "7-11 Cart" and the "I Care Program".
- Commissary revenues are shared between the EPSO and ARAMARK, although a credible process to audit the revenues and ensure that revenue sharing is accomplished within agreed upon calculations does not exist. Establish an agreed upon commissary revenue sharing calculation between EPSO and ARAMARK, and implement a consistent auditing process of commissary revenues/expenditures and existing fund balance.
- Expenditure of Commissary revenue funds by the EPSO is accomplished with the broad guidance of "Any cost of care for inmates". Establish a well-considered policy that specifically defines the EPSO Commissary Fund guidance for collection of revenue, specific and detailed guidance for Commissary Fund expenditures and specific guidance related to the annual "roll over" of fund balances at the end of each fiscal year. Authorization of Commissary Fund expenditures should be the responsibility of an individual/s that are not directly involved in the detentions function of the EPSO.
- As noted previously, the El Paso County DETOX program is very effective and a much needed regional service that makes a difference for the community and public safety. Although the DETOX program is marketed as being funded "without tax dollars", the program does receive substantial support and assistance from tax funded resources directly related to the CJC and has been the recipient of certain levels of funding from the EPSO Commissary Fund. Use of Commissary Funds resources in support of the critical

DETOX mission should be closely evaluated to ensure the expenditure meets the spending criteria established in the needed Commissary Fund expenditure policy/guidance (yet to be established). (KRW would anticipate that the DETOX expenditures would fail to meet reasonable and well-considered commissary fund guidance.)

## **Detentions Medical Contract Assessment**

The current detentions medical contract was reviewed, as well as five previous years of experience related to the medical services provided to the EPSO Detentions Bureau. The current EPSO medical services provider is Correct Care Solutions (CCS), which recently acquired Correctional Healthcare Companies, the long-standing medical services provider for the EPSO.

The medical services for the detentions facility and detox are currently provided on a month-to-month basis through a valid contract between El Paso County and CCS. The most current contract for medical services resulted from the established Request for Proposal (RFP) process implemented on November 6, 2012 by the El Paso County Contracts and Procurement Division, which is overseen by the El Paso County Commissioners. Six (6) medical service providers were invited to consider the November 2012 process, however only two (2) vendors responded to the detailed RFP. The current medical services contract is documented through El Paso County Professional Services Contract No: 13-009.

The current medical services contract is well-considered and complete, when compared to contractual medical services provided in the detentions facilities of organizations of similar size and complexity of the EPSO. The current month-to-month cost for medical services is \$443,843.91, which will ultimately result in an annual cost to the taxpayers of El Paso County of \$5,326,126.84 (\$4,761,685.60 for detentions services and \$564,441.24 for detox services). The annual cost of medical services for the detentions facility and the detox function have increased an average of 2.6% each year, over the last three years. During 2014, the annual cost per inmate for medical services was \$214.97 (annual detentions medical cost - \$4,622,995.80 and 21,505 inmates booked). Over the last four years, total inmate medical visits (Health Assessments, Sick Call, Dr. Call-MD, Dr. Call-Nurse Practitioner and Dental) have shown a slight variance from year to year, however the medical visits are well within the expectations of a facility the size and complexity of the EPSO. Annual inmate medical visits:

<b>Year</b>	<b># Annual Medical Visits</b>
2014	21,440
2013	18,774
2012	19,429
2011	21,073

In consideration of the significant increases in healthcare costs to the public sector and private sector over the same timeframe, the increases in medical service costs provided to the EPSO detentions facility and detox functions are reasonable. The annual contractual medical services costs are within acceptable ranges, when compared to other jurisdictions of similar size and complexity. However, Sheriff Elder and his staff should ensure that all possible discounts and economies are considered in future contract discussions without diluting the level of medical services provided or increasing the liabilities to the community served.

While reviewing operational, administrative and fiscal matters directly related to the provision of medical services to the EPSO, it was difficult to identify past fund accountability or auditing measures. The concerns related to fund accountability and auditing responsibilities have been eliminated with the recent appointment of the Director of Compliance within the Detentions Bureau of the EPSO. The Director has already initiated proactive auditing protocols and accountability measures that will effectively and efficiently serve the EPSO and community.

The contractual medical services provided to the EPSO Detentions Bureau and Detox function are accomplished in a relatively effective and efficient manner. The medical services contract relieves the Sheriff, the EPSO and El Paso County government of a variety of responsibilities and liabilities, which represents good public policy, but results in a considered increase in costs to the taxpayers of El Paso County. The liability/cost considerations related to the provision of medical services through contract appear to serve the best interests of the community and the EPSO, with a risk management focus. Although the current medical services contract serves the community, Sheriff Elder, the EPSO, El Paso County government and the contractor should be vigilant in the accomplishment of their responsibilities to be good stewards of the limited resources of the taxpayers of El Paso County.

## **Fiscal Accountability – Records and Reporting**

The FY budget for the El Paso County Sheriff's Office is \$46.5M. This amount has been static since 2013 as a condition of the Sales Tax ballot increase (1A) passed by the voters in 2012. The El Paso County citizens voted to support a public safety tax (PST) for the benefit of the Sheriff's Office for a period of eight years, "sun-setting" in 2021. Each year, the Sheriff's Office receives \$17M to fund those "urgent public safety needs" as identified by the Sheriff. This amount is in addition to the General Fund appropriation of \$46.5M. The tax initiative allows for end of year residual funds to roll to the next fiscal year. PST revenue can legitimately be used to fund GF shortages.

While specific ballot language seems to restrict annual revenue to limited public safety expenditures, it actually provides significant leeway for the Sheriff to utilize funds to support emergency management and law enforcement needs. Besides a description of generous acceptable uses, the language mandates civilian oversight with an annual report from the Sheriff "of all revenues and expenditures resulting from such tax increase."

Under the past administration, budget management was controlled by the Undersheriff and Comptroller of the Sheriff's Office. All expenditures were channeled to them via written requests and all decisions to support or decline the requests came from that office. None of the existing operational units had access to the budget and had no knowledge of what their operating budgets were; what was spent on their behalf; or what remained to be spent. The Comptroller regularly moved expenditures via journal entries, a process that should have been reserved for exceptions and not as a normal budgetary process. El Paso County Sheriff's Office relationships with County management were reportedly hostile, and regarding the budget, the Sheriff accounted to no one.

The EPSO Office Administrator and his financial team had been diligently reviewing the 2014 budget, line by line, dissecting actual expenditures to determine where expenses should be properly applied and to construct a comprehensive 2015 budget. By late March, 2015 this laborious task had resulted in an expansion of the former two budgets to fifteen separate budgets. These fifteen budgets were the recipient of transferred expenses relevant to the organizational units they represented. Those efforts included the identification of how Public Safety Tax (1A) monies had been spent and were able to isolate what monies from that endowment remain.

The Administrator was confident that his 2015 FY financial projections would result in a balanced budget by year end, with the assistance of strong budgetary oversight (his) and a historical attrition

rate to normalize the previously reported over hires. He stated that a staffing review was underway to determine whether the agency was correctly staffed.

The Administrative Services Bureau has opened up strong communication lines with the Board of County Commissioners (BOCC) and County management and intends to continue fostering these relationships under the new Administration.

### **Current/Planned Actions/Recommendations**

As mentioned previously, the Administrative Services team is actively building new budgets which earmark specific fund dollars for each operational discipline. While best efforts are being made to correctly fund each budget based on past expenditures, there is some expectation that the budgets will need ongoing adjustments to correctly support individual division needs. At least one full year of actual expenditures is necessary to validate newly constructed budgets.

The Administrator expressed a strong willingness to continue fostering a working relationship with County management and a desire to create realistic budgetary requirements for the Sheriff. He believes that these actions will rebuild lost trust and garner support for future needs and challenges. Monthly meetings with County personnel have already been scheduled and initial conversations, implemented.

A lack of policies/procedures on acceptable expenditures from certain revenue sources (Commissary fund, restricted funds, State Criminal Alien Assistance Program [SCAAP]) has been identified by the finance team. This gap is being addressed by canvassing other law enforcement agencies for policy examples. The need for SME (subject matter expert) redundancy in the Administrative Services Bureau, in the form of a strong, knowledgeable backup is recognized. State-wide best practices support agency undersheriffs having a working knowledge of the budget. The failed practice of utilizing the undersheriff in the past administration in this capacity should not necessarily be discarded as a consideration for this new Administration. It makes sense, and can work in the right environment and structure.

The agency is currently being audited/investigated by several external law enforcement agencies. While these efforts are directed at the past administration's financial decisions, we discussed the need for embracing a yearly audit/ compliance strategy. Welcoming a certified public accounting firm into the agency each year to provide assessment and support can only reinforce the Sheriff's philosophy of transparency and strengthen existing accounting practices. A self-initiated audit which isolates risks and provides an opportunity to self- correct is far less painful then a forced public vetting and criticism.

### **Issues/Concerns**

Current budgetary assessments by the financial team indicate that the General fund is severely underfunded. It was reported that a personnel shortfall of \$7-8M exists, while the operating side is short by \$2M. Clearly, 1A revenue has successfully offset this serious risk. It is anticipated that another request for a PST will likely be initiated when the original tax is eliminated in 2021. By then a clear, accurate and defensible budget will be established and make it more credible to the citizens should a request for support be required.

Projects such as regionalized dispatch, a new JMS/RMS system, video visitation and mold mitigation will require reoccurring maintenance capital after initial acquisition. A reduced tax rate or an inability to garner support from El Paso County citizens for another PST could create system sustainability issues or require impacts to the budget in other areas (reductions in force, operating budget impacts, etc.).

While the movement of the Office of Emergency Management under the BOCC has caused internal concern and controversy, and a portion of 1A revenue moved with it, addressing these challenges

may not be the most pressing issues at this time. The PST supports the use of revenue for emergency management. Efforts are currently focused appropriately.

## **Information Technology Assessment, Focus and Direction**

The utilization of information technology throughout the organization is inadequate and/or nonexistent. There is minimal, if any, interconnectivity across systems. The fundamental concept of information is "Single Point of Data Capture." This concept does not exist. Multiple employees are engaged in repetitive data capturing due to the lack of policy, hardware, software and/or desire to work more effectively and efficiently. For example, a main component of a computer-aided dispatch system (CAD) is to provide the foundational information for every call a field unit responds to. This information "opens" a report template that can be modified, added to, corrected, and disseminated nearly immediately. That functionality has been disabled. Patrol deputies write a report; either by hand, or in a data format such as an email or individual document, some even tape record their reports. Regardless of the format, this information is given to the Records section. Records staff then create a report in the Records Management System (RMS) – which could/should have been created by the CAD. The Records staff then manually enters all of the information for the report; print out the report; scan the printed document back into the report system; and then file the paper copy of the report. Another example is a patrol deputy who affects an arrest must handwrite a booking report. The arrestee and the report are then presented to Detentions Intake who then manually enters the information into the Jail Management System (JMS). Detentions also handwrites their own report which is forwarded to Records through normal internal mail distribution channels. When Records receives this report, up to 72 hours later, Records personnel then manually type the information into the report which they created, potentially, days earlier. This causes a delay in the provision of information to those who need it such as detectives and also increases the opportunity for error as the same information is being transmitted by several people in multiple formats before it reaches its final destination in the report itself.

There does not appear to be an IT strategic plan for the Office. There are multiple systems and components, many of which are functioning adequately, but there does not appear to be a short or long term vision for what is needed, how it will be acquired, how it will be utilized and what benefit this will bring to the efficiency and effectiveness of the Office and the services it provides. In many areas of the Office, there is a lack of appreciation, trust or understanding of the requirement for effective technology services. This is in contrast to many of the newer hires who are comfortable with technology and welcome its inclusion in their "tool kit".

Many work units are still operating manually or have developed their own unique reporting mechanisms to track information. Individually developed Xcel spreadsheets abound, for example, which are often providing nothing more than the equivalent of a Word Table – the Xcel workbook (which has search capabilities) was not designed to be searchable and often does not track all of the necessary information – which may be located in other spreadsheets but should be located within one data base. These ad hoc files may be of assistance to that immediate unit but pose significant risk to the organization in potentially not having adequate security components and also allowing for the compilation of information which may or may not be in accordance with Office regulations and statutory requirements. This can also result in data being compiled in multiple areas and the risk that the data may not match (not necessarily due to malfeasance but in compiling information in different ways or by human error).

There is little to no significant data sharing across organizational lines. Many units have access to information housed in other units but these opportunities to cross analyze data or use the same information for multiple purposes are rare.

Information that is captured and ultimately data-based is entered (often repeatedly) by individuals and units for their own specific needs. The concept of "single point of data capture" does not exist

functionally within the organization. This results in untold staff hours being spent repeatedly entering the same information into multiple data systems which is not only inefficient but is highly prone to error and disparate entries of the same information into different data systems.

## **Patrol Operations Assessment**

An overview of Patrol Operations was conducted in addition to numerous discussions and interviews with management, supervisors and line personnel. The staff is knowledgeable and committed to providing comprehensive and professional public safety service. Questions arose as to the under-utilization of mobile computing and the need for more robust computers and broader access to more information. The issue of off-site locations for report writing and processing evidence was also noted. Currently, patrol deputies have to respond downtown to log evidence. The result is a great degree of time lost due to driving from their assigned post and back. The same is true for report writing. In addition to a more robust system for automated reporting, consideration should be given to providing alternative locations to conduct these important functions such as the Colorado State Patrol facility and the Colorado Springs Police Department substations. There has not been an evaluation of calls for service relative to geography conducted in several years. This should be undertaken to determine if the boundaries of the patrol districts are still the most appropriate and effective. The assignment of take-home cars was significantly expanded after the passage of 1A without a clear justification for the operational necessity, mission or purpose of this policy. Currently, there is no ability to demonstrate what, if any, benefit this provides to the taxpayers.

## **Investigations Operations Assessment**

Multiple discussions and interviews revealed a staff that is committed but lacking internal processes that would enhance not only investigative productivity, but personal growth and satisfaction as well. There are no tangible benefits (incentives) for becoming a detective such as additional pay; there is no overtime for being on call. Duration of assignment to Investigations is not clearly outlined. There are no positions which are “permanent” assignments to be augmented with positions that are rotated. In-service training does not focus on investigative needs.

Interviews indicated a lack of a structured case management process that includes a formal review using solvability factors for case review and assignment; see *Solving Crimes: The Investigation of Burglary and Robbery* (Police Executive Research Forum 1983.) While KRW was not tasked with conducting an in-depth work flow and work load analysis, KRW notes that the method of forwarding cases to Investigations raises concerns about time sensitivity. This includes: the process and time involved in the preparation of criminal reports; the guidelines for assignment of cases - are all criminal cases assigned including those with little or no real probability of solving?; and the method and structure of case assignment - are all cases assigned with the same level of expectation of prioritization? A comprehensive review should be conducted regarding the Investigations Case Management Accountability System for Criminal Cases. The 5<sup>th</sup> edition of the Commission on Accreditation for Law Enforcement Agencies (CALEA) and the 4<sup>th</sup> edition of The International Association of City Managers (ICMA) Local Government Police Administration Chapter 6 *Criminal Investigation* would be very helpful in developing a “state of the art, best practices” investigative process.

## **Organizational Alignment**

The alignment of assignments and lines of reporting across the EPSO have been a work in progress over the past several months and is not yet fully finalized. This has caused some consternation

among employees; some feel the movements are too fast, others feel they are too slow. Many are disappointed in some of the selections and assignments.

A consistent theme was that information regarding who is working where, and for who, is not well known throughout the organization. Also, many voiced concerns that the organization is “top-heavy” and that the distribution of staff (span of command) is inconsistent across the organization. There is a disturbing lack of administrative support personnel throughout the organization.

While it is possible they have been omitted from the organizational charts, most units reported having no, or minimal, administrative support. The Records personnel seem to act as an ad hoc administrative support pool and are temporarily reassigned from their primary functions when a work unit in the Office needs administrative support. The responsibility for the acquisition and distribution of equipment is scattered throughout the organization rather than having a centralized “quartermaster” unit. This makes it difficult to accomplish economies of scale regarding supplies, accountability for purchases with public funds, distribution of “hard goods” resources to personnel, accountability for the care and treatment of those supplies, and the ability to get items returned when an employee separates employment.

As with so many data and information issues, there is not one “complete” organizational chart; it is a series of individual pages which outline assignments at a variety of levels within each area of command. This makes it nearly impossible to visualize how the entire organization is intended to operate and interact. Even after compiling the individual documents into one chart, it was not possible to truly identify the span of command because of the number of positions and functions that were not listed. For example: the number of Records personnel was not included, nor were the number of Background Investigators. The number of deputies on any Patrol shift was not listed. There was an alarming lack of representation of Administrative Assistant personnel across the organization. It was not determined if they don’t exist or if they have simply not been included in the chart.

Several functions are improperly aligned and need to be moved. For example, the Professional Standards unit is 4 levels removed from the Sheriff. Other functions do not appear to be justified as listed. For example, the Chief of Staff, according to the organizational chart, has three direct reports; the Executive Assistant, the Director of Information and the Judicial Liaison. Research and Development reports to the Director of Information. These disparate functions and responsibilities, many of which do not belong at the executive level to begin with, have so little in common that it would be unreasonable to expect them to report to the same manager regardless of what level of authority the manager (executive) has. The span of command is seriously misaligned. For example, the Support Services Commander has eight (8) lieutenants/managers as direct reports while the Patrol Division Commander has three (3) lieutenants as direct reports. These irregularities and misalignments become more apparent with the visual aid of compiling a complete organizational chart into one document and including all job titles and numbers of personnel in those positions. In conjunction with a complete organizational assessment and business-process analysis, the appropriate alignment will become readily apparent.

## **Discipline, Professional Standards and Related Issues**

To hopefully be more effective, the EPSO has recently renamed its Internal Affairs function “Professional Standards”, revised many of its policies related to complaints, internal investigations and discipline, and has revised its Early Warning System quarterly reports. However, more needs to be done to increase that effectiveness. First, the data storage, analysis and management systems presently in place must be significantly upgraded in conjunction with other technology systems throughout the Office. Secondly, perceptions of unfairness and inequities in the discipline system will persist without the publication of written criteria to guide disciplinary decision-making.

The Office is also in the process of revising its core use of force policy based upon a model policy provided by Lexipol. While this is a good first step, much needs to be considered in order to adapt that model policy to the specific needs of the EPSO.

Additionally, the current practices of the Office regarding critical incident review and crisis intervention training indicate that the Sheriff's Office is well aware of their value. However, these practices are currently limited and must be greatly increased to maximize their value.

Finally, the practice of temporarily reassigning selected Records personnel to Professional Standards to type lengthy reports should be discontinued. Adequate administrative support personnel should be hired specifically for this purpose.

## **Staffing, Assignments, Promotions and Human Relations**

The Department has adequate staffing, but it is recommended there be further review of "how and where" those personnel are being used, as outlined above regarding Organizational Alignment. As noted previously under Organizational Alignment, there is a significant lack of administrative support personnel throughout the Office.

Historically, there was not a fair and equitable evaluation system consistently utilized throughout the organization. A new performance appraisal process and form were implemented in early 2015 in an attempt to rectify those issues. This new process should be closely monitored and evaluated, in particular as it applies to the mission, vision and values of the organization. The evaluation system should also be used to identify training needs. Establishing a Training Committee comprised of deputies, staff and supervisors will also aid in identifying training needs.

## **Summary**

The strengths of the El Paso County Sheriff's Office do lie with the employees. Overall, these are dedicated and competent professionals who have the best interests of the Office and the people they serve at heart. Most envision and support a forward thinking, professional approach to providing public safety and serving the citizens of El Paso County in an effective, collegial and professional manner. The organization is committed to repairing areas of deficiency. However, there is a lack of clarity, focus and direction on how to accomplish those goals. KRW Associates LLC appreciates the opportunity to have been a part of this process to enable the El Paso County Sheriff's Office to remain a premier public safety service organization now and into the future.

# Recommendations

## Leadership and Cultural Climate

### **Recommendation # 1      Develop a formal organizational strategy.**

#### **Strategic Direction:**

- EPSO should develop a well thought out focused strategy designed to address the results of this assessment.
- Don't underestimate the challenge ahead
- Practice—Progress—Persistence regarding developing and enforcing Organizational Values and Principles.
- There are several steps recommended to develop an Organizational Strategic Plan.

Step one was the completion of this project. Step two is the dissemination of this report to all members of the EPSO with a cover memo from the Sheriff attached outlining the process for moving forward in a thoughtful manner. The organization now has the opportunity with KRW's assessment to "pull back" for a brief moment and develop a thoughtful, focused, and prioritized strategic plan of change which addresses all issues raised by the employees. Next, develop a "bottom up" process of gaining feedback and suggestions from all employees regarding the recommendations and suggestions as to prioritization of those recommendations. The feedback and this report are the basis for development of the organization's strategic plan through a series of facilitated workshops with the Command Staff. Each component of the strategic plan should include a time frame and identify the individual(s) assigned to complete them. Upon approval by the Sheriff, the plan should be shared with the entire organization. Follow-up workshops should be held quarterly or semi-annually to measure progress and adjust specific components of the strategic plan, as necessary.

### **Recommendation # 2      Establish a vision, mission, set of core values and philosophy of policing.**

Few employees were able to cite or even acknowledge the existence of an organizational vision, mission and set of core values. Many said community policing is important yet it appears most do not have a clear understanding of how the EPSO defines community policing.

KRW suggests the Sheriff and his Executive Staff establish a two-step process. First, discussions regarding the Vision, Mission and Core Values should take place involving a representative cross section of employees, (see Recommendation # 5 regarding the establishment of a Sheriff's Advisory Council.) These discussions should focus on the Sheriff's articulation of his vision for the organization followed by in-depth discussions on taking his vision statement and developing an organization-wide vision statement. Vision statements need to be significant, must inspire others to strive for their highest spiritual and professional ideal, and must capture the imagination and energy of others throughout the organization. The Sheriff ideally leads off these discussions by sharing his vision for the organization and openly encouraging others to improve the wording for more inclusive acceptance of the key ideas in the vision statement. (Hoyle pg. 29-30).

Generally a mission statement is developed by this same group to explain to external individuals or customers what the organization does and how it carries out its tasks. The mission statement is more detailed than the vision statement (Hoyle pg. 31). Core Values or Belief Statements represent the values that guide behaviors of employees in their internal interactions with each other and are

the foundation of all interactions with all customers of your services. Some examples of universal core values would be honesty, fairness, compassion, respect and responsibility (Hoyle pg. 30).

Once these three have been addressed, processes need to be put in place and meaningful efforts made to inform, educate and hold everyone accountable for implementing the vision and mission through the core values.

Establish a philosophy to outline the manner and method of service delivery and internal interaction for all employees. The process outlined above should include discussions on how to define the EPSO's philosophy of community policing. The new vision, mission, core values and a philosophy of policing then become a training tool, an evaluation component and a set of behavioral anchors to guide all employees in their daily professional activities including their interactions with each other and with citizens.

To be realistic, there are certain functions of traditional policing that are necessary and critically important to any policing philosophy, (see Herman Goldstein's *Policing a Free Society* pg.35). KRW recommends that the Sheriff and his Advisory Council consider Dr. Robert Trojanowicz's initial definition of Community Policing; pro-active, decentralized and designed to reduce crime, disorder and by extension the fear of crime by intensely involving the same officer in the same community on a long term basis so that residents will develop trust to cooperate with police by providing information and assistance to achieve those three crucial goals. (Dr. Robert C. Trojanowicz 1987.)

In the mid to late 1990's, Dr. Gary Cordner developed a much more detailed set of Principles and Elements of what a comprehensive overview of Community Policing includes (see Appendix A). This captures the important components of Trojanowicz's 1987 definition along with the ground breaking work of Dr. Herman Goldstein in his concept of Problem Oriented Policing. KRW suggests adoption of a "Blended" Philosophy of Policing for the EPSO; one which highlights and acknowledges the importance and necessary inclusion of the essential elements of Traditional Policing (see Appendix B) and includes the Dimensions and Elements which the Sheriff and the Advisory Council along with the Command Staff believe reflect what Community Policing should consist of within the EPSO (see Appendix C.)

