



OIR Perspectives
March 2005

Issue 4



Stephen J. Connolly
Attorney,
Office of Independent
Review
sconnol@laoir.com

**The Myth of the Ruthless Investigator:
Clarifying the Discipline Process**

For those of us who work closely with the law enforcement disciplinary process, a recurring source of frustration is the "molehills into mountains" phenomenon. This happens when officers turn a low-level incident of misconduct into a protracted, contentious, and potentially career-damaging battle through a lack of candor and forthrightness during the investigation.

Many of the possible explanations for this trace back to the simple fact that deputies are people, and that people in general are not famous for their eagerness to admit mistakes, accept blame, and embrace the consequences of their transgressions. In the law enforcement arena, another potential factor might be that deputies lack the necessary trust that their Department will hold up its end of the bargain and apply proportionate, mitigated discipline when the officers acknowledge mistakes promptly and fully.

As complex and insurmountable as these issues may be, they are at least understandable. More frustrating are instances when false assumptions or misconceptions about the process contribute to the reluctance to cooperate.

An example of this phenomenon can be found among officers who harbor and promote a distrust of their own department's internal affairs bureau. In this biased and seemingly pervasive view of the world, internal affairs investigators are a ruthless collection of Monday morning quarterbacks who live to "get" deputies regardless of the facts. What results, unfortunately, is a determination among some officers never to give an inch when they are subjects (or even witnesses) in a misconduct investigation. No one is well-served by such an approach, especially when it comes at the expense of candor and clarity.

The internal affairs group of any law enforcement agency is unlikely to win any popularity contests: the public is unaware of what they do, for the most part, and the agencies that these investigators serve are rarely enthusiastic fans. There are obvious reasons for this. The dentist's patient would always prefer not to have the problem in the first place, and therefore rarely celebrates when skilled examination uncovers a troublesome cavity or two. Moreover, an investigation is certainly never good news for the subjects themselves. It is stressful under the best of circumstances, and "winning" in the form of exoneration does little more than restore the deputy to even ground.

This reality, however, does not account for all of the hostility and resentment often directed at internal investigators by other officers within a department. Instead, much of the animosity is driven by rumor, misunderstanding, and obsolete mythology about their role. The implications are significant, and often work to the detriment of all parties in the process. Clearly, then, a heightened understanding of internal affairs would be an easy and influential step toward improvement of the discipline system.

OIR's greatest familiarity is with the LA County Sheriff's Department, of course, but the simple truths about that agency's Internal Affairs Bureau are undoubtedly applicable to other law enforcement groups. Those interested in understanding IAB might start by recognizing the variety of personalities and backgrounds that its members possess. The investigators, supervisors, and command staff that comprise the IAB come from all different branches of the Department. Their career paths, priorities, and individual strengths and weaknesses are wide-ranging. Like the officers who serve at any other unit, they can not be fairly or accurately understood in terms of stereotypes and sweeping generalizations.

There are systemic realities that also merit consideration by those who insist that IA has an agenda. For example, even if the existence of the occasional hostile or unfair investigator were conceded for the sake of argument, that person would still have no control over whom he investigates, and for what reasons. Instead, the requests for investigation usually come from the Chief's office or another division, and the individual case assignments come to the

investigators from their own supervisors. Nor do the internal investigators in the Sheriff's Department offer recommendations or make decisions about what the outcomes of the cases should be.

It is also important to note that the investigators are not rewarded for "getting" deputies, or penalized for investigations that end up supporting the officers' actions. Their performance is assessed by the extent to which they establish the knowable facts in any case. Moreover, contrary to another common lament, internal investigators are not "out of touch" with the stresses and dangers faced by the patrol deputy on the street or in the jails. Their understanding of