KRW suggests that EPSO not attempt to develop plans for implementation of all Dimensions and Elements. The Office should select those Elements that are important to its efforts to further its vision, taking into consideration the needs of its citizens and the circumstances within the County that need to be addressed.

Once a policing philosophy has been adopted, the importance of implementation becomes paramount. It does little good to develop a policing philosophy if efforts are not made throughout the organization to insure everyone understands, has help in skill development to carry out the new philosophy and evaluation measurements are in place to hold everyone accountable for the success of the Policing Philosophy. One critical key is that all employees must understand and take ownership in this philosophy. This will take more time and effort. KRW recommends using the Employee Council as a vehicle for gaining input and support for this process.

### **Recommendation # 3      Develop supervisory training, empowerment, and leadership.**

The need for first-line basic supervision training was mentioned frequently during interviews and focus groups. Reportedly, over the past few years, deputies have often been promoted without any supervisory training. Many had not received any supervisory training before being promoted or afterwards. This has led to the perception (and potentially the reality) of a lack of consistent and fair treatment, needed direction, effective leadership, mentoring and coaching of team members, appropriate discipline and needed accountability of all employees working for the untrained

supervisors. This concern should be addressed without delay. Efforts should be made to establish a mandatory basic supervisory training program for all 1<sup>st</sup> line supervisors, sworn and non-sworn. This will develop a base line set of skill levels to build on over time. Mid-level leadership training for all levels above this first level of supervision also needs to occur. Based upon the input from employees, KRW suggests that the sergeant/non-sworn supervisor level be first to receive this training.

The issue of empowerment was a common theme. The frustration cited was that not only did many supervisors not understand what being empowered really means, but many employees and some supervisors have been punished or even formally sanctioned in the past for attempting to use discretion to resolve an issue or problem. Empowerment must be a core value of the organization. Therefore, empowerment must be defined, understood and supported throughout the organization. This includes the skills needed to insure that one is not only “doing the right thing” but that one has also considered the alternatives and has arrived at the ethically correct decision for the circumstances.

Leadership in organizations is most successful when leadership skills and expectations are anchored in the belief in and adherence to a set of core values that promote consistent expectations and accountability of supervisors as well as employees being supervised. Currently, several leadership styles seem to appear consistently in the literature on leadership; authoritarian, transactional, participative, transformational and situational are a few example examples. Creating a consistent set of leadership skills and insuring compliance with the leadership style or styles is an on-going cultural activity. Defining and directing the values and behaviors of leadership within an organization is the responsibility of the agency head. Changing the culture of an organization takes time and consistent adherence to the core values established; supervisors cannot be allowed to “drift” from those values and, of course, modeling the behavior you want others to exhibit is part of demonstrating to everyone within the organization what is acceptable behavior both from a supervisory and leadership perspective.

Training is also a key ingredient for leadership skill development. All leadership training should be built upon those key behavioral anchors (core values). Building back trust is a long and difficult road. Consistency in leadership plays an important role in cultural change. All supervisors must be made aware of the importance of: being held to the behavioral anchors; modeling the behavior you want others to exhibit; fairness; openness; communication; coaching and mentoring skills, and holding everyone accountable in a fair and just manner are all components of an effective leadership training program. This training, once developed, should be required of all supervisors annually.

Although not a specific recommendation, KRW has included a Recommended Reading List for consideration. It has been our experience that selecting an appropriate leadership text that matches the vision and expectations of the organization can be helpful to ensure everyone is in alignment.

## **Communication**

### **Recommendation # 4      Develop, enhance and/or formalize communications.**

The Sheriff's Office must promote efforts to improve communication and establish an open, supportive organizational environment. Steps should be taken immediately to improve communication within the organization by establishing weekly informative staff meetings, open communicative shift briefings, and quarterly comprehensive departmental meetings. KRW suggests these meetings be aligned and coordinated with its suggestions under Recommendation #1 of this report. Organizational meetings to set core values and establish a new direction and mission, “clearing the air” in a safe environment, will be quite helpful and, to some degree, necessary to

encourage employees to voice complaints they believe have gone unheeded. Once employees have had the opportunity to express their dissatisfaction it will be possible to guide them to participate in positive change. Commanders and Lieutenants should begin to meet on a regular basis with their sergeants and civilian supervisors, as well as with employees by consistently attending shift briefings and participating in ride-alongs with officers. Finally, the Sheriff has established a pattern of personal interaction throughout the organization. This practice should continue to re-establish a level of trust and support from the rank and file. This visibility and personal interaction with employees at all levels of the organization will further this goal. While working on these issues, the Sheriff and Chief Deputies should attend shift briefings and participate in discussions at all levels of the organization.

Perceptions of past favoritism and unfair punitive sanctions must be addressed. An organizational commitment to evaluate the truth of allegations, make necessary corrections and, finally, to confront the task of changing the perceptions, must be evident in the facilitated team building sessions and be reflected by all supervisors in their treatment of employees from this point in time forward. Office policy and standards of behavior must be clearly defined and consequences for violations must be commensurate with the seriousness of the violation and be fairly and consistently applied. These are all leadership issues that must be directed from the very top of the organization. The Sheriff and his command staff must confront this sensitive issue in a fair and direct manner, leading first by example and participating in candid discussions, thereby demonstrating a commitment to lead in a new, productive, fair and impartial direction. These are all core value issues that will need to be formalized as part of the recommended process.

#### **Recommendation # 5      Establish a “Sheriff’s Advisory Council”.**

While the actual name of such a group is certainly open for discussion, KRW recommends the creation a group which represents all major areas of the Office (a “slice” of the organization) to meet with the Sheriff and Command Staff and discuss leadership practices, policy, and other issues of interest in the Department.

Clearly, most employees in the agency believe that a better form or type of leadership is needed. For reasons detailed in this report, sworn and civilian employees feel disconnected from an Organization-wide direction and do not feel the past “command and control” style of leadership is acceptable. Many statements reiterated the feeling “no sense of direction or vision for the agency.” In order to provide balance, it needs to be noted again here that several employees believe there are some good leaders who are “efficient”, “caring”, and “concerned about employees”. They also stated that those leaders have not been empowered or supported by top management.

Nonetheless, if there was an ongoing mechanism for members of the organization to meet with the Sheriff and the command staff, there would be a much better opportunity to listen and discuss issues and important matters. A connection between the direction of the Office, and organization members’ knowledge and understanding of an articulated direction and vision, could then be developed and sustained.

KRW envisions this “advisory council”, or representative group of department members, to be comprised of selected volunteers who are interested in the direction of the agency. Once selected, the members would meet on a regular basis with the Sheriff and command staff; structured in a way that is comfortable for everyone and the advisory group’s members. A quarterly meeting would seem to be appropriate. The setting could be somewhat casual, such as a breakfast meeting or box lunch with a meeting to follow. An update from the Sheriff and staff regarding any new policies, new resources, selection processes, equipment upgrades, and any organization restructuring, for example, would be provided. The attendees would then ask any questions and forward any issues of the day. This group could also take specific organizational issues affecting employees and provide

recommendations for change or implementation. Communication throughout the Office would also be improved through this process. This recommendation is designed to create an ongoing connection between the Sheriff, staff, and representative organization members, who would presumably forward the information to their colleagues.

## **Trust**

### **Recommendation # 6      Rebuild trust.**

As outlined several times in this report, Trust has been seriously damaged throughout the Office. This issue is critical for staff to address as early as possible. Trust is a fragile issue in an organization's culture. It is assured by reliance on the character, ability, consistency, dependability and trustworthiness of leadership. Building trust and credibility are core leadership competencies. To reestablish trust the organization and leadership need to demonstrate trust in employees. Being trusted, and being trusting, are strong predictors of employee satisfaction and performance. The anger, cynicism and negativity are a by-product of years of perceived injustices and lack of confidence in what they were being told and how people were being treated. Restoring confidence will take more than dictates, policies and promises. It will require a unified leadership approach. An organizational commitment, beginning with the Sheriff and continuing throughout the organization, is necessary to provide the foundation for developing new levels of trust. The recommendations contained in this report provide the foundation for enhancing mutual trust and will garner even more positive results if trust levels are improved.

## **Strategic Planning and Operations**

### **Recommendation # 7      Conduct business process analysis/re-engineering.**

There have been substantial efforts to date to identify organizational issues and address them. However, there does not appear to be any strategic plan for how these potential changes are to be identified, evaluated, prioritized and implemented. EPSO should conduct a thorough Business Process Identification and Analysis to determine what is being done, why, how, what should no longer be done, what should be done that isn't. This should be followed up with the development of a plan for Business Process Re-Engineering to address the issues identified in the Analysis. Currently, there are substantial efforts underway across the organization regarding technology, processes, consolidation and regionalization. These efforts are occurring largely in a vacuum with no cross-organizational involvement and little to no involvement at operational levels of the Office. While the majority of these areas of improvement are time-sensitive, such as new IT systems, the sense of urgency (real perceived and/or lacking prioritization) should not drive uncoordinated and compartmentalized efforts to provide short-term fixes with long-term consequences. A thorough Business Process Analysis will provide thorough, accurate and factual information on which to develop a focused and inclusive organizational strategic plan rather than a compilation of observations and anecdotal interpretations.

### **Recommendation # 8      Adopt single point of data capture.**

As a component of Recommendation # 7, EPSO should adopt a commitment to "single point of data capture" as the guiding principal for IT to eliminate redundant personnel actions and to enhance service delivery. Develop an IT working group with line representatives from across the organization

to garner information regarding the work practices. This information can then be forwarded to the IT Leadership Group.

**Recommendation # 9      Continue evaluation of the organizational chart and organizational alignment.**

Efforts should continue to evaluate the organizational structure and make adjustments as necessary and appropriate. Information should be gathered from a variety of sources and notice of changes should be distributed promptly across the organization.

**Recommendation # 10      Monitor the performance appraisal process.**

The entire performance evaluation process has been rewritten and implemented since January, 2015. On-going evaluation of the new process should continue to determine if it is meeting the expectations on which it was designed. Use of this new tool should be included in supervisory and employee training to ensure there is a common understanding and common goals regarding the performance appraisal process.

The new Sheriff has made some modifications to the Performance Evaluation System. It is essential that it be administered in a fair and equitable manner for all employees. This new evaluation system should be implemented Office-wide as soon as possible, with all employees being held to the same high standards of hard work and productivity, including an annual evaluation of sick time usage.

Many employees and supervisors commented that the performance evaluation system has little meaning and does not contribute to improved performance. The perception is that there is no consistency throughout the different areas of assignment as to expectations or what is measured. The implementation of a fair and equally applied performance evaluation system would combat such perceptions and needs to be developed and put into place throughout the organization. Such a system would provide a framework for supervisors to give direction and set expectations for employees, measure performance and reward or correct behavior that does not meet the standards of the organization. KRW recommends that the evaluation system be used to underscore examples of organizational values compliance and/or violations and measure both community-policing and problem solving efforts. A personnel development and job enrichment strategy should be developed which includes mentoring and coaching.

**Recommendation # 11      Establish a clear and unambiguous sexual harassment policy and include training for all employees—especially supervisors.**

Include sexual harassment training in every supervisory, leadership and in-service training. Clearly identify a reporting process including the identification of a primary point of contact for such complaints.

**Recommendation # 12      Review pay equity and time compensation.**

Many participants discussed a culture of non-sworn employees being considered and treated differently than the sworn employees. This culture has reportedly been in existence for a number of years. Additionally, when non-sworn employees are transferred, there does not appear to be a process to adequately compensate employees for their organizational tenure or a process to ensure consistency of salary relative to the type of work performed in different units. Compensation for on-call status should be reviewed to ensure compliance with legal requirements.

**Recommendation # 13      Assess Special Assignments - Establish a fair process for all available special assignments; establish and adhere to specific periods of time for deployment to all special assignments.**

A frequently mentioned concern and criticism is that only a select few are given the opportunity to serve in any special assignment. The common perception is that to be considered for special assignment, one must be a friend of the Sheriff or Undersheriff. This adds to the perception (real or imagined) of favoritism and nepotism. KRW recommends the establishment of a fair, open process for selection to all special assignments, including the establishment of specific criteria for consideration e.g., current and past performance in job assignments, consideration of any discipline and past special assignments. The goal must be to provide all interested employees an opportunity to compete based upon their current and recent past performance. KRW would also suggest defining the scope and length of special assignments. A special assignment should not be considered a career-long position. Assignments should allow for the individual to fully experience the benefits of the assignment, but at some point return to other duties and allow others to compete for the special assignment. KRW cannot suggest a specific time frame other than after 3 to 5 years one should have gained all of the skills for a special assignment and can, therefore, return to their prior assignment, thus sharing those new skills with other members of the Office.

**Recommendation # 14      Conduct a comprehensive review of “take-home” cars.**

With the passage of 1A, the assignment of take-home vehicles was significantly expanded without a clear justification for the operational necessity, mission, purpose or demonstration of taxpayer benefit. A detailed assessment of this practice should be conducted to evaluate the “Benefit vs Operational value/necessity”.

**Recommendation # 15      Conduct a comprehensive redistricting audit of patrol.**

An evaluation and audit of the patrol districts has not been conducted for a number of years. It is important to determine if these boundaries are still the most appropriate for providing services in a safe, effective and fiscally responsible manner.

**Recommendation # 16      Establish a formal Investigations case management accountability system for criminal investigations.**

Interviews indicated a lack of a structured criminal case management process that includes a formalized review and screening of cases forwarded to criminal investigations. Research recommends some formal use of a structured assessment of all cases forwarded to investigations using a protocol of solvability factors.

A structured case management system should include timely preparation and processing of all offense reports so that all potential cases reach the criminal investigations section within 24 - 48 hours. Cases should be reviewed by assignment supervisors using an established evaluation process. KRW recommends developing a numerical matrix of solvability factors based on models that have been found to be statistically sound and reliable.

Cases with a very high solvability score should be given the highest priority assignment and so on. A thoughtful case management system allows for several time sensitive categories to be available for case classification. The process should include categorizing those cases that do not reach a level sufficient for assignment (inactivated).

A structured review of all cases assigned by each unit supervisor to each detective should occur weekly so all cases receive the appropriate level of attention based upon the prioritized category of assignment and the time restrictions associated with each category. A review of the resources within this report will provide information to assist in the assessment of state of the art managing criminal investigations models.

**Recommendation # 17      Conduct the strategic identification of future needs and a thorough review of regionalization opportunities.**

As a component of strategic planning, identify and evaluate the benefits to be derived through opportunities for regionalization of services. Opportunities for enhanced service delivery and control of costs include:

1. Homicide Investigations.
2. Evidence.
3. Communications.
4. Air support.
5. SWAT-Tactical Unit
6. Open discussions with CSPD to develop a mutual agreement to investigate the other's Officer Involved Shootings.

**Recommendation # 18      Consider off-site locations to minimize travel time and costs to headquarters.**

Look for opportunities with CSPD to utilize space at either Stetson Hills or Falcon substation to book evidence. This would eliminate substantial "windshield time" deputies currently have to spend to take evidence downtown. These substations, as well as the Colorado State Patrol office, could also provide a safe environment for officers to complete reports or conduct follow-up investigations, again, without having to drive downtown.

**Detentions Operations**

**Recommendation # 19      Monitor and evaluate the use of force.**

Although the use of force within the CJC appears to be appropriate, all incidents of use of force should be closely monitored and evaluated to ensure full compliance with the law, training and policy/procedure while also considering the issues outlined in Recommendation # 40 of this report.

**Recommendation # 20      Evaluate the pre-trial release program.**

The EPSO should evaluate and consider required modification/revision to the pre-trial release program. The pre-trial release program could present a significant liability to the EPSO as bond revocation decisions are made administratively; without adequate investigation, without due consideration for probable cause and without adequate extra-judicial review and final judicial determination.

**Recommendation # 21      Evaluate the inmate property storage process and system.**

The inmate property storage process and system should be evaluated with consideration for additional space and economies. Reported deficiencies included a lack of panic alarms, camera

placement, inferior work stations and telephone capability. Additionally, the inmate property storage system is antiquated and subject to regular malfunction, causing costly repair and marked operational inefficiencies.

**Recommendation # 22      Expand the inmate classification/threat identification system.**

Consideration should be given to an expanded inmate classification/threat identification system with a focus on deputy/facility safety, to include modifications to the inmate clothing strategy which does not permit deputies to immediately identify classification related threats that could impact deputy/facility safety.

**Recommendation # 23      Replace/Upgrade the jail management system (JMS).**

Prioritize the proposed RFP related to replacement/upgrade of the Jail Management System (JMS) RFP process to replace or upgrade the current system within the context of an organization-wide IT strategic plan. The potential for liability and the potential impact upon public safety should serve as cause to make this issue a priority. Class action litigation recently filed against the Colorado Department of Corrections (DOC) regarding 'good time' calculations may be instructive to the potential for liability related to this matter.

**Recommendation # 24      Define and account for inmates with mental health issues.**

The EPSO should develop and implement a method of determining accurate numbers of inmates suffering mental health issues to ensure that data presented to the public and other interested parties is accurate and validated. The status of "mental health inmate" should be well defined in order to collect credible data. This data may then be effectively utilized to ensure integrity, consistency and accuracy of this critical data set.

**Recommendation # 25      Update process for calculating current incarceration costs.**

Current incarceration costs per day per inmate were determined by an established calculation that has been utilized since 2009. The current and actual cost of incarceration should be recalculated and updated to avoid controversy or inaccurate fee collection. The sharing of resources element of the incarceration fees should be revisited to ensure that past practice is consistent with the current environment.

**Recommendation # 26      Enhance image storage capacity.**

Image storage capacity and the ability to access images in a timely manner is acceptable, however upgrades to the current system should be a future consideration.

**Recommendation # 27      Institute a competitive bid process for medical services contract.**

The existing medical services contract has been in place for many years, a situation that should be considered for future competitive bids to ensure that effectiveness, efficiencies and economies are obtained.

**Recommendation # 28      Explore opportunities for interagency and public/private partnerships.**

The EPSO might consider exploring certain efficiencies and economies associated with inter-agency or public/private partnerships related to the purchase, inventory and distribution of pharmacy items. Public/Private partnerships established and fostered through the Gateway programs are critical to the success of the program as well as being key to the reputation of the EPSO. The partnerships should be strongly supported and others should be proactively pursued.

**Recommendation # 29      Institute a competitive bid process for food service contract.**

The food services contract should be considered for competitive bid to ensure the application of effectiveness, efficiency and economies.

**Recommendation # 30      Initiate kitchen facility upgrades.**

Although the CJC facility is clean and well maintained, the kitchen area of the facility is in need of infrastructure upgrades, repair and equipment replacement. The flooring of the kitchen area is in particular need of repair and/or replacement. Some of the industrial level equipment should also be considered for upgrade or replacement with a cost avoidance perspective.

**Recommendation # 31      Institute a competitive bid process for the commissary services contract.**

The contract elements associated with commissary services should be considered for competitive bid to ensure the application of effectiveness, efficiency and economies.

Establish a well-considered policy that specifically defines the EPSO Commissary Fund guidance for collection of revenue, specific and detailed guidance for Commissary Fund expenditures and specific guidance related to the annual "roll over" of fund balances at the end of each fiscal year. Authorization of Commissary Fund expenditures should be the responsibility of an individual/s that are not directly involved in the detentions function of the EPSO.

**Recommendation # 32      Assess the spending sources and processes for DETOX.**

Although the DETOX program is marketed as being funded "without tax dollars", the program does receive substantial support and assistance from tax funded resources directly related to the CJC and has been the recipient of certain levels of funding from the EPSO Commissary Fund. Use of Commissary Funds resources in support of the critical DETOX mission should be closely evaluated to ensure the expenditure meets the spending criteria established in the needed Commissary Fund expenditure policy/guidance (yet to be established).

**Recommendation # 33      Initiate a competitive bid process for inmate telephone services.**

The contract associated with inmate telephone services should be considered for competitive bid to ensure the application of effectiveness, efficiency and economies.

The revenue source and expenditure of funds related to inmate telephone services should be defined by well-considered policy/guidance and must be the subject of a consistent and meaningful auditing process.

The EPSO should evaluate strategic considerations related to the future revenue source provided through inmate telephone services. (KRW anticipates that future revenues related to inmate telephone services will be significantly reduced, based upon long-standing fee reduction debates and costing restrictions currently being applied to the Federal Bureau of Prisons.)

**Recommendation # 34      Evaluate the unescorted visitors and security policy.**

The practice of permitting unescorted professional visitors within the facility should be closely evaluated with a focus on the potential liability associated with the safety expectations of the unescorted visitor, inmate encounters, the potential for the introduction of contraband, and staff accountability for a safe and secure facility.

**Recommendation # 35      Develop a public awareness program.**

The community should be well informed of detentions operations and the critical public safety role of the detentions staff.

**Recommendation # 36      Review the detentions medical contract for opportunities for cost savings.**

Initiate discussions with the current service provider related to enhancing the existing month-to-month contract to a more permanent status through the remainder of 2015.

Explore discounts that may be considered as the result of expanding the contract from a month-to-month status, with more stability through 2015.

Explore the economies that may be associated with pharmacy procurement and inventory through inter-agency or public/private partnerships.

Consider opening the medical services contract for competitive bid to ensure the application of effectiveness, efficiency and economies.

Ensure that all contract medical staff are provided relevant security protocol training, as defined in the contract, and ensure the protocols are consistently followed.

Consider modifying medical services contract to appoint the position of health services administrator as an employee of the EPSO rather than a contract employee. The contract modification will provide direct control of medical services administration responsibilities to the Sheriff. However, with the additional control/influence, the liabilities to the Sheriff will also be increased.

The Sheriff should ensure that all possible discounts and economies are considered in future contract discussions, without diluting the level of medical services provided or increasing the liabilities to the community served.

## **Policy and Procedure / Disciplinary Process**

### **Recommendation # 37      Review current disciplinary policies and practices. Develop a written philosophy of discipline and guidelines for the determination of appropriate discipline.**

Consistent with the themes of lack of trust, ineffective communications, and lack of empowerment of first-line supervisors in other areas of the Sheriff's Office, many who were interviewed indicated distrust of the Office's discipline system. Comments revealed the perception of unfair punitive sanctions, inconsistent disciplinary decisions, pressure to change disciplinary recommendations, improper motivation for the initiation of disciplinary actions, and the use of inappropriate factors in determining disciplinary sanctions.

Such perceptions are not unique to the EPSO and have been a concern to law enforcement officers and administrators across the country. (See Appendix D, Stephens, Darrell W., *Police Discipline: A Case for Change*, Washington, D.C., U.S. Department of Justice, National Institute of Justice, 2011). Perceptions of unfairness and inconsistency are particularly prevalent in "chain of command" discipline systems where each level in the chain makes disciplinary findings and recommendations which are then reviewed and considered by the next level in the chain. Disparate, inconsistent recommendations inevitably lead to the perception of unfairness. Many agencies fail to provide department-wide guidelines for the review of disciplinary investigations and the determination of appropriate sanctions. Without these, reviewers default to their own individual beliefs as to such issues as the purpose of discipline or the factors to be used in determining whether a case should be sustained or what the appropriate discipline should be. These individual beliefs can sometimes lead to recommendations based upon inappropriate factors and biases, some of which are unintentional and unrealized by the reviewer.

Understanding the perceptions of inconsistency and unfairness voiced by some, the EPSO has recently created an avenue of appeal designated as the Disciplinary Review Board. While this may prove to be a commendable step in helping to change the perception of unfairness and inconsistency, care must be taken to ensure that members of the review board, as well as all others involved in the discipline process, are consistently following Office-wide philosophy and guidelines in reaching their disciplinary decisions.

Therefore, it is recommended that the Sheriff's Office engage in a process to review current disciplinary practices, create a more detailed written disciplinary philosophy and establish guidelines for the determination of whether an allegation of misconduct should be sustained and, if so, what the appropriate disciplinary sanction should be. This should be a collaborative process involving a cross-section of the entire Office and other stakeholders. This will help ensure input and "buy-in" from across the Office and increase communication as to the basis and intent of the project. The project should accomplish the following goals, along with any others as determined by the Sheriff's Office:

1. A review of the General Rules of Conduct to provide more specific notice of unacceptable conduct and reduce reliance on Rule 1, Obedience to Orders and Rule 15, Conduct Unbecoming. Consider amendments to or creation of the following:
  - a. Addition of a rule regarding "sexual misconduct" (see Appendix E);
  - b. Addition of a rule regarding the failure to prepare a use of force report when required to do so by policy or procedure;
  - c. Addition of a rule requiring immediate notification to a supervisor when a deputy witnesses or becomes aware of the use of unnecessary or excessive force by another;

- d. Addition of a rule establishing a duty to intervene, when possible, when a deputy witnesses an act of unnecessary or excessive force by another;
- e. Amendments to Rule 10, Departing from the Truth, to include an act of omission of material information where the evidence indicates the omission was done with the intent to deceive; and
- f. Amendments to Rule 29, Interference with an Investigation, to include administrative/internal investigations.

The above list is not intended to be exhaustive but merely illustrative of the issues which should be considered.

- 2. A review of the complaint intake process to ensure unobstructed access to the ability to lodge a complaint. As recommended by best practice experts and the U.S. Department of Justice, policies which tend to “chill” the filing of a complaint such as “automatic cut-off dates” and advisements of possible prosecution for false statements prior to taking a complaint, should be avoided unless required by state law.
- 3. Create guidelines for the empowerment of first-line supervisors to exercise their discretion to correct or counsel subordinate deputies without initiating formal corrective/disciplinary action. This should also include training in the proper use of this discretion, an appropriate method for recording/tracking any counseling sessions, and recognition that use of this discretion will be a component of performance evaluations of the supervisors.
- 4. Create better criteria for the designation of complaints which may be investigated at the supervisor level. Assure that supervisors are sufficiently trained to conduct the investigations and that the investigations are tracked and reviewed. Also make clear that the quality of the investigations and resulting recommendations will be a component of performance evaluations of the supervisors.
- 5. Review of current criteria for the use of polygraphs/Computer Voice Stress Analysis and creation of additional guidelines to better define cases where their judicious use is most appropriate.
- 6. Creation of a written philosophy of discipline to better guide disciplinary decision-making. The philosophy should describe the Office’s general approach to discipline issues and the factors which might be considered in determining disciplinary sanctions. (See Appendix F, The Charlotte-Mecklenburg Police Department’s discipline philosophy, as an example.)
- 7. Consider the creation of an even more detailed set of guidelines to better facilitate the analysis of whether an alleged violation should be sustained and what factors should be considered in determining the appropriate discipline. The goal of these detailed guidelines is to help ensure more consistent analysis and review of the facts of an investigation and more consistent analysis of the circumstances which should guide the determination of appropriate disciplinary sanctions. (See Appendix G, Sample Conduct Principles and Disciplinary Guidelines.)
- 8. Consider the creation of a discipline matrix. In general, the matrix is a chart or “table of discipline” with discipline options considered by the agency to be appropriate for the nature of the misconduct or rule violation being considered. Somewhat understandably, some law enforcement administrators consider the matrix to be too rigid an approach and argue that it limits the discretion of the decision-maker. However, this is not the case where the matrix is carefully developed with supporting rules and guidelines for its application. A well-constructed matrix is designed to result in more consistent discipline while still allowing for the exercise of discretion, when appropriate. It also serves to give notice to all members of

the agency and the public of the likely consequences of varying degrees/levels of misconduct. The discipline matrix has been used successfully across the county by many law enforcement agencies (See Appendix H, General Orders and Discipline Matrix of the Tucson Police Department). (See also Appendix I, Employee Disciplinary Matrix: A Search for Fairness in the Disciplinary Process, Police Chief Magazine, 2006). The use of a matrix has also been universally recommended by the U.S. Department of Justice to those law enforcement agencies that it has investigated in which issues of inconsistent or ineffective discipline and perceived unfairness have arisen.

The following should be taken into account when developing a discipline matrix:

Should be based on the agency's philosophy of discipline;

Should be accompanied by written disciplinary principles and guidelines as described above as well as written rules for the application of the matrix;

Should define classifications of misconduct and the nature of the misconduct which would normally fall into that classification;

Should provide for a presumptive disciplinary sanction for each classification which has been determined by the department to be appropriate for this type of violation. Presumptive means that the sanction would be presumed to be appropriate unless there are articulable facts and circumstances which would justify a greater or lesser sanction;

Should provide for a specific range of disciplinary sanctions less than or greater than the presumptive discipline to take into consideration mitigating or aggravating circumstances present in the particular case being considered;

Should provide for the consideration of prior disciplinary history and the application of progressive discipline; and

Should provide for the consideration of going "outside the matrix" when the articulable facts and circumstances of the particular case justify it.

The results of the above described review process should be posted on the agency's website as notice to all members of the agency and the public.

KRW has included a disciplinary matrix as an addendum to this report. This was included for consideration only and not a specific recommendation. There are many disciplinary models and some agencies use a matrix similar to that which is included here. KRW recognizes that there are arguments for and against the use of such a matrix. KRW recommends that if this approach is considered by EPSO, discussions should be initiated with agencies utilizing a discipline matrix and a review of its positive and negative aspects be conducted.

All members of the Office should receive general training in any new guidelines, policies and procedures which result from the review process. In addition, more in-depth training, including the use of mock disciplinary cases, should be conducted for all supervisors and command personnel.

Periodic review of the application of any new rules, policies or procedures should be implemented to ensure that any necessary changes are made and to ensure that the goals of attaining fair, appropriate, and reasonably consistent discipline are being met.

**Recommendation # 38      Commit to, create and maintain a comprehensive early intervention system.**

Effective early intervention systems have been referred to by one prominent best practice expert as the “centerpiece of the new accountability” in law enforcement. Both CALEA and the IACP, as well as the U.S. Department of Justice, have recognized that an effective early intervention system is an essential component in a well-managed law enforcement agency which can benefit individual officers, the agency, and the community served.

Originally conceived as a method of identifying “problem” officers, particularly with regard to the use of force, comprehensive early intervention systems have evolved into broad-based management tools which can not only identify and intervene with officers in need of assistance, but can also identify issues in policies, training, supervision, risk management, and other areas of importance to the entire agency.

The El Paso County Sheriff’s Office currently has an early warning system in place but its effectiveness is limited. It is designed primarily to identify deputies who meet certain thresholds with regard to the use of force, complaints, vehicle accidents, and vehicle pursuits. It is limited in its capacity to collect and analyze the data necessary to be more effective. The Office is currently exploring the services of a national vendor that will give it the ability to collect and analyze the necessary data. It is strongly recommended that securing those services be prioritized in conjunction with the overall strategy for improvement of technology services throughout the Office.

However, it must be recognized that simply securing these technology services alone will not guarantee success. The Sheriff and Command Staff must be committed to success and effectively communicate the benefits of a more comprehensive EIS to the entire Office. The Sheriff must dedicate resources necessary to identify and expand the performance indicators that should be collected and analyzed, develop the appropriate thresholds to help identify deputies in need of intervention, design appropriate intervention strategies, and implement effective post-intervention monitoring programs. Additionally, the Sheriff and Command Staff must understand the impact a comprehensive EIS will have on the roles and responsibilities of first-line supervisors and must train, motivate and evaluate them accordingly.

The below listed publications are recommended for review by the Sheriff’s Office. All are available on-line through the US Department of Justice Community Oriented Policing Services (COPS) Resource Center.

San Diego Police Department, *Enhancing Cultures of Integrity: Building Law Enforcement Early Intervention Systems, Technical Assistance Guide*, (US Department of Justice, 2011)

*Strategies for Intervening with Officers through Early Intervention Systems: A Guideline for Front-Line Supervisors*, (PERF, 2006)

*Supervision and Intervention within Early Intervention Systems: A Guide for Law Enforcement Chief Executives* (PERF, 2005)

**Recommendation # 39      Significantly enhance the data collection, storage and analytical capabilities of the Professional Standards Unit and position it to report directly to the Sheriff or Undersheriff. The Unit should also receive sufficient permanent administrative assistance.**

The vital importance of the Internal Affairs function cannot be overstated. When deputy misconduct is alleged, Internal Affairs becomes the primary method of reassuring both the community and deputies that the agency will effectively and appropriately conduct fair and impartial investigations.

The case/data management system currently used by Professional Standards is inadequate and incapable of supporting the demands of the Sheriff's Office. The ability to store and manage the data or create necessary analytical reports is severely limited. As indicated in the discussion of the early intervention system, the Office is currently exploring the services of a national vendor that would greatly enhance its capabilities. It is again strongly recommended that securing these services be prioritized in conjunction with the Office's overall strategy for improving technology services.

Additionally, as currently displayed in the EPSO organizational chart, the Professional Standards Unit is four levels removed from the Sheriff. This is not in keeping with generally accepted law enforcement practices which indicate that the nature of the duties performed by a department's internal affairs function and the confidentiality of records it is charged with maintaining necessitate that it report directly to the agency head or a designee close to the agency head. As noted in *Standards and Guidelines for Internal Affairs: Recommendations from a Community of Practice* (U.S. Department of Justice 2005), page 51:

*"The head of Internal Affairs should preferably report directly to the agency head. If a direct reporting relationship is not feasible, the internal affairs commanding officer should nonetheless have prompt, unrestricted and confidential access to all agency executives, including the agency head.*

*For purposes of independence, confidentiality, direct and unfiltered discussion, and some freedom from institutional politics and pressures, the head of internal affairs should report directly to the agency head. The role of internal affairs is too vital to the integrity of the agency to risk message transmission errors, misinterpretation, or personal biases that would interfere with the agency head's clearest understanding of cases and their context."*

See also, *Building Trust between the Police and the Citizens they Serve. An Internal Affairs Promising Practices Guide for Local Law Enforcement.* (US Department of Justice, 2007)

Finally, the importance, complexity and confidentiality of internal investigations justify the assignment of administrative support personnel to the Professional Standards Unit. The practice of temporarily reassigning Records personnel to provide assistance should be discontinued.

It is therefore recommended that the Sheriff's Office organizational chart be realigned so that the Professional Standards Unit reports directly to the Sheriff or Undersheriff and that the Unit receive sufficient permanent administrative assistance.

**Recommendation # 40      Consider and discuss other issues of importance as indicated below.**

A detailed study of the policies, procedures and practices of the EPSO was not intended when defining the scope of this assessment. Its stated purpose was to conduct "an in-depth assessment of the Sheriff's Department including discovery and analysis of current issues and challenges as presented by the members of the Department both sworn and non-sworn."

Nevertheless, based upon comments by some persons interviewed, the current level of scrutiny to which law enforcement agencies are subjected, particularly with regard to the use of force, and the expectation that law enforcement agencies hold themselves more accountable to the public, the following significant areas of interest are recommended for consideration by the Sheriff's Office:

### **a. Operating as a “Learning Organization”**

One of the most important concepts with regard to law enforcement today is that of “legitimacy” – an assessment of how a law enforcement agency uses its authority and carries out its responsibilities so as to earn the community’s trust and support. One of the cornerstones of achieving that legitimacy is constant self-assessment through review/auditing of agency policies, practices, critical incidents, and training in order to “learn” from itself and to improve the way it conducts business. This represents a dramatic shift from more traditional law enforcement practices where, unfortunately, meaningful change was accomplished only after a damaging incident or lawsuit. The Sheriff’s Office must have sufficient systems and practices in place to collect and analyze data, supervise and hold employees accountable at every level, and conduct constant review in order to make needed changes with the goal of preventing the damaging incident or lawsuit.

As part of the self-assessment process, the Sheriff’s Office must be aware of best practices in law enforcement and corrections in order to continue “learning” and to adapt to the latest thinking and practices. Unfortunately, there is no one source for what are considered best practices. Accreditation organizations such as CALEA or the ACA, as well as model policies available through organizations such as the International Association of Chiefs of Police (IACP) or Lexipol, provide guidance but the application of any of these must be geared to the specific jurisdiction and department adopting them.

Publications of professional organizations such as the Police Executive Research Forum (PERF), the National Sheriffs’ Association (NSA), the American Jail Association (AJA), the IACP, or Americans for Effective Law Enforcement (AELE), help to define best practices and provide notice of operational and legal issues which affect the development of policies and practices.

Likewise, publications of divisions of the U.S. Department of Justice such as the National Institute of Corrections (NIC), the Office of Community Oriented Policing Services (COPS), and the National Institute of Justice (NIJ) provide a wealth of resources from which to gain information and research on law enforcement and corrections practices.

Perhaps one of the largest single sources of recommendations for best practices can be found from a review of the investigations, consent decrees, and settlement agreements published on-line by the U.S. Department of Justice, Civil Rights Division, Special Litigation Section as a result of its enforcement of U.S. civil rights statutes and its “pattern or practice” litigation. To date, that litigation has involved over 30 police and sheriff’s departments across the United States.

Yet another resource are the reports prepared as a result of collaborative agreements in which law enforcement agencies actively seek assessment of their policies and practices by outside experts. Examples include: CNA reports on officer-involved shootings in the Las Vegas Metropolitan Police Department (2012) and the Philadelphia Police Department (2015); PERF Technical Assistance Review of the San Diego Police Department (2015); and the Hillard Heintze/OIR Group comprehensive assessment of the Denver Sheriff’s Department (2015).

The EPSO and its legal advisors should develop an on-going process for receiving notification of, studying, and determining the applicability of all of these sources to its own policies and practices.

### **b. Possible Amendments to EPSO Policy # 501, Use of Force**

As evidenced by incidents nationwide, no issue is likely to impact the public’s relationship with law enforcement more than the use of force. It is often the subject of citizen complaints, lawsuits, and intense media coverage. The authority to use force, up to and including deadly force, is an awesome one which must be scrupulously controlled so that it is not abused. At the same time, law enforcement officers must have the ability to protect themselves and the public and to carry out their duties and responsibilities. Therefore, all law enforcement agencies must have well-written use of

force policies which define and explain the appropriate use of force and guide officers in their decision to use force.

The EPSO is currently studying its core use of force policy. It is contemplating the use of a model policy and modifying it to meet the specific needs of the Office. It is recommended that this process be continued and expedited. The current use of force policy, while adequate, is not clearly written and does not conform to best practices.

It is further recommended that the EPSO study use of force policies of other sheriff's departments and the provisions contained in U.S. Department of Justice consent decrees and settlement agreements in order to determine the content and wording of its use of force policy. The following amendments should be considered:

1. A statement recognizing the sanctity of life and the significance of using deadly force;
2. Statement of policy acknowledging that only that force which is "objectively reasonable" shall be used;
3. Recognition that a deputy's actions immediately prior to the use of force may influence the need for or level of force;
4. Use of advisements, warnings and verbal persuasion, when possible, before resorting to force;
5. Use of de-escalation techniques to attempt to lessen the likelihood of the need to use force or to reduce the level of force;
6. Use of tactical options to attempt to reduce the need for force or the level of force such as disengagement, containment, use of cover/concealment and barriers, creating time and distance, waiting for "back-up", or calling for specialized units or deputies with special training;
7. Duty to de-escalate immediately as resistance decreases and the threat subsides;
8. Policy with regard to warning shots;
9. Policy with regard to shooting at or from moving vehicles and tactically approaching vehicles;
10. Duty to immediately notify a supervisor after witnessing or becoming aware of the use of unnecessary or excessive force by another deputy;
11. Duty to intercede, when possible, to stop the use of unnecessary or excessive force by another deputy;
12. Policy with regard to the drawing and brandishing of a firearm;
13. Factors to consider in determining the reasonableness of force options;

14. Duty to prepare thorough, complete and truthful reports, devoid of conclusory, “boilerplate” language, detailing the need and purpose for using force, the threat or resistance faced, the justification for the use of force option employed, and any attempts to use or consideration of lesser force options, where feasible;
15. Duty of supervisors to investigate and evaluate use of force by subordinates;
16. Duty to provide medical assistance to persons against whom force was used;
17. Acknowledgement of constitutional requirements for the use of force in an institutional/correctional setting (Hudson v McMillan, 503 US 1, [1993]); and
18. Specific reference (by title and policy number) to all other policies related to the core use of force policy.

The above list is not intended to be exhaustive but merely illustrative of issues which should be considered.

**c. Possible Amendments to EPSO Policy # 504, Critical Incident Review Board**

As noted previously, self-assessment and review are critical to recognizing the need for changes in policies, training, and practices. They are also critical to the management of risk within any law enforcement agency.

The EPSO has commendably created a process to review certain defined critical incidents. It is suggested that the Office expand the criteria for review by the Critical Incident Review Board to include:

1. Any incident involving a demonstrable risk to the safety of any deputy, employee, inmate or citizen;
2. Any escape, attempted escape or other breach of security;
3. Any major incident occurring within the jail or courts;
4. Any major use of force or hostage/barricade situation;
5. Any extended vehicle or foot pursuit;
6. Any incident/operation where major tactical considerations were involved;
7. Any incident involving potential risk of civil liability;
8. Any serious incident involving a mentally ill citizen or inmate; and
9. Any other incident deemed appropriate for review by the Sheriff or his designee.

The summary report of the results of the review process including any policy, training or practice issues identified and any “lessons learned” should be disseminated throughout the Office. Where the incident involved exemplary performance by any deputy or employee, that performance should be acknowledged and commended in the report.

#### **d. Increase Crisis Intervention Training and the Number of CIT Certified Deputies**

The appropriate and respectful handling of mentally ill citizens and inmates is an issue of tremendous significance to the Sheriff's Office and a situation faced by its deputies on a daily basis. Being able to successfully interact with those "in crisis" is critical to reducing the need for force and increasing deputy safety. Both "on the street" and in correctional settings, increased crisis intervention training and the creation of crisis intervention programs in partnership with mental health professionals have been proven to have a tremendous positive impact on interactions between law enforcement and those suffering from mental disorders or other forms of impairment.

Currently EPSO deputies receive some crisis intervention training in both the academy and in-service. However, less than 5% of the Office has received sufficient hours of training or demonstrated the proficiency necessary to be CIT certified. That number should be greatly increased.

## Professional Resources

The 5<sup>th</sup> edition of the Commission on Accreditation for Law Enforcement Agencies (CALEA) standards regarding Criminal Investigations.

The 4<sup>th</sup> edition of the International Association of City Managers (ICMA) Local Government Police Administration text; Chapter 6, Criminal Investigations.

COPS Office, U.S. Department of Justice. Community Policing Defined. [www.cops.usdoj.gov](http://www.cops.usdoj.gov)

Community Policing: Principles and Elements. Dr. Gary Cordner, Eastern Kentucky University.

Environmental Scan 2014. U.S. Department of Justice, National Institute of Corrections.

Solving Crimes: the Investigation of Burglary and Robbery, published by the Police Executive Research Forum, 1983.

Standard Functional Specifications for Law Enforcement Computer Aided Dispatch (CAD) Systems, Bureau of Justice Assistance and the National Institute of Justice, 2003. [www.usdoj.gov](http://www.usdoj.gov)

Managing Data Across the Government Enterprise. A Resource Guide for Integrating Data to Support Analytics-Based Decision-Making. Governing Institute, 2015.

Standard Functional Specifications for Law Enforcement Records Management Systems (RMS), Bureau of Justice Assistance and the National Institute of Justice, 2003. [www.usdoj.gov](http://www.usdoj.gov)

- Network Staffing and Spending Ratios: Executive Summary.
- DBA Staffing Ratios: Executive Summary
- Desktop Support Staffing Ratios: Executive Summary

Hillard/Heintze, New Vision, Brighter Future, The Denver Sheriff Department, Transforming the Leadership, Operations and Culture of the Department. 2015

City of Denver, Department of Safety, Report on the Manager of Safety's Disciplinary Advisory Group. (2008).

Denver Sheriffs Department, Discipline Handbook: Conduct Principles and Disciplinary Guidelines. (2011).

Enhancing Cultures of Integrity: Building Law Enforcement Early Intervention Systems. (U.S. Department of Justice, COPS Office, 2011)

San Diego Police Department, Enhancing Cultures of Integrity: Building Law Enforcement Early Intervention Systems, Technical Assistance Guide, (US Department of Justice, 2011)

Strategies for Intervening with Officers through Early Intervention Systems: A Guideline for Front-Line Supervisors, (PERF, 2006)

Supervision and Intervention within Early Intervention Systems: A Guide for Law Enforcement Chief Executives (PERF, 2005)

Standards and Guidelines for Internal Affairs: Recommendations from a Community of Practice (U.S. Department of Justice 2005), page 51.

*Building Trust between the Police and the Citizens they Serve. An Internal Affairs Promising Practices Guide for Local Law Enforcement*, (US Department of Justice, 2007)

Walker, Samuel and Archibald, Carol A. *The New World of Police Accountability*. 2<sup>nd</sup> ed. 2014.

## Recommended Reading List

Abrashof, Captain D. Michael. *It's Your Ship*. 2014.

Collins, Jim. *Good to Great*. 1<sup>st</sup> ed. 2001.

Covey, Stephen R. *The Seven Habits of Highly Effective People*. 1990.

Geller, William and Stephens, Darrel W., editors. *Local Government Police Management*. ICMA 4<sup>th</sup> ed.

Gilmartin, Ph.D., Kevin M. *Emotional Survival for Law Enforcement*. 2002.

Goldstein, Herman. *Policing a Free Society*. 1977.

Harari, Oren. *The Leadership Secrets of Colin Powell*. 2002.

Hoyle, John R. *Leadership and Futuring*. 2006.

Hunter, James C. *The Servant: A Simple Story About the True Essence of Leadership*. 1998.

Kotter, John P. *Leading Change*. 2002.

Kouzes, James M. and Posner, Barry. *Credibility: How Leaders Gain and Lose It, Why People Demand It*. 2011.

Kouzes, James M. and Posner, Barry. *The Leadership Challenge*. 2012.

Rath, Tim and Conchie, Barry. *Strengths Based Leadership*. 2008.

Weick, Karl E. and Sutcliffe, Kathleen M. *Managing the Unexpected*. 2<sup>nd</sup> ed. 2007.

# Appendix A

## Community Policing: Principles and Elements

### Community Policing: Principles and Elements

Dr. Gary Cordner  
Eastern Kentucky University

Community policing has its roots in such earlier developments as police-community relations, team policing, crime prevention, and the rediscovery of foot patrol. In the 1990s it has expanded to become the dominant strategy of policing - so much so that the 100,000 new police officers funded by the 1994 Crime Bill must be engaged in community policing.

Community policing (COP) is often misunderstood. Four essential principles should be recognized:

**COP is not a panacea.** It is not the answer to all problems facing modern policing or all the problems facing any one department. However, COP is an answer to some of the problems facing modern policing and it may be an answer to some of the problems facing any one department.

**COP is not totally new.** Some police departments or individual police officers report that they are already doing it, or even that they have always practiced COP. This may be true. Even so, there are some specific aspects of community policing that are relatively new; also, very few agencies can claim that they have fully adopted the entire gamut of COP department-wide.

**COP is not "hug a thug".** It is not anti-law enforcement or anti-crime fighting. It does not seek to turn police work into social work. In fact, COP is more serious about reducing crime and disorder than the superficial brand of incident-oriented "911 policing" that most departments have been doing for the past few decades.

**COP is not a cookbook.** There is no iron-clad, precise definition of community policing nor a set of specific activities that must always be included. A set of universally-applicable principles and elements can be identified, but exactly how they are implemented should and must vary from place to place, because jurisdictions and police agencies have differing needs and circumstances. In order to describe the full breadth of community policing, it is helpful to identify four major dimensions of COP and the most common elements occurring within each. The four dimensions are:

#### The Philosophical Dimension

Many of its most thoughtful and forceful advocates emphasize that community policing is a new philosophy of policing, perhaps constituting even a paradigm shift away from professional-model policing, and not just a particular program or specialized activity. The philosophical dimension includes the central ideas and beliefs underlying community policing. Three of the most important are citizen input, broad function, and personal service.

#### Citizen Input

Community policing incorporates a firm commitment to the value and necessity of citizen input to police policies and priorities. In a free and democratic society, citizens are supposed to have a say in how they are governed. Police departments, like other agencies of government, are supposed to be responsive and accountable. Also, from a more selfish standpoint, law enforcement agencies are most likely to obtain the citizen support and cooperation they need when they display interest in input from citizens.

A few of the techniques utilized to enhance citizen input are:

**Agency Advisory Boards:** groups of citizens who meet regularly with the chief/sheriff and other top commanders to provide input and advice on overall agency policies, priorities, and issues.

**Unit Advisory Boards :** groups of citizens who meet regularly with unit commanders and related personnel to provide input and advice on unit policies, priorities, and issues (e.g., precinct advisory boards, victims/witness advisory councils, family abuse advisory boards, etc.)

**Beat Advisory Boards :** groups of citizens who meet regularly with their beat officer or beat team to provide input and advice on priorities and issues.

**Special Advisory Boards :** groups of citizens with special interests who meet regularly with the chief/sheriff, top commanders, or related personnel to provide input and advice on policies, priorities, and issues related to their special interests (e.g., ministry alliance, business council, mental health council, etc.)

**Community Surveys :** surveys conducted in various ways (telephone, mail, in-person, in the newspaper, etc.) to obtain citizen views on policies, priorities, and issues.

**Electronic Mail/Home page :** use of the Internet, on-line services, computer bulletin boards, etc. to obtain citizen views on policies, priorities, and issues.

**Radio/Television Call-In Shows :** use of radio and TV call-in shows to obtain citizen views on policies, priorities, and issues.

**Town Meetings :** public meetings to which citizens are invited in order to provide input and advice on policies, priorities, and issues.

#### Broad Function

COP recognizes policing as a broad function, not a narrow law enforcement or crime fighting role. The job of police officers is seen as working with residents to enhance neighborhood safety. This includes resolving conflicts, helping victims, preventing accidents, solving problems, and fighting fear as well as reducing crime through apprehension and enforcement. Policing is inherently a multi-faceted government function - arbitrarily narrowing it to just call-handling and law enforcement reduces its effectiveness in accomplishing the multiple objectives that the public expects police to achieve.

Some examples of the broad function of policing include:

**Traffic Safety :** good police departments pursue traffic safety through education and engineering as well as selective enforcement.

**Drug Abuse :** many agencies seek to reduce drug abuse through public education, DARE, regulation of prescriptions, and control of chemicals as well as through a variety of enforcement efforts.

**Fear Reduction :** many agencies attempt to reduce fear of crime (especially when it is out of proportion to actual risk) through public education, high-interaction patrol, problem solving, and enforcement focuses on nuisance crimes (e.g.; panhandling and loitering)

**Domestic Violence** : most police departments now offer domestic violence victims an array of services (referral, transportation, protection, probably cause arrest, etc.) rather than merely explaining how to obtain an arrest warrant.

**Zoning** : some agencies take the opportunity to participate in zoning decision and related matters (e.g., issuance of building permits) in order to offer input related to traffic safety, crime prevention, etc.

### Personal Service

Community policing emphasizes personal service to the public, not bureaucratic behavior. This is designed to overcome one of the most common complaints that the public has about government employees, including police officers, -- that they do not seem to care, and that they treat citizens as numbers, not real people. Of course, not every police-citizen encounter can be amicable and friendly. But whenever possible, officers should deal with citizens in a friendly, open and personal manner designed to turn them into satisfied customers. This can best be done by eliminating as many artificial bureaucratic barriers as possible, so that citizens can deal directly with "their" officer.

A few of the methods that have been adopted in order to implement personalized service are:

**Officer Business Cards** : officers are provided with personalized business cards to distribute to victims, complainants, and other citizens with whom they have contact.

**Officer Pagers and Voice Mail** : officers have their own pagers and voice mail so that victims, complainants, and other citizens can contact them directly.

**Recontact Procedures** : all of a subset of victims, complainants, and others are recontacted by the officer who handled their situations, the officer's supervisor, or some other staff member (e.g., a volunteer) to see if further assistance is needed.

**Slogans and Symbols** : many departments adopt slogans, mission statements, value statements, and other devices designed to reinforce the importance of providing personalized service to the public.

### The Strategic Dimension

The strategic dimension of community policing includes the key operational concepts that translate philosophy into action. These strategic concepts are the links between the broad ideas and beliefs that underlie community policing and the specific programs and practices by which it is implemented. They assure that agency policies, priorities, and resource allocation are consistent with the COP philosophy. Three important strategic elements are re-oriented operations, prevention emphasis, and geographic focus.

#### Re-Oriented Operations

Community policing recommends re-oriented operations, with less reliance on the patrol car and more emphasis on face-to-face interactions. One objective is to replace ineffective or isolating operational practices (e.g., motorized patrol and rapid response to low priority calls) with more effective and more interactive practices. A related objective is to find ways of performing necessary traditional functions (e.g., handling emergency calls and conducting follow-up investigations) more efficiently, in order to save time and resources that can then be devoted to more community-oriented activities.

Some illustrations of re-oriented operations include:

**Foot Patrol** : where appropriate, many agencies have instituted foot patrols to supplement or even replace motorized patrol.

**Other Modes of Patrol** : many agencies have adopted other modes of patrol, such as bicycle patrol, scooter patrol, dirt bike patrol, and horse patrol.

**Walk and Ride** : many agencies require officers engaged in motorized patrol to park their cars periodically and engage in foot patrol in shopping centers, malls, business districts, parks, and residential areas.

**Directed Patrol** : many agencies give motorized patrol officers specific assignments (sometimes called "D-runs") to carry out during time periods when they are not busy handling calls.

**Differential Response** : many agencies have adopted differential responses (e.g., delayed response, telephone reporting, walk-in reporting) tailored to the needs of different types of calls, instead of dispatching a marked unit to the scene of every call for service.

**Case Screening** : many agencies have adopted different investigative responses (e.g., no follow-up, follow-up by patrol, follow-up by detectives) tailored to the needs of different types of criminal and non-criminal cases, instead of assigning every case to a detective.

#### Prevention Emphasis

Community policing tries to implement a prevention emphasis, based on the common sense idea that although citizens appreciate and value rapid response, reactive investigations, and apprehension of wrongdoers, they would always prefer that their victimizations be prevented in the first place. Most modern police departments devote some resources to crime prevention, in the form of a specialist officer or unit. COP attempts to go farther by emphasizing that prevention is a big part of every officer's job.

A few of the approaches to focusing on prevention that departments have adopted are:

**Situational Crime Prevention** : the most promising general approach to crime prevention is to tailor specific preventive measures to each situation's specific characteristics.

**CPTED** : one set of measures used by many departments is CPTED (Crime Prevention Through Environmental Design), which focuses on the physical characteristics of locations that make them conducive to crime.

**Community Crime Prevention** : many departments now work closely with individual residents and with groups of residents (e.g., block watch) in a cooperative manner to prevent crime.

**Youth-Oriented Prevention** : many departments have implemented programs or collaborated with others to provide programs designed to prevent youth crime (e.g., recreation, tutoring, and mentoring programs)

**Business Crime Prevention** : many departments work closely with businesses to recommend personnel practices, retail procedures, and other security measures designed to prevent crime

#### Geographic Focus

Community policing adopts a geographic focus, to establish stronger bonds between officers and neighborhoods in order to increase mutual recognition, identification, responsibility, and accountability. Although most police departments have long assigned patrol officers to beats, the officers' accountability has usually been temporal (for their shift) rather than geographic. More specialized personnel within law enforcement agencies have been accountable for performing their functions but not for any geographic areas. By its very name, however, community policing implies an emphasis on places more so than on times or functions.

Some of the methods by which COP attempts to emphasize geography are as follows:

**Permanent Beat Assignment** : patrol officers are assigned to geographic beats for extended periods of time, instead of being rotated frequently.

**Lead Officers** : since several different officers will be assigned to a beat across 24 hours a day, 7 days a week, often one officer is designed as the lead officer responsible for problem identification and coordination of the efforts of all the officers.

**Beat Teams** : the basic building block for patrol can be the beat team (all the officers who work a particular beat) rather than the temporal squad or shift.

**Cop-of-the-Block** : the beat can be sub-divided into smaller areas of individual accountability, so that every patrol officer has general responsibility for a beat and special responsibility for a smaller area.

**Area Commanders** : middle-level managers (typically lieutenants) can be given responsibility for geographic areas consisting of several beats, instead of being shift or squad commanders.

**Mini-Stations** : each beat or combination of beats can have its own facility (mini-station, sub-station, or storefront) to give it additional geographic focus for officers and area residents.

**Area Specialists** : some detectives and other specialists can be assigned to geographic areas instead of to narrow sub-specialties (e.g., a detective handles all, or at least most, of the crimes occurring in a particular neighborhood, instead of handling car thefts from all over the jurisdiction).

## Tactical Dimension

The tactical dimension of community policing ultimately translates ideas, philosophies, and strategies into concrete programs, tactics, and behaviors. Even those who insist, "community policing is a philosophy, not a program" must concede that unless community policing eventually leads to some action, some new or different behavior, it is all rhetoric and no reality. Indeed, many commentators have taken the view that community policing is little more than a new police marketing strategy that has left the core elements of the police role untouched. Three of the most important tactical elements of community policing are positive interaction, partnerships, and problem solving.

## Positive Interaction

Policing inevitably involves some negative contacts between officers and citizens - arrests, tickets, stops for suspicion, orders to desist, inability to make things much better for victims, etc. Community policing recognizes this fact and recommends that officers offset it as much as they can by engaging in positive interactions whenever possible. Positive interactions have several benefits, of course: they generally build familiarity, trust, and confidence on both sides; they remind officers that most citizens respect and support them; they make the officer more knowledgeable about people and

conditions in the beat; they provide specific information for criminal investigations and problem solving; and they break up the monotony of motorized patrol.

Some methods for engaging in positive interaction include:

**Routine Call Handling** : officers can take the time to engage in more positive interaction in the course of handling calls, instead of rushing to clear calls in order to return to motorized patrol.

**Meetings** : officers can take every opportunity to attend neighborhood meetings, block watch meetings, civic club meetings, etc.; these can yield productive non-enforcement interactions with a wide spectrum of the community.

**School-Based Policing** : officers who take the trouble to go into the schools get many opportunities to interact positively with youth, not to mention teachers and other school staff.

**Interactive Patrol** : too many officers patrol primarily by watching what goes on in public spaces; officers should stop and talk with more people so that their patrolling relies more on interacting than on watching.

## Partnerships

Community policing stresses the importance of active partnerships between police, other agencies, and citizens, in which all parties really work together to identify and solve problems. Citizens can take a greater role in public safety than has been typical over the past few decades, and other public and private agencies can leverage their own resources and authority toward the solution of public safety problems. Obviously, there are some legal and safety limitations on how extensive of a role citizens can play in "co-producing" public safety. Just as obviously, it is a mistake for the police to try to assume the entire burden for controlling crime and disorder.

Some of the more interesting police-community partnerships and collaboration innovations include:

**Citizen Patrols** : in many jurisdictions citizens actively patrol their neighborhoods, usually in cooperation with the police and often in radio or cellular phone communication with police dispatch.

**Citizen Police Academies** : many departments now operate citizen police academies, typically held in the evenings, that inform interested citizens about the police department and often prepare them for roles as volunteers or citizen patrols.

**Volunteers** : many departments utilize volunteers, auxiliaries, and reserves in a variety of sworn and non-sworn roles.

**Schools** : many police departments today work much more closely with schools than in the past, not just with the DARE programs but also with school resource officers, truancy programs, etc.

**Code Enforcement** : many of the problem locations that police deal with are susceptible to code enforcement for various building and safety violations

**Nuisance Abatement** : some locations have such a multitude and history of criminal and civil law violations that procedures can be followed to close them down, demolish them, and/or forfeit their ownership to the government.

**Landlords & Tenants** : many police departments work closely with apartment managers, public housing managers, tenant associations, and similar groups in order to improve leasing practices and prevent problems in rental properties.

## Problem Solving

Community policing urges the adoption of a problem solving orientation toward policing, as opposed to the incident-oriented approach that has tended to prevail in conjunction with the professional model. Naturally, emergency calls must be still handled right away, and officers will still spend much of their time handling individual incidents. Whenever possible, however, officers should search for the underlying conditions that give rise to single and multiple incidents. When such conditions are identified, officers should try to affect them as a means of controlling and preventing future incidents. Basically, officers should strive to have more substantive and meaningful impact than occurs from 15-minute treatments of individual calls for service.

Some of the more promising approaches to problem solving include:

**The CAPRA Model** : many departments use the CAPRA model (clients, acquiring & analyzing info, partnerships, response, assessment) as a guide to the problem solving process for all kinds of crime and noncrime problems.

**Guardians** : when searching for solutions to problems, it is often helpful to identify so-called guardians, who are people who have an incentive or the opportunity to help rectify the problem (e.g., landlords, school principals, etc.).

**Beat Meetings** : some departments utilize meetings between neighborhood residents and their beat officers to identify problems, analyze them, and brainstorm possible solutions.

**Hot Spots** : many departments analyze their calls for service to identify locations that have disproportionate numbers of calls, and then do problem solving to try to lower the call volume in those places.

**Multi-Agency Teams** : some jurisdictions use problem solving teams comprised not just of police but also of representatives of their agencies (public works, sanitation, parks and recreation, code enforcement, etc.) so that an array of information and resources can be brought to bear once problems are identified.

## The Organizational Dimension

It is important to recognize an Organizational Dimension that surrounds community policing and greatly affects its implementation. In order to support and facilitate community policing, police departments often consider a variety of changes in organization, administration, management, and supervision. The elements of the organizational dimension are not really part of community policing per se, but they are frequently crucial to its successful implementation. Three important elements of COP are **structure, management, and information**.

### Structure

Community policing looks at various ways of restructuring police agencies in order to facilitate and support implementation of the philosophical, strategic, and tactical elements described above. Any organization's structure should correspond with its mission and the nature of the work performed by its members. Some aspects of traditional police organizational structure seem more suited to routine, bureaucratic work than to the discretion and creativity required for COP.

The types of restructuring associated with community policing include:

**Decentralization** : authority and responsibility can sometimes be delegated more widely so that commanders, supervisors, and officers can act more independently and be more responsive.

**Flattening** : the number of layers of hierarchy in the police organization can sometimes be reduced in order to improve communications and reduce waste, rigidity, and bureaucracy.

**De-specialization** : the number of specialized units and personnel can sometimes be reduced, with more resources devoted to the direct delivery of police services (including COP) to the general public.

**Teams** : efficiency and effectiveness can sometimes be improved by getting employees working together as teams to perform work, solve problems, or look for ways of improving quality.

**Civilianization** : positions currently held by sworn personnel can sometimes be reclassified or redesigned for non-sworn personnel, allowing both cost savings and better utilization of sworn personnel.

## Management

Community policing is often associated with styles of leadership, management, and supervision that give more emphasis to organizational culture and values and less emphasis to written rules and formal discipline. The general argument is that when employees are guided by a set of officially sanctioned values they will usually make good decisions and take appropriate actions. Although many formal rules will still probably be necessary, managers will need to resort to them much less often in order to maintain control over subordinates.

Management practices consistent with this emphasis on organizational culture and values include:

**Mission** : agencies should develop concise statements of their mission and values and use them consistently in making decisions, guiding employees, and training new recruits.

**Strategic Planning** : agencies should engage in continuous strategic planning aimed at ensuring that resources and energy are focused on mission accomplishment and adherence to core values; otherwise, organizations tend to get off track, confused about their mission and about what really matters.

**Coaching** : supervisors should coach and guide their subordinates more, instead of restricting their roles to review of paperwork and enforcement of rules and regulations.

**Mentoring** : young employees need mentoring from managers, supervisors, and/or peers - not just to learn how to do the job right but also to learn what constitutes the right job; in other words, to learn about ethics and values and what it means to be a good police officer.

**Empowerment** : under COP, employees are encouraged to be risk-takers who demonstrate imagination and creativity in their work - this kind of empowerment can only succeed, however, when employees are thoroughly familiar with the organization's core values and firmly committed to them.

**Selective Discipline** : in their disciplinary processes, agencies should make distinctions between intentional and unintentional errors made by employees and between employee actions that violate core values versus those that merely violate technical rules.

## Information

Doing community policing and managing it effectively require certain types of information that have not traditionally been available in all police departments. In the never-ending quality versus quantity debate, for example, community policing tends to emphasize quality. This emphasis on quality shows up in many areas: avoidance of traditional bean-counting (arrest, tickets) to measure success, more concern for how well calls are handled than merely for how quickly they are handled, etc. Also, the geographic focus of community policing increases the need for detailed information based on neighborhoods as the unit of analysis. The emphasis on problem solving highlights the need for information systems that aid in identifying and analyzing a variety of community-level problems. And so on.

Several aspects of police administration under COP that have implications for information are:

**Performance Appraisal** : individual officers can be evaluated on the quality of their community policing and problem solving activities, and perhaps on results achieved, instead of on traditional performance indicators (tickets, arrests, calls handled, etc.)

**Program Evaluation** : police programs and strategies can be evaluated more on the basis of their effectiveness (outcomes, results, quality) than just on their efficiency (efforts, outputs, quantity).

**Departmental Assessment** : the police agency's overall performance can be measured and assessed on the basis of a wide variety of indicators (including customer satisfaction, fear levels, problem solving, etc.) instead of a narrow band of traditional indicators (reported crime, response time, etc.)

**Information Systems** : an agency's information systems need to collect and produce information on the whole range of the police function, not just on enforcement and call-handling activities, in order to support more quality-oriented appraisal, evaluation, and assessment efforts.

**Crime Analysis** : individual offices need more timely and complete crime analysis information pertaining to their specific geographic areas of responsibility to facilitate problem identification, analysis, fear reduction, etc.

**Geographic Information Systems (GIS)** : sophisticated and user-friendly computerized mapping software available today makes it possible for officers and citizens to obtain customized maps that graphically identify "hot spots" and help them more easily picture the geographic locations and distributions of crime and related problems.

# Appendix B

## Key Elements of Community Policing

Gary Cordner for the COPS Office, U.S. Department of Justice

### Philosophical Dimension

<i>Citizen Input</i>	Police agencies need extensive input from citizens on problems, priorities, policies, etc.
<i>Broad Function</i>	Policing is a broad function – it is much more than just law enforcement.
<i>Personal Service</i>	Policing works best when officers know citizens and deliver personalized service – the opposite of stranger policing.

### Strategic Dimension

<i>Re-Oriented Operations</i>	Police need to look beyond the traditional strategies of motorized patrol, rapid response, and detective investigations.
<i>Prevention Emphasis</i>	Whenever possible, police should emphasize preventing crime and other problems before they happen – rather than simply reacting after the fact.
<i>Geographic Focus</i>	Policing should be organized and deployed to maximize the extent of identification between specific officers and specific neighborhoods.

### Tactical Dimension

<i>Positive Interaction</i>	Police should take every opportunity to engage in positive interaction with all segments of the community – especially since the nature of police work guarantees that some degree of negative interaction is inevitable.
<i>Partnerships</i>	Police should engage the community in a partnership to deal with crime and related problems. This includes collaborating with other public and private agencies in tackling problems.
<i>Problem Solving</i>	Police and citizens should take every opportunity to address the conditions that cause incidents and crimes – instead of merely handling one call after another as if they are unrelated.

### Organizational Dimension

<i>Structure</i>	Police agencies should re-examine their structures to assure that they support and facilitate community policing.
<i>Management</i>	Police agencies should re-examine the way people are supervised and managed to assure consistency with community policing.
<i>Information</i>	Police agencies should re-examine their information systems to make sure they support and facilitate community policing.

## Appendix C Policing Philosophy

### Policing Philosophy \_\_\_\_\_ Police Department

The Policing Philosophy of the \_\_\_\_\_ Police Department is one of a “Blended” vision of providing police service that align many of the benefits of what we refer to as Traditional Policing with emerging initiatives in policing. This balance is one between quality of life/order maintenance needs of the community with the law enforcement aspects of policing which emphasize preventing crime through patrol; investigative and data driven efforts. The overall goal of this other side of this balance is apprehending and participating in the prosecution of criminals who commit crimes within the City of\_\_\_\_\_.

Traditional Policing includes but is not limited to the following:  
To:

- protect life
- protect property; and
- maintain order;
- prevent and control conduct widely recognized as threatening to life and property;
- aid individuals who are in danger of physical harm;
- protect constitutional guarantees;
- facilitate the movement of people and vehicles;
- assist those who cannot care for themselves;
- resolve conflict
- identify problems that have the potential for becoming more serious;
- create and maintain a feeling of security in the community. (Goldstein, Policing a Free Society, 1977 p. 35).

The “Blending” occurs with the emerging models of policing that balances these Traditional aspects of policing with the following dimensions and elements of Community Policing, along with the inclusion of Intelligence Led Policing:

- **Philosophical Dimension:** Seeking citizen input, Broadening police functions, Providing personal service.
- **Strategic Dimension:** Re-orientation of operations, Geographic focus, A Prevention emphasis.
- **Tactical Dimension:** Positive interaction with our citizens, Developing Partnerships, Problem Solving.
- **Organizational Dimension:** Support for modifying organizational structure, Re-exam methods of supervision and management, Using Information and Information Systems to the fullest degree possible. (Cordner’s Dimensions and Elements of Policing 1996).

- **Intelligence-Led Policing:** A business model and managerial philosophy where data and crime intelligence are used in decision making to reduce and prevent crime, apprehend those who commit crimes and increase the sense and reality of safety for all of our citizens and visitors, (Jerry Ratcliffe).

**Appendix D**  
**New Perspectives in Policing**  
**Police Discipline – A Case for Change**

**Darrel W. Stephens for the U.S. Department of Justice**

# New Perspectives in Policing

## Police Discipline: A Case for Change

Darrel W. Stephens

### Introduction

Police disciplinary procedures have long been a source of frustration for nearly everyone involved in the process and those interested in the outcomes. Police executives are commonly upset by the months – and sometimes years – it takes from an allegation of misconduct through the investigation and resolution. Their frustration is even greater with the frequency with which their decisions are reversed or modified by arbitrators, civil service boards and grievance panels. Police officers and their unions generally feel discipline is arbitrary and fails to meet the fundamental requirements of consistency and fairness. Unless it is a high-profile case or one is directly involved, few in the community are interested in the police disciplinary process. Those interested are mystified by both the time involved in dealing with complaints of misconduct and the various steps in a lengthy, confusing and overly legal process. The one area about the administration of police discipline where there is general agreement: it is a frustrating experience that leaves everyone with a sense that it has fallen well short of the primary purpose of holding officers accountable for their actions and encouraging behavior that falls within the department expectations and values. News accounts reinforce the overall dissatisfaction with police discipline:

- **United Kingdom.** Published in the *Review of Police Disciplinary Arrangements*, Ms. Hazel Blears said: “I am grateful to William Taylor for his thorough review. There is clear agreement...that police disciplinary arrangements need to move away from being lengthy, costly, heavily regulated and punitive” (Taylor, 2005).
- **Newark, N.J.** “The Newark City Council launched an investigation today into the police department’s disciplinary procedure after African-American and Hispanic officers complained supervisors were disproportionately punishing them” (Adarlo, 2009).
- **San Francisco, Calif.** “Police Commission President John Kecker says he hopes the uproar over the panel’s vote not to fire Officer Marc Andaya will spur the city to revamp the ‘broken’ police disciplinary system” (Zamora, 1997).

Twelve years later: “Almost six years after San Francisco voters gave civilians unparalleled power over police officers, the city’s discipline system is beset by delays of months and sometimes years, officials in charge of it say” (Cote, 2009).

- **Madison, Wis.** “Two lawmakers are proposing a statewide solution to the problem of how to establish a system for disciplining and dismissing law enforcement officers and to end pay for those who are fired” (Forster, 2007).
- **Montgomery County, Md.** “In 2008, ne out of nine officers found by the department to have committed a serious offense received the punishment originally recommended by Police Chief J. Thomas Manger, according to Assistant County Attorney Chris Hinrichs” (Suderman, 2009).
- **Cincinnati, Ohio.** “The most severe punishment for police misconduct in Cincinnati are the least likely to stick. Police officers disciplined for major violations – from breaking policies to breaking laws – get their penalties reduced nearly three times more often than officers accused of minor violations” (Anglen and Horn, 2001).

These news accounts, and others from the past few years, clearly reflect widespread concern with the processes used by police to discipline errant officers. The disciplinary process is supposed to help address police misconduct while supporting officers who have exercised their discretion appropriately and within the framework of law and policy. Unfortunately, the approaches police generally use fall well short of achieving their primary purpose and leave the department, employees and the community with concerns. There is significant dissatisfaction with the discipline approach” it is predominately punishment oriented, it takes an excessive amount of time, 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, of 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 when 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 timeframes 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 this 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 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 process 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 process<sup>i</sup> (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 communities<sup>ii</sup> (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 Hom (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.<sup>iii</sup> 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, 2090).

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.<sup>iv</sup> 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 Jack 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.<sup>v</sup> 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.

**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

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. They provide a better sense of what the range of sanctions might be for classes 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 Discipline<sup>vi</sup>**

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 correction 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 members 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 supports.

### **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 of 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 interactions, 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.<sup>vii</sup>

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 Intervention<sup>viii</sup>**

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. The 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.<sup>ix</sup> 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 Philosophy<sup>x</sup>

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 Department<sup>xi</sup> 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 follow (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 that 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 who 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 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, investigation 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 onto 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 the 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, complain 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 SARA<sup>xii</sup> 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. Problem solving seems to be helpful in looking at specific areas where policies or procedures are frequently violated.

**Table 2. SARA Model**

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

### Disciplinary Process Characteristics

Even an organization with all the right policies, training and effective supervision needs a disciplinary process that deals with stakes 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:

**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 explain the complaint, investigation and disciplinary processes. Chief executives must invest time in these forums explain 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 included 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: 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

<sup>1</sup> 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.

<sup>1</sup> See the *Sourcebook of Criminal Justice Statistics* section on public opinion, [http://www.albany.edu/sourcebook/toc\\_2.html](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.

<sup>1</sup> 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 enormous public attention and concern. News reports indicate the officer had been the subject of disciplinary action on two occasions and the media wanted access to the file which, with the approval of city council, is permissible under certain circumstances. The city council decided not to review or open the file to the public, which effectively ends the matter unless attorneys in the civil or criminal trials are able to convince the court to open the file.

<sup>1</sup> For a detailed account of the Denver effort, see *Report on the Manager of Safety’s Disciplinary Advisory Group* and the companion *Denver Police Department Discipline Handbook: Conduct Principles and Disciplinary Guidelines* at <http://www.denvergov.org/PoliceDisciplineHandbook/tabid/432137/Default.aspx>.

<sup>1</sup> A growing number of police and sheriff’s agencies have been working on improving their disciplinary processes. The few named here are generally reflective of the changes that have been made by others.

<sup>1</sup> See the Los Angeles County Sheriff’s Department website, <http://www.lasd.org/divisions/leadership-training-div/bureaus/ebd/about.html>, for detailed information on the Education-Based Discipline program. Information about the concept comes from this site unless otherwise noted.

<sup>1</sup> Author’s recounting of a conversation with the officer involved when the author was a police officer in Kansas City.

<sup>1</sup> For a good overview of early intervention systems, see *Early Intervention Systems for Law Enforcement Agencies: A Planning and Management Guide* (Walker, 2003). The Charlotte-Mecklenburg Police Department (2005) publication *Early Intervention System: A Tool to Encourage & Support High Quality Performance* is also a good example of reaching out to the public to explain the system.

<sup>1</sup> The Department of Justice’s use of the Pattern and Practice legislation has been very limited during the past 10 years. These are indications that these investigations will be pursued more vigorously in the future.

<sup>1</sup> The full CMPD Discipline Philosophy can be found at CMPD.org under the “Directives” tab: <http://charmck.org/city/charlotte/CMPD/zstorage/InsideCMPD/Documents/100004DisciplinePhilosophy.pdf>.

<sup>1</sup> The chief was Darrel W. Stephens, author of this paper. Parts of the philosophy have been adopted by other agencies. Recently, the Milwaukee (Wis.) Police Department incorporated the entire philosophy in its procedures.

<sup>1</sup> The Center for Problem-Oriented Policing provides a detailed discussion of the SARA model: <http://www.popcenter.org/about/?p=sara>

## References

- Adarlo, S. 2009. "Newark Launches Investigation Into Police Disciplinary Procedure." *The Star-Ledger*. January 14.
- Anglen, R. and Horn, D. 2001. "Police Discipline Inconsistent: Sanctions Most Likely To Be Reduced." *The Cincinnati Enquirer*. October 21.
- Baca, L. 2007. "Psychology of Discipline." Leadership Message from the Sheriff. Accessed December 8, 2010, from: <http://www.lasd.org/divisions/leadership-training-div/bureaus/ebd/assets/leadership-message-psychology-ofdiscipline.pdf>.
- Bernstein, M. 2009. "Chief Recommends Sergeant's Suspension in Chasse's Death." *The Oregonian, Portland*. September 23.
- Bureau of Justice Statistics. 2009. *Sourcebook of Criminal Justice Statistics*. Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics. Accessed December 8, 2010, from: [http://www.albany.edu/sourcebook/toc\\_2.html](http://www.albany.edu/sourcebook/toc_2.html).
- Charlotte-Mecklenburg Police Department. 2001. Directive 100-104: Discipline Philosophy. *Interactive Directives Guide*. Charlotte, N.C.: Charlotte-Mecklenburg Police Department.
- Charlotte-Mecklenburg Police Department. 2005. *Early Intervention System: A Tool to Encourage & Support High Quality Performance*. Charlotte, N.C.: Charlotte-Mecklenburg Police Department.
- Cote, J. 2009. "Long Delays Plague S.F. Police Discipline." *San Francisco Chronicle*. March 21.
- Curry, T.H. 2004. *An Analysis of the Discipline Process and Outcomes, With Recommendations for the Lansing Police Department*. Lansing, Mich.: Lansing Police Department.
- Eck, J. and Spelman, W. 1988. *Problem Solving: Problem-Oriented Policing in Newport News*. Washington, D.C.: Police Executive Research Forum.
- Forster, S. 2007. "Lawmakers Want Statewide Approach to Police Discipline." *Journal Sentinel*. December 28.
- Hunt, T. 2009. "Modernizing the Police Disciplinary System." *American Police Beat* (April): Opinion/Editorial.
- The Independent Commission on the Los Angeles Police Department. 1991. *Report of the Independent Commission on the Los Angeles Police Department*. Los Angeles, Calif.: The Independent Commission on the Los Angeles Police Department.
- Iris, M. 2002. "Police Discipline in Houston: The Arbitration Experience." *Police Quarterly* 5 (2): 132-151.
- Los Angeles County Sheriff's Department. 2010. Education-Based Discipline Unit. Accessed December 8, 2010, from: <http://www.lasd.org/divisions/leadership-training-div/bureaus/ebd/about.html>.
- Matrix Consulting Group. 2009. *Review of Internal Affairs, Disciplinary Process and a Cultural Assessment of the Police Department: City of Vancouver, Washington*. Vancouver, Wash.: City of Vancouver, Washington.
- Parks, J. 2006. "Tucson Police Department Has Taken a Step in the Right Direction in Determining Officer Discipline." *AZCOPS: The Voice of Arizona Law Enforcement* 6 (3): 2.
- Pate, T., McCullough, J.W., Bowers, R.A. and Ferrara, A. 1976. *Kansas City Peer Review Panel: An Evaluation Report*. Washington, D.C.: Police Foundation.

Pitkin, J. 2009. "Chasse Cop Christopher Humphreys Placed on Administrative Leave." *Willamette Week Online*. November 19 (accessed May 10, 2010).

Police Assessment Resource Center. 2008. *Evaluation of a Pilot Community Policing Program: The Pasadena Police-Community Mediation and Dialog Program*. COPS Evaluation Brief No. 2. Washington, D.C.: U.S. Department of Justice, Office of Community Oriented Policing Services.

Proctor, J., Clemmons, A. and Rosenthal, R. 2009. "Discourteous Cops and Unruly Citizens: Mediation Can Help." *Community Policing Dispatch* 2 (3). Accessed Dec. 8, 2010, from: [http://www.cops.usdoj.gov/html/dispatch/March\\_2009/mediation.htm](http://www.cops.usdoj.gov/html/dispatch/March_2009/mediation.htm).

Rothwell, G.R. and Baldwin, J.N. 2007. "Whistle-Blowing and the Code of Silence in Police Agencies Policy and Structural Predictors." *Crime & Delinquency* 53 (4): 605-632.

*Seattle Post-Intelligencer* Editorial Board. 2006. "Police Discipline: Public and Fair." April 18.

Serpas, R., Olson, J. and Jones, B. 2003. "An Employee Disciplinary System That Makes Sense." *The Police Chief* 70 (9): 22, 24-28.

Suderman, A. 2009. "Montgomery Attorney: Police Officers Get Light Punishments Thanks to Union." *The Washington Examiner*. May 6.

Taylor, W. 2005. Review of Police Disciplinary Arrangements Report. London: Home Office. Accessed Dec. 8, 2010, from: <http://tna.europarchive.org/20100419081706/http://www.police.homeoffice.gov.uk/publications/police-reform/police-disciplinary-arrangements/index68ce.html?view=Standard&pubID=671130>.

Torpy, B. 2009. "In Atlanta, It Can Be a Long Wait for Cases to Be Resolved." *The Atlanta Journal-Constitution*. August 1.

Van de Water, A. 2006. *Police Discipline Procedures. Legislative Analyst Report*. San Francisco Board of Supervisors.

Walker, S. 2003. *Early Intervention Systems for Law Enforcement Agencies: A Planning and Management Guide*. Washington, D.C.: U.S. Department of Justice, Office of Community Oriented Policing Services.

Walker, S. 2004. *The Discipline Matrix: An Effective Police Accountability Tool?* Conference report. Omaha, Neb.: University of Nebraska at Omaha.

Walker, S., Alpert, G.P. and Kennedy D.J. 2000. *Responding to the Problem Police Officer: A National Study of Early Warning Systems. Final Report*. Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, National Institute of Justice, NCJ 184510. Accessed Dec. 8, 2010, from: <http://www.ncjrs.gov/pdffiles1/nij/grants/184510.pdf>.

Walker, S. 2003. *Early Intervention Systems* Justice, Office of Justice Programs, National Institute of Justice, NCJ 184510. Accessed Dec. 8, 2010, from: <http://www.ncjrs.gov/pdffiles1/nij/grants/184510.pdf>.

Walker, S., Archbold, C. and Herbst, L. 2002. *Mediating Citizen Complaints Against Police Officers: A Guide for Police and Community Leaders*. Washington, D.C.: U.S. Department of Justice, Office of Community Oriented Policing Services.

Zamora, J.H. 1997. "Police Discipline Process Broken, Panel's Chief Says." *San Francisco Chronicle*. February 12.

Zansberg, S. and Campos, P. 2004. "Sunshine on the Thin Blue Line: Public Access to Police Internal Affairs Files." *Communications Lawyer*. Fall 2004.

### **Author Note**

Darrel W. Stephens is the retired Chief of the Charlotte-Mecklenburg Police Department. He is currently on the faculty at Johns Hopkins University's Public Safety Leadership Program and is the Executive Director of the Major Cities Chiefs' Association. This paper was written in support of the Executive Session on Policing and Public Safety at the Harvard Kennedy School of Government. The author acknowledges the important feedback from Malcolm Sparrow, David Sklansky and Ellen Scrivner.


## **Appendix E**

### **Sexual Misconduct Rule**

“While on duty, a deputy shall not engage in any conduct for the purpose of sexual gratification, sexual humiliation, or sexual abuse. The same conduct is prohibited while off duty, either in a public place while in uniform, or in any vehicle or facility to which a deputy has access by virtue of the deputy’s position or authority. The consent of another to engage in such sexual conduct or sexual acts is immaterial.”

The purpose of this rule is to address sexual conduct that a deputy should reasonably understand is inappropriate for a deputy sheriff to be engaged in while on duty or while off duty, in a public place when in uniform or in any department vehicle or facility. Such inappropriate conduct is not limited to sexual intercourse or oral sex but includes any sexual conduct that a reasonable officer should anticipate is offensive to the department or the public in light of the duties and authority with which deputies are entrusted. It should be emphasized that the purpose of the rule is not to control a deputy’s private sex life or otherwise infringe upon a deputy’s Constitutional rights. The rule attempts, rather, to keep deputies’ private lives separate from their roles and responsibilities as deputy sheriffs.

**Appendix F**  
**Charlotte-Mecklenburg Police Department**  
**Discipline Philosophy**

	<b>Charlotte-Mecklenburg Police Department</b>		<b>100-004</b>
	<b>Interactive Directives Guide</b>	<b>Discipline Philosophy</b>	
	<b>Review Date 02/02/2015</b>	<b>Effective Date 4/16/2001</b>	<b>1 of 4</b>

Tensions and hostility are a part of policing. Police officers must, as part of their job, issue orders to people, catch them in violation of laws, deprive them of their freedom, and bring charges that may lead to the imposition of severe punishment. Contacts between officers and citizens are often initiated under conditions that are emotionally charged, such as immediately after a fight or other disturbance, or following the commission of a crime. Even the person getting a traffic ticket frequently becomes indignant. However scrupulous the police may be in carrying out their responsibilities, they are bound to incur the wrath of some of those against whom they must proceed. This hostility manifests itself in various forms -- sometimes immediately, by verbal abuse or physical resistance to the police; sometimes later by alleging that the officer's actions were improper or illegal. Under such circumstances an officer must be able to count on support for actions taken in the line of duty. The police officer expects and indeed needs some insulation from the community being served. But insulation can serve as a shield for the officer who is not so scrupulous -- who in fact acts improperly. Herman Goldstein


**Policing a Free Society - 1977**

The adversarial nature of policing is one of the key factors noted by Herman Goldstein that complicates the control and review of police actions and behavior. The public grants the police considerable authority to act on its behalf in the effort to create an environment as free of crime, the fear of crime, drug abuse, violence and disorder as possible. Although in almost all encounters with the public, police officers and no sworn employees use this authority appropriately, there are times when citizens have legitimate questions about how this authority has been used. Unfortunately there are also times when that authority has been abused. Therefore, it is critical that a system of discipline be established that contributes to minimizing abuse of authority and promotes the department's reputation for professionalism.

The most effective disciplinary system is one that combines the reinforcement of the right set of values in all employees with behavioral standards that are established in clear policies, procedures and rules that are consistently and fairly applied. Each employee of the Charlotte-Mecklenburg Police Department must understand and be guided by the standards that have been established in the department policies, rules, regulations and procedures.

Employees of the Charlotte-Mecklenburg Police Department are expected to conduct themselves, both in interactions with each other and with the public, in a manner that conveys respect, honesty, integrity, and dedication to public service. In turn, employees of the department can expect to be treated fairly, honestly and respectfully, by their peers and other employees of the department who hold positions of greater or lesser organizational authority.

It is recognized and understood that employees of the department will make judgmental errors from time to time in carrying out their responsibilities. In fact, employees who never make any mistakes may be doing very little to try to improve the performance of the department. While each error in judgment offers an opportunity for the department and the individual to learn, it is also understood some errors will have greater consequences than others will for the public, the department and the employee. The department has an obligation to make its expectations as clear as possible to employees. The department has an equal obligation to make the consequences for failing to meet those expectations clear. While both of these obligations are difficult to meet, the latter is obviously more complex. There are often circumstances that may have contributed to errors of judgment or


	<b>Charlotte-Mecklenburg Police Department</b>		<b>100-004</b>
	<b>Interactive Directives Guide</b>		<b>Discipline Philosophy</b>
	<b>Review Date 02/02/2015</b>	<b>Effective Date 4/16/2001</b>	<b>2 of 4</b>

poor decisions that need to be considered when determining the appropriate consequences for behavior found improper.

In trying to define fair and consistent treatment in disciplinary matters in the abstract, employees often say they would like the department to give them a list of the prohibited behaviors along with the consequences for engaging in those behaviors. Experience tells us though, when employees are directly involved in the disciplinary process -- either as the subject of the process or in a review capacity to recommend or decide on the consequences -- most want to consider the consequences in light of the circumstances that might have contributed to the violation. This of course is a critical aspect of the application of discipline in a consistent and fair manner. For some employees **consistency** is seen as the same treatment for the same behavior in every case, and it is thought if this is done, the consequences will be **fair** to everyone. 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. In order to ensure that employees are treated in a **consistent** and **fair** manner, the application of consequences for behaviors that are not in keeping with the expectations of the department will be based upon a balanced consideration of several factors.

A number of factors that are considered in the application of discipline are identified and discussed below. All of these factors will not apply in every case. Some factors may not apply to the particular set of circumstances. Also, there may be a tendency to isolate one factor and give it greater importance than another. These factors should generally be thought of as being interactive and having equal weight, unless there are particular circumstances associated with an incident that would give a factor greater or lesser weight. The factors which will be considered in disciplinary matters include:

**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.

	<b>Charlotte-Mecklenburg Police Department</b>		<b>100-004</b>
	<b>Interactive Directives Guide</b>		<b>Discipline Philosophy</b>
	<b>Review Date 02/02/2015</b>	<b>Effective Date 4/16/2001</b>	<b>3 of 4</b>


**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 (or should be known) to be in conflict with law, policy, procedures or rules 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 that continually makes errors can expect the consequences of this behavior to become progressively more punitive. An employee that has a record of few or no errors can expect less stringent consequences. Also, an employee whose past reflects hard work and

	<b>Charlotte-Mecklenburg Police Department</b>		<b>100-004</b>
	<b>Interactive Directives Guide</b>		<b>Discipline Philosophy</b>
	<b>Review Date 02/02/2015</b>	<b>Effective Date 4/16/2001</b>	<b>4 of 4</b>

dedication to the community and department will be given every consideration in the determination of any disciplinary action.

Following the careful consideration of all applicable factors in any disciplinary review, every effort will be made to determine consequences that consistently and fairly fit each specific incident. The rationale for disciplinary decisions will be explained as clearly as possible.

The Charlotte-Mecklenburg Police Department has a well-established tradition of serving the community with integrity and in a professional manner. It is among the finest police organizations in this nation. To maintain that tradition and continue improving the quality of service the department provides to the community, each and every employee must accept the responsibility for their role in maintaining integrity, quality and high professional standards.

## **Appendix G**

### **Sample Conduct Principles and Disciplinary Guidelines**

These conduct and disciplinary guidelines are intended for illustrative purposes only and should be adopted/edited as deemed appropriate. Any guidelines must reflect the disciplinary philosophy, policies and procedures of the individual agency.

## **I. The Purpose and Importance of an Effective Disciplinary System**

- 1 The overall objectives of this disciplinary system are to facilitate the orderly functioning and operation of the Department; to ensure employee adherence to reasonable and acceptable standards of performance and conduct; and to provide fair and equitable consequences for failing to adhere to those standards.
- 2 Deputy Sheriffs hold a “position of trust” – a trust bestowed upon them by the Department and the community – and are visible representatives of government. They are given enormous discretion in carrying out their duties – discretion which also carries tremendous responsibility. Deputy Sheriffs are given the responsibility to provide for the humane care of persons held in their custody, to make arrests and otherwise restrict personal freedom, to seize and control property, and to use force, up to and including deadly force, when appropriate.
- 3 Because of the trust placed in them and the enormity of the discretion and authority granted to them, deputy sheriffs must understand that the community has every right to expect and demand the highest level of accountability from the Department and from individual deputies. Deputies must know that when they engage in misconduct, they will receive fair and appropriate discipline commensurate with the level of misconduct. Discipline should not be an unexpected event but rather an anticipated consequence of inappropriate conduct.
- 4 An effective system is one that is fairly administered, reasonably consistent and based upon Department-wide standards known and enforced by all members of the Department and designed to ensure timely results. This system serves the public, the deputies and the administration by uniformly reinforcing the acceptable standards of conduct and presenting a clear methodology for consequences related to a failure to abide by such standards.
- 5 An effective disciplinary system results in strengthened relationships and increased levels of trust within the Department as well as with the community by ensuring both clarity in expectations and accountability for actions by both the Department and the individual deputies.

## **II Disciplinary Philosophy and General Principles of Discipline Employed**

1. The discipline system must be fairly, efficiently, and consistently administered so as to promote and maintain a culture of public accountability, individual responsibility and maintenance of the highest standards of professionalism.
2. Discipline should reflect the values of the Department and promote respect and trust within the Department and with the community.
3. All members of the Department must understand and give weight to the principle that discipline is not simply a private, internal matter but that the

public has an important interest in deputies being held accountable for their misconduct.

4. Discipline should be based upon reasonable notice of the standards by which conduct will be judged and the likely consequences of the failure to adhere to Department rules and policies. Disciplinary sanctions shall consist of Oral Reprimand, Written Reprimand, Suspension without Pay for a Maximum of 90 days, Reduction in Rank, and Termination.
5. Programs and practices outside the discipline system such as early intervention, mentoring, remedial training, documented verbal counseling or mediation where agreed to between the complainant and the subject deputy for minor complaints such as discourtesy, should be promoted by the Department and utilized to their fullest extent.
6. Certain defined allegations of non-serious misconduct may be investigated at the supervisory level. Serious allegations should be investigated by the Internal Affairs function. In either case, investigations must be fair, thorough, conducted with full regard for the rights of deputies and designed to develop all relevant facts necessary for the fair determination of the issue in question.
7. Truthfulness is vital to the investigation and review process and shall be expected and demanded of all subject deputies, witness deputies, complainants, other witnesses, and all persons involved in the investigation and review of allegations of misconduct.
8. The determination of whether an allegation of misconduct should be sustained must be based upon the application of Department-wide standards and the fair consideration of only those facts relevant to that determination.
9. Where allegations of misconduct are sustained, disciplinary sanctions must be imposed for purposes established by the Department and must reflect all facts and circumstances relevant to the determination of appropriate discipline. The level of disciplinary sanction must be based on the nature and seriousness of the alleged misconduct, the harm or risk of harm resulting from the misconduct, and consideration of relevant mitigating and aggravating circumstances.
10. As a general rule, oral and written reprimands are considered appropriate for actionable but less serious operational violations. Suspensions in the range of 1-10 days are appropriate for more serious violations which involve misconduct that substantially interferes with department operations or is contrary to department values or involves a demonstrable risk to deputy, inmate, employee or public safety, but not actual physical injury. Suspensions in the range of 15-20 days are considered appropriate for serious misconduct that is substantially contrary to department values or involves an actual serious impact on deputy, employee, inmate or public safety not rising to the level of serious bodily injury or death. Suspensions of 30 days or more are considered appropriate for the most serious violations that justify substantial discipline but do not rise to the level of reduction in rank or termination. Reduction in rank or termination may be considered as

indicated in Sections XIV and XV of these guidelines. Adjustments within the generally accepted ranges or penalties below or above these ranges may be considered based on appropriate aggravating or mitigating circumstances.

11. Timeliness is essential to the fair administration of discipline. Adherence to reasonably established timelines for the investigation and review of allegations of misconduct must be a Department priority.
12. The administration of the discipline process shall not discriminate against anyone on the actual or perceived basis of race, color, creed, national origin, ancestry, gender, sexual orientation, age, religion, political affiliation, physical or mental disability, military status, marital status, or other basis protected by Federal, State or local law or regulation.
13. All persons involved in the administration of the discipline process have the duty to fairly and conscientiously carry out their responsibilities in accordance with Departmental policies, procedures, and philosophy of discipline.
14. The administration of discipline must be based upon the fair, consistent application of disciplinary principles and guidelines and the exercise of reasonable and prudent judgment.
15. No rule or policy shall be created, interpreted or applied so as to lead to a result which is unjust, unreasonable or unconscionable, and contrary to the goals, purposes and philosophy of discipline as stated herein.

### **III. Achieving Reasonable Consistency in Discipline**

1. To achieve reasonably consistent discipline requires the consistent application of guidelines, policies and procedures throughout the Department and at every level of disciplinary review to:
  - a. Ensure reasonable consistency in determining whether a violation of Department rules has been proven; and
  - b. Ensure reasonable consistency in determining a fair and reasonable disciplinary sanction if a violation has been proven.
  - c. Ensure that the discipline imposed on any deputy is reasonably consistent with that imposed on other deputies in similar circumstances. Similar circumstances is intended to mean similar misconduct, similar levels of seriousness, similar harm or risk of harm resulting from the misconduct, and similar mitigating and aggravating circumstances.

### **IV. Summary of Determinations to be made in the Disciplinary Process**

1. There are four basic determinations which need to be made during the course of the disciplinary process. They include the following:

- a. The viability of a complaint must be assessed and a determination made of how it will be handled and the level at which it will be investigated.
- b. Where appropriate, an investigation must be conducted to determine the facts of the case, the issues in dispute and what, if any, Department rule violations should be considered.
- c. Upon review of the facts established by the investigation and the rules to be considered, a determination must be made as to whether there is a preponderance of evidence to sustain a given rule violation or whether some other finding should be made.
- d. If a rule violation is sustained, the appropriate disciplinary sanction must be determined based upon the nature and the seriousness of the misconduct, the harm or risk of harm resulting from the misconduct, the effect on the core values of the department, and the fair consideration of aggravating and mitigating circumstances.

#### **V. Determining the Facts: Statement with Regard to Internal Investigations**

1. The integrity of the internal investigation process is essential to the fair administration of discipline. No system of discipline can be effective without investigations that can be considered unbiased and trustworthy by members of the Department as well as the general public.
2. Investigations must be fair, thorough, timely and in accordance with accepted Department policies and procedures. Investigations must be conducted with full regard for the deputies' rights and all other rights and respect due to fellow deputies. Likewise, they must be conducted with regard for the rights and respect due to non-sworn members of the Department, all complainants and witnesses and all other members of the public. Investigations shall not discriminate against anyone on the basis of actual or perceived race, color, creed, national origin, ancestry, gender, sexual orientation, age, religion, political affiliation, physical or mental disability, military status, marital status, or other basis protected by Federal, State or local law or regulation.
3. Investigations must be designed to develop all relevant facts necessary for a fair determination of the issue in question. They should not be slanted to favor any particular interest, affect any particular outcome or shield any relevant facts from disclosure.
4. Truthfulness is vital in an internal investigation. It must be expected and demanded. Department personnel are required to cooperate and be completely truthful or face disciplinary sanctions. Non-Department personnel must also be truthful. A failure to do so may result, where appropriate, in a referral of the case to the appropriate prosecutor's office for consideration of criminal charges including false reporting.

## **VI. Determining Whether a Violation Has Been Proven**

1. Upon completion of the internal investigation, the disciplinary process requires a determination of whether the violation should be sustained, that is, whether the violation has been proven to have occurred by a preponderance of the evidence. Fairness requires that Department rules, regulations, policies and procedures be applied equally to all deputies, regardless of rank. Fairness also requires that the same standards be used when any individual is reviewing evidence and information with regard to any allegation of misconduct.
2. To help ensure that all reviewers of discipline cases are applying the same standards, the instructions detailed herein must be followed by all persons involved in the review of allegations of misconduct and the determination of whether a violation has been proven.

## **VII. Determining Whether a Violation Has Been Proven – Instructions**

1. In determining whether a violation of any Departmental rule, regulation, policy, procedure or directive has been proven, the reviewer must act as a finder of fact similar to that of an impartial judge or juror. This process is separate and distinct from any consideration of what disciplinary sanction, if any, is appropriate if it is determined that a violation has been proven.
2. As a finder of fact, the reviewer must rely only upon the evidence in the case, which must be thoroughly reviewed. Evidence consists of witness statements, including those of subject deputies, witness deputies, and civilian witnesses or inmates. Evidence also includes documents, photographs, videos, audio recordings, diagrams and other facts which are part of the case file. All other items which are contained in the investigative file, including the complaint and the subject deputy's disciplinary history, are also evidence in a disciplinary case but must be used appropriately.
3. The reviewer must consider only the evidence that is contained in the investigative file and any reasonable inferences to be drawn from that evidence. An inference is a deduction or a conclusion which reason and common sense lead the finder of fact to draw from other facts that have been proven.
4. Evidence may be direct or circumstantial. Circumstantial evidence is the proof of facts or circumstances from which the existence or nonexistence of other facts may reasonably be inferred. All other evidence is direct evidence. The law makes no distinction between direct and circumstantial evidence.
5. The reviewer is expected to use his/her common sense and life experiences when acting as a finder of fact. However, he/she is not to base any conclusions on information known to him/her regarding the matter or the persons involved in the matter if that information is not part of the investigative file.

6. As the finder of fact, the reviewer must judge the credibility of witnesses and the weight to be given their statements.

In doing so, he/she should take into consideration the witnesses' means of knowledge, strength of memory and opportunities for observation; the reasonableness or unreasonableness of their statements; the consistency or lack of consistency in their statements; their motives; whether their statements have been contradicted or supported by other evidence; their bias, prejudice, or interest, if any; their manner or demeanor while making statements; and all other facts and circumstances shown by the evidence which affect the credibility of the witnesses.

In considering witness credibility, the reviewer should apply the same criteria to all witnesses regardless of whether the witness is a subject deputy, a witness deputy, a complainant, a civilian witness, a supervisor or command officer, or an inmate. The reviewer should not automatically consider any witness to be more credible than another witness simply because that witness is or is not a deputy sheriff. Furthermore, he/she is not to afford any particular degree of credibility to a witness simply because of that witness' rank.

There may be instances where a fact finder receives conflicting evidence and different accountings from different witnesses. It should be remembered that this does not necessarily mean that a witness is intentionally being untruthful, although that is a possibility to be considered. Discrepancies in a witness' statement or between one witness and another do not necessarily mean that either witness should be discounted. Failure of recollection is common. An innocent mistake in recalling events is not uncommon. Two persons witnessing the same event may see, hear, or otherwise perceive it differently. Where such discrepancies exist, the reviewer should consider, based upon all the facts and circumstances, whether the discrepancies result from an intentional falsehood or from some other reason. Additionally, the reviewer should consider whether any discrepancy relates to a matter which is significant or insignificant to the issue to be determined.

Based on all of these stated considerations and all the facts, circumstances, and evidence in the case, the reviewer may believe all, part or none of any witness' statements. He/she may also determine what weight, if any, to give to any witness' statements.

7. The weight or sufficiency of evidence is not necessarily determined by the number of witnesses presenting evidence in support of or against a particular issue. An issue should not be decided by the simple process of counting the number of witnesses on opposing sides. The test to be applied is not the number of witnesses but the convincing force of the evidence presented by the witnesses.
8. The reviewer must thoroughly review the policy, procedure, rule, regulation or directive alleged to be violated and apply it to the facts as he/she determines them. The reviewer must do so without regard for whether he/she personally

agrees with the particular policy, procedure, rule, regulation or directive or whether he/she believes it should be amended or repealed.

9. The Department always bears the burden of proving that a violation has been committed by an accused deputy. In determining whether there is sufficient evidence to establish that a violation has occurred, the reviewer must apply the standard of proof known as “preponderance of the evidence.” To prove something by a “preponderance of the evidence” means to prove that it is more likely than not. Therefore, the Department has the burden of proving that the evidence establishes that it is more likely than not that the alleged violation was committed and that the accused deputy committed it.
10. In determining whether the burden of proof of “preponderance of the evidence” has been met, reasonable care and caution should be used to consider all the evidence in the case and the weight that evidence should be afforded. The quantum of evidence that constitutes a preponderance must be sufficient to lead to the reasonable conclusion that the accused deputy committed the violation which is being considered. A suspicion, belief or opinion not supported by the weight of the evidence is not sufficient.
11. A finding of whether or not a violation has been proven by a preponderance of the evidence must be based on a fair and rational consideration of all of the evidence and only the evidence in the case. The finding must **not** be based on or be influenced by any of the following:
  - a. Guesses or speculation;
  - b. Facts not contained in the investigative file;
  - c. Sympathy, bias, or prejudice for or against the subject deputy, any witness, any other person involved, the Department or its administration, or any other person or entity having an interest in the case;
  - d. The reviewer’s personal assessment of the subject deputy’s reputation, work history or discipline history, where such evidence is not a part of the investigative file or is not relevant to the determination of whether there is sufficient evidence to sustain the violation currently being considered;
  - e. The rank of the subject deputy unless rank is an element of the alleged violation;
  - f. The anticipated or perceived effect which the finding may have on the subject deputy, such as the penalty that might be imposed or the effect that the finding may have on areas outside of the discipline system but within the discretion of the Sheriff or his/her designee such as secondary employment, assignment, appointment, promotion or the like; or

- g. The anticipated or perceived effect which the finding may have on any witness or other involved person, the Department or its administration, the public or public opinion, or any other person or entity having an interest in the case.

It is again emphasized that the finding of whether a violation has been proven, and therefore sustained, must be based on the evidence and the evidence alone.

- 12. If the evidence fails to establish by a preponderance that the subject deputy has committed the violation in question or if the evidence is so balanced that a preponderance cannot be determined, the allegation must not be sustained. If the evidence does establish by a preponderance that the deputy committed the violation in question, then the allegation must be sustained.
- 13. After thoroughly reviewing all the evidence and after determining formal findings are necessary, the reviewer must make one and only one of the following findings for each of the rule violations considered:
  - a. Unfounded: The investigation indicates that the subject deputy's alleged actions relating to the Department policy, procedure, rule, regulation or directive in question did not occur.
  - b. Exonerated: The investigation indicates that the alleged actions of the subject deputy were within the policies, procedures, rules, regulations and directives of the Department.
  - c. Not Sustained: There was insufficient evidence to either prove or disprove the allegation.
  - d. Sustained: The subject deputy's actions were found by a preponderance of the evidence to have been in violation of the Department policy, procedure, rule, regulation, or directive in question.
- 14. Each alleged rule violation should be considered separately and a separate decision reached as to whether there is a preponderance of evidence establishing that the alleged violation occurred. The sustaining of any one rule violation does not compel the sustaining of other rule violations.
- 15. As a finder of fact, the reviewer may be reviewing the disciplinary recommendations of others with regard to the same case or participating in a group deliberation process. In doing so, the reviewer should carefully consider the recommendations and opinions of others but he/she is entitled to give them whatever weight, if any, he/she believes they reasonably deserve based on the evidence. As a finder of fact, the reviewer is entitled to independently assess the evidence and reach his/her own independent findings in accordance with all of the instructions given herein and a fair consideration of all the evidence presented.

16. As a finder of fact, the reviewer may be participating in an official disciplinary proceeding such as a Review Board or Pre-Disciplinary Hearing where information in addition to the investigative file, such as a statement by the subject deputy, is presented for consideration. The reviewer may properly consider that additional information, assess its credibility, and afford it whatever weight he/she deems appropriate.
- .17. At each level of review, the reviewer must document his/her findings and the reasons/rationales for those findings in accordance with Department procedures.

#### **VIII. Determining Appropriate Discipline – Understanding the Purposes and Goals of Discipline**

1. Discipline that is to be considered “fair and rational” should be imposed for legitimate purposes reasonably related to the misconduct being addressed. This is a concept that must be consistently applied throughout the Department. The purposes of discipline must also be understood by all members of the Department as well as the community if they are to trust that discipline is being justly administered.
2. The purposes to be achieved by the imposition of discipline in a particular case are properly dependent on all the facts and circumstances of that case. Those purposes may vary based upon a consideration of numerous factors including, but not limited to, the nature and seriousness of the misconduct, the circumstances under which the misconduct was committed, the harm, risk of harm, or prejudice arising from the misconduct, the effect of the misconduct on the Department’s core values, and the existence of any relevant mitigating or aggravating circumstances.
3. Among the primary purposes of disciplinary sanctions are the following:
  - a. To modify/correct the conduct of the disciplined deputy;
  - b. To deter future misconduct by the disciplined deputy;
  - c. To impose an appropriate penalty on the disciplined deputy, taking into account the nature and seriousness of the misconduct, any mitigating or aggravating factors, and the deputy’s disciplinary and work history;
  - d. To address/reflect the harm or risk of harm arising from the misconduct and the effects of the misconduct both inside and outside of the Department; and
  - e. To provide notice of the consequences of misconduct to all members of the Department and to deter future misconduct by all members.
4. In addition, the imposition of appropriate discipline will also serve to help accomplish other goals of the discipline system including but not limited to:

- a. Ensuring the orderly functioning and operation of the Department and adherence to its established standards of conduct;
  - b. Reinforcing the Core Values of the Department;
  - c. Reinforcing training;
  - d. Effectively managing risk and potential civil liability for deputies, the Department, and the City/County; and
  - e. Establishing trust in and respect for the discipline process and the Department, both internally and in the community.
- 5 It is important for all members of the Department and the public to understand that the goals and purposes of the discipline system are different from those of the criminal justice and civil law systems. Those systems are administered under separate rules and principles and provide for sanctions which are different from the discipline system. While some of the factors taken into consideration in the civil and criminal systems may overlap with factors considered in the discipline system, it must be remembered that the purposes of disciplinary sanctions are different from the purposes of civil and criminal law sanctions. Disciplinary sanctions are not intended to function as “damages” which may be available to an aggrieved party under the civil law. Similarly, disciplinary sanctions are not intended to function as “sentences” which may be available under the criminal law for deputy misconduct that rises to the level of a provable criminal offense. It is not the function of the civil law system or the prosecutor’s office, through the criminal justice system, to enforce the rules, regulations and policies of the Sheriff’s Department. The responsibility to enforce its own rules, regulations and policies and to hold its deputies accountable rests with the Department itself.

## **IX. Determining the Nature and Seriousness of the Misconduct**

1. This is a necessary first step in determining the appropriate sanction from among the range of sanctions available. In analyzing the misconduct, the following questions, among others, should be considered:
  - a. What is the general nature of the misconduct?
  - b. What is the overall effect of the misconduct on the goals, core values, operation, image or professional standards of the Department?
  - c. How does the misconduct impact the Department’s relationship with other agencies or the public?
  - d. What is the harm or risk of harm that the violated rule was intended to guard against? Did it involve deputy, employee, inmate or public safety? When assessing the “harm” or “risk of harm” which arises from a particular violation, it should be understood that “harm” is not limited to physical injury. The term “harm” is intended to apply to

any demonstrable wrong, prejudice, damage, injury or negative effect/impact which arises from the violation.

- e. Did the violation result in actual injury to a deputy, employee, inmate or member of the public? If so, what is the extent of the injury? Did the misconduct foreseeably result in death or serious bodily injury?
- f. Does the misconduct involve unethical or abusive behavior or a serious misuse of authority?
- g. Does the misconduct involve the failure to adhere to any legally or department-created condition of employment?

## **X. Consideration of Mitigating and Aggravating Circumstances**

1. Discipline may be increased or decreased, based upon mitigating or aggravating circumstances.
2. In determining mitigating and aggravating factors, the reviewer may look to the misconduct itself, the history of the deputy involved in the misconduct or any other circumstance that might justify a greater or lesser sanction than would normally be appropriate.
3. Mitigating circumstances may justify a penalty less than what would normally be appropriate. However, the presence of mitigating circumstances does not automatically require the imposition of a lesser penalty.
4. Mitigating circumstances may include, but are not limited to:
  - a. Willingness of deputy to accept responsibility and acknowledge wrong-doing;
  - b. The totality of the circumstances under which the rule was violated;
  - c. The culpable mental state of the deputy in the commission of the violation;
  - d. Complimentary history, including awards, commendations and positive public recognition;
  - e. If minimal, the severity of the current offense and the lack of or minimal nature of any consequences caused by the current offense;
  - f. Prior work history, such as positive evaluations and/or work performance; or
  - g. Minimal or lack of prior disciplinary history relative to the deputy's years of service.
5. The above are intended only as a guide in determining mitigating factors. It is impossible to list all the circumstances which might be considered mitigating in a particular case. The question any reviewer should contemplate

is: Are there any factors not already taken into consideration in the definition of the specific violation that might justify decreasing the disciplinary sanction below what would normally be appropriate?

6. Aggravating circumstances may justify a greater penalty than would normally be considered appropriate. However, the presence of aggravating circumstances does not automatically require the imposition of a greater penalty.
  - a. Injury or harm to a deputy, employee, inmate or member of the public;
  - b. Endangerment to a deputy, employee, inmate or member of the public;
  - c. The existence of an actual and demonstrable legal or financial risk to the Department or the City/County including, but not limited to, cases involving allegations of civil rights violations, unlawful search and seizure, excessive use of force, unlawful detention or arrest, or improper care and treatment of an inmate;
  - d. The supervisory or command rank of the deputy who committed the violation;
  - e. The deputy's prior disciplinary history;
  - f. Actual and demonstrable prejudice to the Department;
  - g. Jeopardizing the Department's mission and/or relationship with other agencies;
  - h. Loss or damage to city/county or private property;
  - i. A criminal conviction of the involved deputy arising out of the underlying event;
  - j. Lack of candor, or lack of completeness or full disclosure on the part of the deputy;
  - k. Prejudicial conduct regarding race, color, creed, national origin, ancestry, gender, sexual orientation, age, religion, political affiliation, physical or mental disability, military status, marital status, or other protected classifications;
  - l. Harassment or retaliatory conduct;
  - m. The culpable mental state of the deputy in the commission of the violation; or
  - n. Unsatisfactory work history.

7. The above potential aggravators are intended as a guide only. It is impossible to list all the circumstances which might be considered aggravating in a particular case. The question any reviewer should contemplate is: Are there any factors not already taken into consideration in the definition of the specific violation that might justify a higher level of discipline than would normally be appropriate for the misconduct in question?

## **XI. Consideration of Rank as an Aggravating Factor**

1. The rank of a deputy sheriff is not used in any determination of whether or not a violation should be sustained, unless that rank is an element of the violation alleged.
2. However, the supervisory/command rank of a deputy who committed a violation may be considered a factor in aggravation which may warrant a higher penalty. It is appropriate for the Department to have higher expectations for supervisors and command officers than subordinate deputies. Further, it is appropriate for the Department to expect that a supervisor or command officer should exercise even greater restraint and circumspection than a subordinate deputy. Supervisors and commanders are expected to lead by example. They are responsible for holding others accountable and should likewise be accountable.
3. At the same time, a supervisor or command officer's prior complimentary history, including awards, commendations and positive public recognition and prior work history, such as positive evaluations and exceptional work performance, should not be ignored as potential mitigating circumstances when considering the appropriate penalty.

## **XII. Consideration of Prior Disciplinary History as an Aggravating Factor**

1. A deputy's prior disciplinary history may be considered in determining whether the disciplinary sanction should be increased.
2. As with any other potentially aggravating factor, the reviewer must determine the weight or significance of the history. Factors which may be considered in the weighing process include, but are not limited to:
  - a. The nature and seriousness of any prior violation;
  - b. The number of prior violations;
  - c. The length of time between prior violations and the current case;
  - d. The relationship between any prior violation and the present misconduct;
  - e. Whether the prior history demonstrates a continuation or pattern of the same or similar misconduct; and
  - f. Whether the prior history demonstrates continuous misconduct, even if minor, evidencing a failure to conform to rules or to correct behavior.

### **XIII. Weighing Mitigating and Aggravating Factors to Determine their Significance**

1. As noted earlier, the presence of possible mitigating or aggravating factors does not lead automatically to the conclusion that discipline should be increased or decreased. The factors must be weighed against each other and against the misconduct in question.
2. The concept of “weighing” basically means determining how significant or insignificant the factors are when compared to each other and to the misconduct in question. This is not a simple process of counting the number of mitigators or the number of aggravators. Nor is it an attempt to assign a certain numerical “weight” to each factor considered. It is a determination of whether or not the factors are sufficiently significant to justify a decrease or increase in penalty.
3. In this weighing process, consideration must be given to the nature and gravity of the misconduct, the harm, injury or prejudice arising from the misconduct, the impact of the misconduct on Department Core Values, and the specific purposes of discipline to be achieved in the particular case.
4. The reviewer’s consideration of mitigating or aggravating circumstances and their relative significance or insignificance must be documented in accordance with Department procedure.

### **XIV. Consideration of Involuntary Demotion with a Reduction in Pay**

1. Involuntary demotion with a reduction in pay may occur if, after considering all of the facts and circumstances surrounding an incident, it is determined that a deputy sheriff lacks the ability, willingness or worthiness to perform in the current rank. Involuntary demotion with a reduction in pay reflects the determination that a deputy sheriff has demonstrated by his/her misconduct that he/she is unfit to fulfill the responsibilities and duties required for his/her current position at the specific rank.
2. In making a decision to recommend or impose an involuntary demotion with a reduction in pay, the reviewer should consider the effect on the organization of maintaining the deputy sheriff in his/her current position. If the commission of the violation prior to attaining the current rank would have raised substantial questions as to the deputy sheriff’s fitness to hold that rank in the first place, an involuntary demotion with a reduction in pay may be considered.
3. The importance of the ability to perform the duties and responsibilities of the rank in a credible and professional manner cannot be minimized. Additionally, supervisory and command officers must lead by example and maintain a culture in which subordinate sheriff deputies will “behave with prudence, justice, courage, intellectual honesty, responsibility, self-effacement of interests and trustworthiness and where these virtues can be continuously exercised as standard operating procedure.” (See

Ethics, Integrity and the Police Culture, Swope, International Criminal Police Review – No. 483 (2001).)

4. An involuntary demotion with a reduction in pay may be imposed in conjunction with or in lieu of other appropriate disciplinary sanctions.

## **XV. Consideration of Termination**

1. It must be universally recognized that certain acts of misconduct are so serious that the appropriate penalty is dismissal. This may result from the severity of a single act or repeated acts or from the damage the misconduct causes to the Department or the public. Dismissal, while a disciplinary option to be used only after careful deliberation, provides a necessary management tool for dealing with very serious or repeated acts of deputy misconduct. It must also be recognized that certain misconduct is so serious that the appropriate penalty is dismissal even if it constitutes a “first offense.” Listed below are factors to consider in determining the appropriateness of dismissal. Any single factor or combination of factors may be sufficient to merit dismissal. They include but are not limited to, commission of an act or acts:
  - a. which would call into serious question the deputy sheriff’s trustworthiness and/or integrity so as to interfere with the continued performance of his or her assigned duties and responsibilities, or which demonstrate a serious lack of the ethics, character or judgment necessary to hold a position of trust;
  - b. which would clearly cause a continuing, disruptive effect on the efficient and/or safe operations of the Department or clearly constitute a substantial risk to deputy, employee, inmate, or public safety;
  - c. which constitute a course of conduct characterized by a continued inability or unwillingness on the part of the deputy sheriff to conform to expected standards of conduct;
  - d. which create a serious legal or financial risk for the Department or the City/County or as a result of which, retention of that deputy could create a serious legal or financial risk for the Department or the City/County;
  - e. which constitute a violation of law, rule, or policy that results in death or serious bodily injury of any deputy, employee, inmate or member of the public;
  - f. which demonstrate a willful disregard of Department Core Values, abusive conduct including abuse of authority, or are substantially contrary to the standards of conduct reasonably expected of one whose duty is to uphold the law and to provide for the care and custody of inmates in a professional manner;

- g. which involve the use of unnecessary or excessive force, regardless of the extent of injury, where the level of force is significantly disproportionate to the threat posed or where the totality of the circumstances indicate the force was used in whole or in part for reasons other than legitimate correctional or law enforcement objectives including but not limited to punishment, retaliation, discrimination, coercion or the unjustified infliction of pain;
- h. where it is reasonable to conclude that lesser corrective or punitive actions are not likely to be effective or would only serve to depreciate the seriousness of the misconduct or its relationship to Departmental core values;
- i. which constitute the failure to adhere to any legally mandated or department-created condition of employment; or
- j. where the failure to dismiss would erode deputy or public confidence in the effectiveness or integrity of the discipline system.

**Appendix H  
Tucson Police Department**

**General Orders, 4400 – Discipline and Grievance  
Discipline Matrix**



## **4400 DISCIPLINE AND GRIEVANCE**

### **4410 GENERAL DISCIPLINARY GUIDELINES**

#### **4411 Policy [CALEA 26.1.5]**

The administration of discipline in the Police Department shall be conducted in accordance with applicable federal and state laws, City Charter, City Code, *City Administrative Policies*, the guidelines set forth in the Department Discipline Matrix and this section. All employees of the Department are subject to disciplinary action for misconduct, regulatory violations and/or below standards performance. All discipline shall be administered in an equitable, fair and consistent manner. Supervisors are responsible for the administration of discipline outlined in *General Orders*. The Chief of Police has the ultimate authority to establish the level of discipline administered in the Police Department.

The Discipline Matrix is intended to address acts of misconduct by members of the agency. The existence of the Matrix does not preclude the Department from taking the action necessary to respond to a member's failure to perform assigned duties or failure to comply with conditions of employment that are or have been placed upon the member.

Generally, unsatisfactory job performance will be dealt with through the performance evaluation system (refer to *General Orders 4500*). When an employee has been subject to discipline through the application of the Discipline Matrix, that discipline shall be included in the employee's subsequent evaluation and may form the basis for future performance related suspension, reduction in pay or position, or termination.

#### **4412 Documentation Requirements**

Proper documentation of the reasons for disciplinary action is an essential element of the process and the responsibility of a member's chain of command. Documentation may take the form of memoranda, PPR files, evaluations, personnel reports, or other records that provide information supporting and articulating the actions.

#### **4413 Discipline Matrix [CALEA26.1.4 c]**

In order to effectively and consistently administer discipline in the Police Department, a Discipline Matrix is established and shall be used in determining the sanction imposed on any member for misconduct or violations of procedures, rules or policies. The Discipline Matrix is incorporated fully into *General Orders* by reference to this section.

#### **Matrix Information**

Copies of the Department's Discipline Matrix are available to all members. Electronic copies are available on the Department Share Drive.



### **Applicability of the Discipline Matrix**

The Discipline Matrix shall be the source used to establish the appropriate level of discipline for all infractions sustained against any member, whether sworn, non-sworn, paid or unpaid. The Chief of Police may deviate from the published sanctions in his or her sole discretion as conditions and circumstances warrant.

### **Discipline Matrix Format**

The Discipline Matrix is designed to identify two major areas in the disciplinary process – the type and level of discipline.

The discipline type (violation type) is a category description that guides the Department in how to address any particular instance of misconduct. This means that misconduct and behaviors are grouped by type rather than merely by the individual rule violation.

The discipline level describes the sanction to be imposed on a member for misconduct, ranging from corrective action to termination. The level is established based on the discipline type together with the discipline history of the member.

### **Applying Sanctions in the Discipline Matrix**

When a violation or misconduct has been established, members will receive a sanction based upon the type of violation and corresponding level of discipline provided in the matrix. The Chain of Command shall be responsible for identifying the appropriate discipline type for any misconduct. A review of the member's discipline history shall then be used to establish the level of discipline to be administered.

Once the appropriate discipline level has been identified, the "presumptive sanction" will be the discipline imposed unless circumstances warrant reducing the discipline to the "minimum sanction" or increasing the discipline to the "maximum sanction." Justification for any deviation from the presumptive level shall be included in the record. The fact that a member has not previously committed the offense or conduct in question shall not, in and of itself, constitute a basis for reducing the presumptive sanction.

### **Restitution for Loss of or Damage to City Property**

When the Chain of Command finds a member responsible for loss of or damage to City property, the member may be permitted to pay restitution as provided in the Discipline Matrix. Sensitive items as delineated in *General Order 1330.24* are not eligible for restitution. Property valued at a depreciated replacement cost of \$250.00 or less may be reimbursed by the member in no more than two instances in any 24-month period. The value of property in question will be determined by the Police Logistics Division. The Office of Internal Affairs (OIA) shall coordinate restitution.



**4414 Progressive Discipline** [CALEA 26.1.4 a, b, c]

The use of progressive discipline is designed into the Department's Discipline Matrix. Progressive discipline is defined as a series of increasing disciplinary actions, which may range from corrective action to termination, which are administered to correct employee behavior. It will be used as a means to assist and encourage employees who violate work rules or exhibit unsatisfactory job performance to correct their behavior and to comply with City or Department requirements. Unless otherwise directed by the Chief of Police the Discipline Matrix shall be used to determine the disciplinary sanction imposed on employees for misconduct or violations of *General Orders*.

**4420 DISCIPLINE**

The Discipline Matrix includes the following levels of discipline; listed below in order from the least to most severe.

**4421 Corrective Action** [CALEA 26.1.4 a, b]

The lowest level of discipline is corrective action. This is generally administered by an employee's immediate supervisor. Documentation of the action, (counseling, training, etc.) shall be provided to Internal Affairs using the Corrective Action form located in the Department Share Drive. A copy of the information is not filed in the employee's personnel file.

**4422 Written Reprimand**

A written reprimand is a formal document presented to an employee as discipline for misconduct. A copy of the reprimand document is filed in the employee's permanent personnel record.

**4423 Suspension** [CALEA 26.1.4 c; 52.2.7]

Employees may be suspended from duty without pay for disciplinary purposes. Suspensions for discipline shall be for a specified period of time, in ten-hour increments. Suspensions shall be processed in accordance with *General Order 4434*. Records of a suspension shall become a part of an employee's permanent personnel record.

In addition, supervisors have the authority to relieve any subordinate of duty when time is of the essence in matters of serious violations or in circumstances in which the employee is physically or psychologically unfit for duty. Refer to *General Order 4434.5* for details.

**4424 Reduction in Pay** [CALEA 26.1.4 c]

A reduction in pay results in loss of income with no change in classification. A reduction in pay may be appropriate to address consistently poor employee performance or as called for in the Discipline Matrix. Records of a reduction in pay for disciplinary purposes shall become a part of an employee's permanent personnel record. Refer to *General Order 4435* for additional details.



4425 **Demotion** [CALEA 26.1.4 c]

A demotion is a reassignment of an employee from a position in one classification to a position in another classification that is assigned a lower salary range. Records of a disciplinary demotion shall become a part of an employee's permanent personnel record. Refer to *General Order 4436* for additional details.

4426 **Termination**

Termination is the most severe form of disciplinary action. An employee may be terminated for unsatisfactory job performance, for failing to meet or maintain the standards of their position, or for disciplinary reasons as set forth in the Discipline Matrix.

**4430 ADMINISTRATION OF DISCIPLINE**

4431 **Legal Review of Proposed Discipline**

Any disciplinary action that is the subject of Civil Service appeal, or review by an arbitration panel pursuant to a union contract grievance procedure must be reviewed by the City Attorney before being implemented. Refer to *City Administrative Policies* for procedures of this review process.

4432 **Notice Required Prior to Service of Discipline**

Prior to the effective date of a corrective action, reprimand, suspension, reduction in pay, or demotion, a permanent classified employee shall be provided with a written notice clearly setting forth the effective date of such action and the specific act(s), or omission(s) which constitute just cause for the action. A commissioned employee will then have a minimum of seven days to respond and present reasons why the proposed discipline should not occur. A civilian employee will have a minimum of two days to respond and present reasons why the proposed discipline should not occur.

Notice must also be given prior to the effective date of termination. Refer to *General Order 4437* for procedures associated with termination.

After reviewing any information presented by the employee, the chain of command, generally through the Division Commander level, shall determine whether or not to proceed with the proposed disciplinary action. If the decision is to proceed, the employee shall be served with the appropriate discipline and any associated documentation. If the chain of command decides against proceeding, or chooses another level of discipline, the appropriate documentation and review shall be made prior to any final action.

4433 **Issuing Reprimands**

A written reprimand shall be administered in accordance with the following procedures.

**Written Reprimand Guidelines**

Written reprimands shall include the following:



- A factual description of the behavior or work performance for which the discipline is being given and notification of the rules, policies or directives that the employee has violated;
- The identified type of violation and level of discipline as identified in the Department Discipline Matrix;
- A statement that the employee must correct the condition and an advisement that if the condition is not corrected, more serious disciplinary action will be taken;
- A statement advising the employee that a copy of the reprimand will be placed in the employee's permanent personnel file.

### **Originating Levels for Written Reprimands**

Written reprimands may be written and served by any level in an employee's chain of command. In general, they will be prepared and served by the immediate supervisor.

### **Documentation of Written Reprimands**

A copy of the written reprimand, signed by the employee upon whom it is served, shall be placed in the employee's permanent personnel file. An additional copy shall be maintained in OIA along with any associated investigative file.

## **4434 Suspension from Duty**

### **Serving a Period of Suspension**

Suspensions shall be served in accordance with *City Administrative Directives and Policies*, Labor Agreements, and this section. The affected member's chain of command will determine the dates on which a suspension is to be served. Suspensions shall be served on consecutive workdays and shall not be divided up.

### **Conduct While On Suspension**

Members serving a term of suspension remain governed by all provisions of *General Orders*. Members under suspension shall not wear any police uniform, take any police-type action other than that allowed to a private citizen, or work any Special Duty employment positions.

### **Court Attendance During Suspension**

Supervisors will make every effort to check court schedules prior to establishing the actual effective dates of a suspension. When a conflict exists that cannot be resolved by establishing different effective dates of suspension, the supervisor shall attach to the employee's request for payment a memorandum documenting the conflict. In any event, the employee shall be properly compensated for any scheduled job related court appearance that occurs during a suspension.



### **Surrender of Property During Suspension**

At the discretion of the employee's Division Commander, members serving a suspension may be required to surrender any police credentials, badge, Department weapons, keys and any City owned property, including vehicles, issued by the Police Department for the duration of their suspension.

### **Release from Active Duty for Cause [CALEA 52.2.7]**

Whenever there is a violation of *General Orders* or for the preservation of good order and discipline, any supervisor may immediately and without written notice, release from active duty any subordinate pending further investigation. Such a release shall be with pay. The only exception to the foregoing shall be in those situations where sworn personnel are supervised by non-sworn personnel and the issue involves the use of police powers. In such a situation, the non-sworn supervisor shall defer any action to the next highest sworn member in their chain of command.

In every case, the supervisor relieving an employee from active duty shall, as soon as practical but in no more than 72-hours, submit a written report through the chain of command to the Chief of Police detailing all of the circumstances involved in the action. In all cases, the final decision for further action rests with the Chief of Police. The Chief of Police shall have the authority to reinstate any employee of the Department who has been released from active duty.

When a member is relieved from active duty as outlined above, the chain of command may require the affected member to surrender their police credentials, badge, Department weapon, keys, and any City owned vehicles or property.

Members released from active duty may not take any police action until they are restored to full duty status.

### **Paperwork Required for Suspensions**

OIA shall ensure that all necessary paperwork, including an *Attachment "A"*, if required, and PARF are prepared and available to the chain of command serving notice to an employee. The person serving the employee with the completed package shall note the effective dates of the suspension on the PARF. All completed and signed paperwork shall be returned to OIA for processing and distribution, including to Police HRD.

Once an employee has served a period of suspension, the Division in which they work shall forward a copy of the rosters showing the suspension to OIA for filing.

### **4435 Reductions in Pay**

#### **Recommendations for Reduction in Pay**

Employees may incur a reduction in pay for discipline, unsatisfactory performance, or failure to meet conditions of employment. When an employee's rate of pay is reduced for



disciplinary purposes under the Matrix, the reduction shall be not less than one step or 5%, which ever is greater.

#### **Paperwork Required for Reductions in Pay**

OIA shall ensure that all necessary paperwork, including an *Attachment "A"* and PARF showing the proposed reduction in pay, are prepared and available to the chain of command serving notice to an employee. All completed and signed paperwork shall be returned to OIA for processing and distribution, including to Police HRD.

#### **4436 Demotions**

##### **Recommendations for Demotion**

An employee's chain of command may recommend that an employee be demoted to a lesser rank or pay grade as a disciplinary action as called for in the Discipline Matrix. Any such recommendation shall specify the exact rank or grade to which an employee is to be demoted. An employee may not be demoted to a classification in which they have not previously completed probation. If the employee has never completed probation in such lower classification, then demotion is not an available disciplinary option. A denial of permanent status to a probationary employee does not constitute a demotion or discipline.

##### **Paperwork Required for Demotions**

OIA shall ensure that all necessary paperwork, including an *Attachment "A"* and PARF, are prepared and available to the chain of command serving notice of an involuntary demotion to an employee. The person serving the employee with the completed package shall note the effective dates of the action on the PARF. All completed and signed paperwork shall be returned to OIA for processing and distribution, including to Police HRD.

##### **Reassignment of Demoted Personnel**

Once an employee has been demoted for disciplinary purposes, they shall be assigned to a position or assignment suitable to their new rank or grade. The employee shall be notified of their new assignment when presented with the final documentation of the action by their chain of command. Police HRD is responsible for ensuring that all necessary paperwork is completed with regard to any such move.

##### **Return of Equipment Following an Involuntary Demotion**

Once an employee is served with an effective date of demotion, they shall turn in any equipment, identification, badges or other items possessed by virtue of their former rank. The employee's chain of command shall offer suitable assistance and monitoring to ensure that any old equipment is returned and new equipment issued, as appropriate, within 72-hours of the effective date of an involuntary demotion.



#### 4437 Termination Recommendations

When a recommendation is made to terminate an employee's employment, the completed package shall first be submitted to the City Attorney's Office for legal review. Once final review has been completed and the Chief of Police has approved the package, OIA shall proceed with the discharge process.

##### **Preparation of Discharge Paperwork** [CALEA 26.1.7 a]

OIA shall prepare the necessary paperwork for the discharge, including the Personnel Action Request Form (PARF), the *Attachment "A"*, documenting the reasons for the dismissal, and the *Notice of Intent to Discharge*.

##### **Scheduling a Pre-Discharge Review**

OIA shall schedule and arrange a Pre-Discharge Review no sooner than the seventh calendar day following service of the *Notice of Intent to Discharge* on the employee. The Review will generally be composed of three Assistant Chiefs. The Assistant Chief commanding the Bureau in which the subject employee is assigned will not participate in the Hearing. If a sufficient number of Assistant Chiefs are not available a Captain not in the employee's chain of command may be appointed by the Chief of Police to participate in the Review. The date, time and place of the Review shall be noted on any paperwork served on the subject employee.

##### **Service of Notice to the Employee** [CALEA 26.1.7 a]

OIA will provide the employee's Division Commander with all the necessary paperwork. The Division Commander will serve the employee the *Notice of Intent to Discharge*, advise the employee of the reason for the action and the date, time, and place of the Pre- Discharge Review. The employee shall be advised that they must attend the Pre- Discharge Review. Once served and signed by the employee, the discharge paperwork shall be returned to OIA.

In the event that an employee cannot be personally contacted, OIA shall send a copy of the *Notice of Intent to Discharge*, together with a copy of *Attachment "A"*, Priority Mail with Delivery Confirmation to the employee at their address of record. OIA shall maintain any returned mail or receipts documenting the attempted contact with the employee.

##### **Conduct of the Pre-Discharge Review** [CALEA 26.1.7 b]

The purpose of the Pre-Discharge Review is to allow the employee the opportunity to submit, in writing or in person, reasons why the discharge should not occur.

The Review shall take place at the date, time and place designated in the employee's notice. If the employee fails to appear as directed, the Review shall take place and a notation shall be made of the non-appearance. At the Review an employee shall be allowed adequate time to present reasons why the proposed action should not take place. An attorney, representative of the bargaining unit, or individual designated by the



employee may attend but not participate. Per the 2008 Labor Agreement, TACE representatives may be present for civilian employees. No recording of the proceedings is permitted.

Once the employee has completed any presentation, the members of the Review panel will render a recommendation on the proposed action, which they shall then present to the Chief of Police and the employee. If the panel decides to uphold the action, the PARF shall be signed, a copy provided to the employee and the effective date written in. If the Board decides to recommend an action other than discharge the termination will not proceed and the matter shall be referred to the Chief of Police for review and action as appropriate.

A member of OIA shall attend the Review and assist the panel members as needed.

#### **Post Review Actions** [CALEA 26.1.7 c]

At the completion of the Review, the OIA member shall prepare a memorandum for the file indicating that the Review was held, listing the Review panel members, noting whether or not the employee attended, and the final recommendation of the panel. If the termination is upheld, the affected employee shall be directed to Police Human Resources for checkout. OIA shall be responsible for ensuring that all Department equipment is returned by the discharged employee.

## **4440 DOCUMENTATION**

### **4441 Documentation Required**

In order to support any disciplinary action, supervisors shall ensure that all actions relating to discipline are properly documented. It is particularly important to show any progressive steps or actions taken previously that support present recommendation. Employees are required to sign all disciplinary notices presented to them and shall be provided with copies of all such documents.

### **4442 Permanent Record Keeping** [CALEA 26.1.8]

Reprimands, suspensions, reductions in pay grades, demotions and terminations shall be recorded in a member's permanent employee file maintained in the Human Resources Division. Corrective action shall only be recorded in the records of OIA, but shall not be recorded in the employee's permanent personnel file.

OIA shall also be responsible for documenting and logging as appropriate all disciplinary actions taken against members arising from any matter filed in Internal Affairs. OIA shall also be responsible for housing all investigative files from which discipline may arise. All such files are subject to the purge criteria established for specific files in OIA.

In addition to formal records of discipline in an employee's personnel file, it is also appropriate and permissible for supervisors to make mention of discipline in a performance review covering the period during which the action either occurred or was administered. Corrective action would



not generally be referenced in a performance review, although behavior underlying the action may be if it has performance implications.

#### 4443 **Chain of Command Review**

Decisions on disciplinary action against an employee are generally made following a review of the circumstances and recommendations by the member's chain of command applying the Department Discipline Matrix. Two levels of the chain of command must agree on proposed discipline in order for it to be implemented, with the exception of the Chief of Police who is the final level for any recommendation for termination. For disciplinary review purposes, the chain of command will generally start with the affected employee's immediate supervisor. Exceptions may occur with the review starting at a higher level, as may be deemed appropriate by the Chief of Police or Bureau Commander (e.g., non-sworn reviewing police action by a sworn employee, immediate supervisor unavailable, etc.). Refer to *General Order 4413* for information on the use of the Discipline Matrix.

### **4450 GRIEVANCE PROCEDURES** [CALEA 26.1.6]

#### 4451 **General**

##### **Availability of Grievance Procedures**

All employees of the City of Tucson are eligible to formally grieve discipline or certain working conditions as set forth in *City Administrative Directive 2.02-2*. Employees who are covered by a labor agreement may choose to follow grievance procedures as set forth in the labor agreement or in Administrative Directive 2.02-2, but not both.

Reserve Police Officers and Volunteers are not eligible to use these procedures.

##### **Applicability of the Grievance Procedures** [CALEA 25.1.1 a]

In order for a matter to be grievable, it must:

- Concern matters or specific incidents that have occurred, and
- Result from an act or omission by management regarding working conditions or other aspects of employee-employer relations over which the Department has control, and
- Arise out of a specific situation or act, which has resulted in perceived inequity or damage to the employee.

Examples of items that are grievable include:

- Reprimands and suspensions of 10 working days (80 hours) or less.
- Working conditions.
- Employee/employer relations over which the Department has control.
- The application, operation or alleged violation of a *City Administrative Directive*, Human Resources policy, or Department policy.



Examples of items that are not grievable include:

- Management rights as outlined in *City Administrative Directive 2.02-2*.
- Items appealable to, or under the jurisdiction of the Civil Service Commission.
- Original appointment and promotional appointment probationary failures.
- Performance evaluations.
- Salary issues.
- Merit increase denials.
- Policies established by the Mayor and Council, state or federal law.
- Equal Employment Opportunity Complaint Procedures.
- Board of Inquiry at Fault Findings (the resulting discipline may be grieved).
- Actions or incidents which have been reviewed pursuant to any other investigative or review procedure, such as the Administrative Directive 2.02-4, Reporting Wrongful Conduct.

#### **Review Process** [CALEA 25.1.1 b, 25.1.3]

Absent compelling reason, as decided by the affected member's Bureau Commander, grievances filed by an employee will generally be handled through the chain of command to which the member was assigned at the time of the issue under consideration. This may progress to the level of the City Manager depending on circumstances and the process employed. The final step in this process may be through arbitration.

The involved employee or a representative shall contact OIA at the initiation of any grievance process. OIA shall issue a Grievance Tracking Number for each process. The member's chain of command shall not consider a grievance without this tracking number. Employees are responsible for tracking the progress of their grievance as it progresses through the chain of command. The involved employee is responsible to notify OIA that the matter has been concluded within five working days of the completion of the process. OIA is responsible for maintaining the associated files. In an effort to identify and address trends related to grievances, OIA shall generate an annual analysis of grievances.

#### **Retaliation Prohibited**

Retaliation against employees who file grievances in the course of their employment is prohibited.

#### **Grievances Regarding Discipline**

In keeping with the structure of the Discipline Matrix, disciplinary sanctions may only be changed within the identified level (i.e., may not be lowered to less than that identified as the minimum sanction for a given level). The Chief of Police retains the final authority to deviate from the Matrix as conditions and circumstances warrant.

Discipline may be subject to the contract grievance process as outlined in this section. In keeping with the structure of the Discipline Matrix, disciplinary sanctions may only be changed within the identified level (i.e., may not be lowered to less than that identified as



the minimum sanction for a given level). The Chief of Police retains the final authority to deviate from the Matrix as conditions and circumstances warrant.

## **4460 RETIREMENT, RESIGNATION AND DISMISSAL**

### **4461      Credentials**

The issuance of retirement credentials or the sale of badges to retiring or departing employees is a privilege offered to members who have served the agency honorably.

#### **Authorizing Issuance of Retirement Credentials**

Commissioned members, who retire honorably from the Police Department, whether through a standard PSPRS retirement period of service or through the granting of a medical retirement, are eligible to be considered for issuance of retirement credentials (badge and ID card). A retiring employee or their representative may make a request for the issuance of retirement credentials through Police Human Resources, which will obtain authorization for the issuance through established channels. This authorization will also determine the departing member's eligibility to purchase their badges for display mounting.

The following circumstances, and others as determined by the Chief of Police, may preclude an officer from being granted (or maintaining) honorably retired status:

- Sustained allegations of criminal activity
- Retirement in lieu of disciplinary action, including suspension, dismissal, demotion or pending action on peace officer certification
- Criminal activity after retirement
- Suspension of peace officer certification, during or after employment with the Tucson Police Department.

The decision as to whether or not to issue credentials lies within the discretion of the Chief of Police. Members are reminded that the issuance of retirement credentials and the sale of badges to retiring or departing employees is a privilege offered to members who have served the agency honorably.

Authorization to receive retirement credentials allows that member to attend any formal retirement ceremony sanctioned by the Department regardless of Specific type of retirement.

An officer who accepts retirement credentials agrees to return those credentials upon notice from the agency that the credentials have been revoked. Credentials may be revoked when the Chief of Police determines it is in the best interest of the agency.

The Chief of Police is the final authority in determining whether or not to issue retirement credentials to a retiring employee. Authorization to receive retirement credentials allows that member to attend any formal retirement ceremony sanctioned by the Department regardless of specific type of retirement.



### **Purchase of Badge(s) for Departing Members**

Members, who retire honorably from the Police Department, or their labor organization representative, may arrange for purchase of their appropriate badge or badges for mounting on a presentation plaque. The cost of the badge(s) and purchase arrangements is coordinated through Police Supply.

Members who leave the Police Department for reasons other than standard or medical retirement will generally not be allowed to purchase their badge(s). The Chief of Police may grant exceptions to this policy as circumstances warrant.

Prior to issuing badges for purchase and mounting, Police Supply shall verify through Police Human Resources that the departing member is eligible for retirement credentials. The Chief of Police may grant exceptions to this policy as circumstances warrant.

### **Flat Badges**

Flat badges purchased by or for members during their tenure with the Police Department are Department property. Members, who retire honorably from the Police Department shall be allowed to retain their flat badge. Members who leave the Police Department for reasons other than the standard PSPRS retirement or medical retirement, will turn in their flat badge at the time of separation from the agency. Police Supply will be contacted to arrange for reimbursement for the cost of the flat badge.

### **4462 Standard Retirement Procedures**

Members desiring employment separation must complete a *Personnel Report* informing the chain of command of the desired action. Members shall then refer to City *Administrative Policy 233* for guidelines for compensation and pension information. Members must complete appropriate checkout procedures with the Department as well as the City before any retirement benefits can be processed.



# DISCIPLINE MATRIX

All discipline is the ultimate prerogative of the Chief of Police who may deviate from this matrix as conditions and circumstances warrant. Refer to *General Orders* Chapter 4400 for complete information.

VIOLATION TYPE	1 <sup>ST</sup> OFFENSE IN 1 YEAR LEVEL	2 <sup>ND</sup> OFFENSE IN 1 YEAR LEVEL	3 <sup>RD</sup> OFFENSE IN 1 YEAR LEVEL *
<p><b>A</b></p> <p>A VIOLATION OF POLICY THAT DOES NOT INVOLVE A MISUSE OF AUTHORITY OR AN ETHICAL OFFENSE, AND HAS NO IMPACT ON PUBLIC SAFETY OR THE PROFESSIONAL IMAGE OF THE DEPARTMENT.</p> <p>Offenses <b>MIGHT</b> include <b>BUT ARE NOT LIMITED TO</b>: Loss or damage of citizen property with an estimated value of less than \$500 or minor damage to Department property; preventable vehicle accidents with no or minor injury and/or minor damage; improper application of procedures not resulting in civil rights issues; tardiness; missed court. Misdemeanor violations (AZ statute standard) associated with recreation activities, minor animal related offenses, etc. (Restitution available for Department property under \$250 twice during 24-month period. Refer to GO 4413.5)</p>	1	2	3
VIOLATION TYPE	1 <sup>ST</sup> OFFENSE IN 3 YEARS LEVEL	2 <sup>ND</sup> OFFENSE IN 3 YEARS LEVEL	3 <sup>RD</sup> OFFENSE IN 3 YEARS LEVEL *
<p><b>B</b></p> <p>A VIOLATION OF POLICY THAT DOES NOT INVOLVE A MISUSE OF AUTHORITY OR AN ETHICAL OFFENSE AND HAS A MINIMAL ADVERSE IMPACT ON PUBLIC SAFETY OR THE PROFESSIONAL IMAGE OF THE DEPARTMENT.</p> <p>Offenses <b>MIGHT</b> include <b>BUT ARE NOT LIMITED TO</b>: Loss or damage of citizen property with an estimated value of \$500+ or high dollar damage to Department property or loss of secure Department property; preventable vehicle accidents with significant injuries and/or significant property damage; improper application of less lethal force with no or minor injury; insubordination; unauthorized leave. <b>NOTE: There is no minimum sanction for a first offense of Violation B.</b></p>	2	3	4
VIOLATION TYPE	1 <sup>ST</sup> OFFENSE IN 5 YEARS LEVEL	2 <sup>ND</sup> OFFENSE IN 5 YEARS LEVEL	3 <sup>RD</sup> OFFENSE IN 5 YEARS LEVEL *
<p><b>C</b></p> <p>A VIOLATION OF POLICY THAT INVOLVES A MISUSE OF AUTHORITY OR ETHICAL OFFENSE AND/OR THAT CREATES OR POSES THE POTENTIAL FOR A CLEAR SERIOUS ADVERSE IMPACT ON PUBLIC SAFETY OR THE PROFESSIONAL IMAGE OF THE DEPARTMENT.</p> <p>Offenses <b>MIGHT</b> include <b>BUT ARE NOT LIMITED TO</b>: unreasonable force with no or minor injury; misdemeanor criminal conduct on or off duty <b>not</b> involving physical injury, violence, sexual offenses or ethical misconduct (e.g., theft); failure to obey an order under normal circumstances; prisoner escape due to dereliction. Refer to GO 4145.3 for off-duty DUI arrests.</p>	4	5	6
<p><b>D</b></p> <p>A VIOLATION OF POLICY THAT INVOLVES A MISUSE OR ABUSE OF AUTHORITY OR AN ETHICAL OFFENSE, OR THAT CREATES OR POSES THE POTENTIAL FOR A MAJOR ADVERSE IMPACT ON PUBLIC SAFETY OR THE PROFESSIONAL IMAGE OF THE DEPARTMENT.</p> <p>Offenses <b>MIGHT</b> include <b>BUT ARE NOT LIMITED TO</b>: excessive force with injury; misdemeanor criminal conduct involving physical injury, violence, sexual offenses or ethical misconduct; failure to obey an order under exigent circumstances.</p>	6	7	8
<p><b>E</b></p> <p>A VIOLATION OF POLICY THAT INVOLVES UNTRUTHFULNESS OR OTHER ETHICAL OFFENSES, ANY FELONIOUS CONDUCT, OR OFFENSES THAT CREATE OR POSE THE POTENTIAL FOR CRITICAL ADVERSE IMPACT ON PUBLIC SAFETY OR THE PROFESSIONAL IMAGE OF THE DEPARTMENT.</p> <p>Offenses <b>MIGHT</b> include <b>BUT ARE NOT LIMITED TO</b>: untruthfulness; excessive force with serious injury or against a restrained or incapacitated person; felonious acts on or off duty; loss of AZPOST certification; other mandated discharges.</p>	8		

\* A fourth or subsequent offense for a Type within the identified time frame causes the Level to progress to the next higher sanction (e.g., from Level 3 to 4, Level 4 to 5, etc.). Time frames start upon discovery of incident.

# DISCIPLINE LEVELS

When assigning discipline, always begin with the **PRESUMPTIVE SANCTION**. Minimum or maximum sanctions require specific justification.

DISCIPLINE LEVEL	MINIMUM SANCTION	PRESUMPTIVE SANCTION	MAXIMUM SANCTION
1		<b>CORRECTIVE ACTION</b>	WRITTEN REPRIMAND
2	<b>CORRECTIVE ACTION</b> (Not available for Violation Type B Offenses)	<b>WRITTEN REPRIMAND</b>	10 HOUR SUSPENSION
3	WRITTEN REPRIMAND	<b>10 HOUR SUSPENSION</b>	20 HOUR SUSPENSION
4	10 HOUR SUSPENSION	<b>20 HOUR SUSPENSION</b>	30 HOUR SUSPENSION
5	30 HOUR SUSPENSION	<b>40 HOUR SUSPENSION</b>	60 HOUR SUSPENSION
6	60 HOUR SUSPENSION	<b>80 HOUR SUSPENSION</b>	160 HOUR SUSPENSION
7	200 HOUR SUSPENSION OR DEMOTION	<b>240 HOUR SUSPENSION OR DEMOTION</b>	TERMINATION
8		<b>TERMINATION</b>	

**Appendix I**  
**Employee Disciplinary Matrix:**  
**A Search for Fairness in the Disciplinary Process**

**Police Chief Magazine**



## **Employee Disciplinary Matrix: A Search for Fairness in the Disciplinary Process**

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

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

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

The issue of fairness is comprised of at least two components of equal importance. The first of these is equality, which refers to consistency in the administration of discipline. Employees want to know that their punishment is no harsher than, and at least consistent with, the punishment of other employees who have committed the same type of misconduct. To be consistent, punishment for one person's act of misconduct must be the same or closely similar to the punishment given other persons who have committed the same or similar act. In other

words, like penalties for like offenses in like circumstances. Equality also means that favoritism based on an employee's rank or position, race, gender, seniority or other characteristics does not play a part in determining appropriate discipline. Employee actions citing disparate treatment in disciplinary matters are often based on allegations that the police department's punishment was not in line with punishments given to other employees for the same or similar offense.

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

Many if not most organizations generally, and police departments in particular, continue to find it difficult to successfully integrate the foregoing requirements into a cohesive disciplinary system. In larger departments in particular, it is difficult to achieve fairness of punishment when the authority for final disciplinary decisions is spread among a number of district, precinct, or division commanders who may not share the same views concerning appropriate punishment for the same offense. The perceived fairness of disciplinary actions may be further eroded when supervisory or command level personnel are not held to the same standards as their line counterparts. Aggravating or mitigating information important to the fair determination of discipline may not be shared between departmental assignments or units, informal discipline and remedial actions of supervisors may not be fully documented, and problem employees often may be transferred rather than effectively dealt with by their superiors.

## **Disciplinary Matrix**

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

There are three basic ways to control discretion. One way to control discretion is to eliminate it. Mandatory sentencing laws or mandatory penalty policies that require persons found in violation to receive a pre-set punishment act to eliminate discretion. The problem here is that while mandatory penalties can work to improve equality, they almost always undercut equity in the disciplinary process. A second way to control discretion is by developing a series of "checks" so that decisions are reviewed. Appellate review of criminal sentences provides a check on judicial decisions; an appeals process in the disciplinary procedures can do the same. Checks on discretion have a number of problems including the fact that they extend the

length of the disciplinary process and thus add to officer and supervisory anxiety, undermine any deterrent effects, and add layers of decision making (and cost) to the process. Disciplinary decisions in most agencies are reviewable today (in addition to any departmental appeals there are often civil service reviews and, in the end, officers can seek court review of disciplinary decisions). Checking discretion may ultimately achieve more fairness, but given the current controversies, existing mechanisms do not seem to prevent disputes. A final way to limit discretion is through developing guidelines for decision makers. Guidelines inform the decision maker about the purpose of the decision, what factors should be considered (and how), and often, what has been the outcome in other similar cases.

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

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

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

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

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

Generally, disciplinary matrices are used for the imposition of punitive action for acts of misconduct rather than behavioral problems. Behavioral problems are often dealt with through

counseling, remedial training, mentoring, increased supervision or related approaches. However, depending on the nature of the misbehavior and the frequency of its recurrence, it may be subject to sanctions within the disciplinary matrix.

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

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

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

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

## **The Federal Model**

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

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

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

The instructions further state:

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

The federal system emphasizes that a matrix of penalties should not be employed in a mechanical fashion, but with practical realism. This approach was emphasized in the landmark case *Douglas v. Veterans Administration*,<sup>3</sup> in which the Federal Merit System Protection Board, a federal adjudicatory agency, outlined 12 factors that must be considered by supervisors when recommending or deciding employee disciplinary action. While not all are pertinent to every case, they provide a broad-brush approach of the types of mitigating (or aggravating) factors that can and should be considered when employing an agency table of penalties. Many, if not most, of these have application in the disciplinary decision-making environment of state and local law enforcement:

- The nature and seriousness of the offense, and its relation to the employee's duties, position, and responsibilities, including whether the offense was intentional or technical or inadvertent, or was committed maliciously or for gain, or was frequently repeated
- The employee's job level and type of employment, including supervisory or fiduciary role, contacts with the public, and prominence of the position
- The employee's disciplinary record
- The employee's work record, including length of service, performance on the job, ability to get along with fellow workers, and dependability
- The effect of the offense upon the employee's ability to perform at a satisfactory level and its effect upon supervisors' confidence in the employee's work ability to perform assigned duties

- Consistency of the penalty with those imposed upon other employees for the same or similar offenses
- Consistency of the penalty with any applicable agency table of penalties
- The notoriety of the offense or its impact upon the reputation of the agency
- The clarity with which the employee was on notice of any rules that were violated in committing the offense, or had been warned about the conduct in question
- The potential for the employee's rehabilitation
- Mitigating circumstances surrounding the offense such as unusual job tensions, personality problems, mental impairment, harassment, or bad faith, malice or provocation on the part of others involved in the matter
- The adequacy and effectiveness of alternative sanctions to deter such conduct in the future by the employee or others

## **Importance of Documentation**

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

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

The employee should be given the opportunity to read and discuss the contents of the memorandum once completed, asked to sign and date it to verify that the employee has read it, and given a copy if he or she requests one. Where differences of opinion concerning the contents of the memorandum exist, they should be discussed and documented in an

attachment. If the employee refuses to acknowledge the memorandum by signature, this fact should be recorded on the document and witnessed by another supervisor.

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

Comprehensive documentation in the realm of employee discipline may also serve the police department in other ways. When reports of misconduct are lodged in a central repository, they can provide the core data elements for an early warning system, both for individual employees and the organization as a whole. In all organizations, compilation of employee disciplinary offenses and subsequent penalties will prove invaluable for comparative purposes in determining the consistency of disciplinary actions between individuals and, in larger departments, between divisions, assignments, and varied departmental components. In addition, summary and comparative data on the overall nature of employee misconduct in the department can point to potential problems in departmental policy, training, or supervision as well as possible solutions. For example, public complaints that center on unacceptable delivery of services rather than officer conduct (such as response time) may also prove essential in making alterations in personnel allocation or other organizational change.

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

### **What Is "Reasonable" Discipline?**

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

In order for a disciplinary system of this type to function with reasonable effectiveness, there must be some degree of buy in by employees. Where labor unions represent the employment interests of workers, this will unavoidably require union involvement. Even where collective bargaining entities are not at issue, management and line employees will need to reach a

degree of agreement on acceptable disciplinary penalties and sanctions. This does not mean that management must seek concurrence on all decisions of disciplinary action but that there needs to be some reasonable accommodation of interests in arriving at a final table of disciplinary penalties.

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

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

There is quite a bit of knowledge and experience with matrix sentencing guidelines that can ease the development of disciplinary matrices. It is not necessary to reinvent the wheel. Based on the experience with sentencing guidelines, there are two basic models for matrix development: descriptive or prescriptive. A descriptive matrix suggests sanctions based on what has typically been done in similar cases in the past. If disciplinary data are available, an analysis is done to identify the factors associated with different sanctions. Almost always this analysis will reveal that the severity of punishments is linked to the seriousness of the misbehavior and the prior history of the employee. Based on this analysis, a matrix can be derived that reflects these factors. In this way, the matrix actually describes current practice. In this case, the application of the matrix does little to change how discipline is decided but does increase consistency. Alternatively, a prescriptive matrix can be developed by first determining what factors should be important and how they should relate. Then this determination of how discipline should work forms the basis of a matrix that prescribes penalties for future violations. In this case, the matrix discipline system may bear no relation to existing practice. The choice of developmental method depends on several factors including the availability of data, the capacity to conduct the analyses, the levels of satisfaction with current discipline practices, and the like. If the primary complaint about the current disciplinary process is procedural (concerns equality) and not substantive (concerns equity), a descriptive model seems to be indicated.

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

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

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

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

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

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

From *The Police Chief*, vol. 73, no. 10, October 2006. Copyright held by the International Association of Chiefs of Police, 515 North Washington Street, Alexandria, VA 22314 USA

---

<sup>i</sup> 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.

<sup>ii</sup> See the *Sourcebook of Criminal Justice Statistics* section on public opinion, [http://www.albany.edu/sourcebook/toc\\_2.html](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.

<sup>iii</sup> 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 enormous public attention and concern. News reports indicate the officer had been the subject of disciplinary action on two occasions and the media wanted access to the file which, with the approval of city council, is permissible under certain circumstances. The city council decided not to review or open the file to the public, which effectively ends the matter unless attorneys in the civil or criminal trials are able to convince the court to open the file.

<sup>iv</sup> For a detailed account of the Denver effort, see *Report on the Manager of Safety’s Disciplinary Advisory Group* and the companion *Denver Police Department Discipline Handbook: Conduct Principles and Disciplinary Guidelines* at <http://www.denvergov.org/PoliceDisciplineHandbook/tabid/432137/Default.aspx>.

<sup>v</sup> A growing number of police and sheriff’s agencies have been working on improving their disciplinary processes. The few named here are generally reflective of the changes that have been made by others.

<sup>vi</sup> See the Los Angeles County Sheriff’s Department website, <http://www.lasd.org/divisions/leadership-training-div/bureaus/ebd/about.html>, for detailed information on the Education-Based Discipline program. Information about the concept comes from this site unless otherwise noted.

<sup>vii</sup> Author’s recounting of a conversation with the officer involved when the author was a police officer in Kansas City.

---

<sup>viii</sup> For a good overview of early intervention systems, see *Early Intervention Systems for Law Enforcement Agencies: A Planning and Management Guide* (Walker, 2003). The Charlotte-Mecklenburg Police Department (2005) publication *Early Intervention System: A Tool to Encourage & Support High Quality Performance* is also a good example of reaching out to the public to explain the system.

<sup>ix</sup> The Department of Justice's use of the Pattern and Practice legislation has been very limited during the past 10 years. These are indications that these investigations will be pursued more vigorously in the future.

<sup>x</sup> The full CMPD Discipline Philosophy can be found at CMPD.org under the "Directives" tab:  
<http://charmack.org/city/charlotte/CMPD/zstorage/InsideCMPD/Documents/100004DisciplinePhilosophy.pdf>.

<sup>xi</sup> The chief was Darrel W. Stephens, author of this paper. Parts of the philosophy have been adopted by other agencies. Recently, the Milwaukee (Wis.) Police Department incorporated the entire philosophy in its procedures.

<sup>xii</sup> The Center for Problem-Oriented Policing provides a detailed discussion of the SARA model:  
<http://www.popcenter.org/about/?p=sara>

## References

Adarlo, S. 2009. "Newark Launches Investigation Into Police Disciplinary Procedure." *The Star-Ledger*. January 14.

Anglen, R. and Horn, D. 2001. "Police Discipline Inconsistent: Sanctions Most Likely To Be Reduced." *The Cincinnati Enquirer*. October 21.

Baca, L. 2007. "Psychology of Discipline." Leadership Message from the Sheriff. Accessed December 8, 2010, from: <http://www.lasd.org/divisions/leadership-training-div/bureaus/ebd/assets/leadership-message-psychology-ofdiscipline.pdf>.

Bernstein, M. 2009. "Chief Recommends Sergeant's Suspension in Chasse's Death." *The Oregonian, Portland*. September 23.

Bureau of Justice Statistics. 2009. *Sourcebook of Criminal Justice Statistics*. Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics. Accessed December 8, 2010, from: [http://www.albany.edu/sourcebook/toc\\_2.html](http://www.albany.edu/sourcebook/toc_2.html).

Charlotte-Mecklenburg Police Department. 2001. Directive 100-104: Discipline Philosophy. *Interactive Directives Guide*. Charlotte, N.C.: Charlotte-Mecklenburg Police Department.

Charlotte-Mecklenburg Police Department. 2005. *Early Intervention System: A Tool to Encourage & Support High Quality Performance*. Charlotte, N.C.: Charlotte-Mecklenburg Police Department.

Cote, J. 2009. "Long Delays Plague S.F. Police Discipline." *San Francisco Chronicle*. March 21.

Curry, T.H. 2004. *An Analysis of the Discipline Process and Outcomes, With Recommendations for the Lansing Police Department*. Lansing, Mich.: Lansing Police Department.

Eck, J. and Spelman, W. 1988. *Problem Solving: Problem-Oriented Policing in Newport News*. Washington, D.C.: Police Executive Research Forum.

Forster, S. 2007. "Lawmakers Want Statewide Approach to Police Discipline." *Journal Sentinel*. December 28.

Hunt, T. 2009. "Modernizing the Police Disciplinary System." *American Police Beat* (April): Opinion/Editorial.

---

The Independent Commission on the Los Angeles Police Department. 1991. *Report of the Independent Commission on the Los Angeles Police Department*. Los Angeles, Calif.: The Independent Commission on the Los Angeles Police Department.

Iris, M. 2002. "Police Discipline in Houston: The Arbitration Experience." *Police Quarterly* 5 (2): 132-151.  
Los Angeles County Sheriff's Department. 2010. Education-Based Discipline Unit. Accessed December 8, 2010, from: <http://www.lasd.org/divisions/leadership-training-div/bureaus/ebd/about.html>.

Matrix Consulting Group. 2009. *Review of Internal Affairs, Disciplinary Process and a Cultural Assessment of the Police Department: City of Vancouver, Washington*. Vancouver, Wash.: City of Vancouver, Washington.

Parks, J. 2006. "Tucson Police Department Has Taken a Step in the Right Direction in Determining Officer Discipline." *AZCOPS: The Voice of Arizona Law Enforcement* 6 (3): 2.

Pate, T., McCullough, J.W., Bowers, R.A. and Ferrara, A. 1976. *Kansas City Peer Review Panel: An Evaluation Report*. Washington, D.C.: Police Foundation.

Pitkin, J. 2009. "Chasse Cop Christopher Humphreys Placed on Administrative Leave." *Willamette Week Online*. November 19 (accessed May 10, 2010).

Police Assessment Resource Center. 2008.  
*Evaluation of a Pilot Community Policing Program: The Pasadena Police-Community Mediation and Dialog Program*. COPS Evaluation Brief No. 2. Washington, D.C.: U.S. Department of Justice, Office of Community Oriented Policing Services.

Proctor, J., Clemmons, A. and Rosenthal, R. 2009. "Discourteous Cops and Unruly Citizens: Mediation Can Help." *Community Policing Dispatch* 2 (3). Accessed Dec. 8, 2010, from: [http://www.cops.usdoj.gov/html/dispatch/March\\_2009/mediation.htm](http://www.cops.usdoj.gov/html/dispatch/March_2009/mediation.htm).

Rothwell, G.R. and Baldwin, J.N. 2007. "Whistle-Blowing and the Code of Silence in Police Agencies Policy and Structural Predictors." *Crime & Delinquency* 53 (4): 605-632.

*Seattle Post-Intelligencer* Editorial Board. 2006. "Police Discipline: Public and Fair." April 18.

Serpas, R., Olson, J. and Jones, B. 2003. "An Employee Disciplinary System That Makes Sense." *The Police Chief* 70 (9): 22, 24-28.

Suderman, A. 2009. "Montgomery Attorney: Police Officers Get Light Punishments Thanks to Union." *The Washington Examiner*. May 6.

Taylor, W. 2005. Review of Police Disciplinary Arrangements Report. London: Home Office. Accessed Dec. 8, 2010, from: <http://tna.europarchive.org/20100419081706/http://www.police.homeoffice.gov.uk/publications/police-reform/police-disciplinary-arrangements/index68ce.html?view=Standard&pubID=671130>.

Torpy, B. 2009. "In Atlanta, It Can Be a Long Wait for Cases to Be Resolved." *The Atlanta Journal-Constitution*. August 1.

Van de Water, A. 2006. *Police Discipline Procedures. Legislative Analyst Report*. San Francisco Board of Supervisors.

Walker, S. 2003. *Early Intervention Systems for Law Enforcement Agencies: A Planning and Management Guide*. Washington, D.C.: U.S. Department of Justice, Office of Community Oriented Policing Services.

Walker, S. 2004. *The Discipline Matrix: An Effective Police Accountability Tool?* Conference report. Omaha, Neb.: University of Nebraska at Omaha.

---

Walker, S., Alpert, G.P. and Kennedy D.J. 2000.  
*Responding to the Problem Police Officer: A National Study of Early Warning Systems. Final Report.* Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, National Institute of Justice, NCJ 184510. Accessed Dec. 8, 2010, from: <http://www.ncjrs.gov/pdffiles1/nij/grants/184510.pdf>.

Walker, S. 2003. *Early Intervention Systems*  
Justice, Office of Justice Programs, National Institute of Justice, NCJ 184510. Accessed Dec. 8, 2010, from: <http://www.ncjrs.gov/pdffiles1/nij/grants/184510.pdf>.

Walker, S., Archbold, C. and Herbst, L. 2002.  
*Mediating Citizen Complaints Against Police Officers: A Guide for Police and Community Leaders.* Washington, D.C.: U.S. Department of Justice, Office of Community Oriented Policing Services.

Zamora, J.H. 1997. "Police Discipline Process Broken, Panel's Chief Says." *San Francisco Chronicle*. February 12.

Zansberg, S. and Campos, P. 2004. "Sunshine on the Thin Blue Line: Public Access to Police Internal Affairs Files." *Communications Lawyer*. Fall 2004.

## **Author Note**

Darrel W. Stephens is the retired Chief of the Charlotte-Mecklenburg Police Department. He is currently on the faculty at Johns Hopkins University's Public Safety Leadership Program and is the Executive Director of the Major Cities Chiefs' Association. This paper was written in support of the Executive Session on Policing and Public Safety at the Harvard Kennedy School of Government. The author acknowledges the important feedback from Malcolm Sparrow, David Sklansky and Ellen Scrivner.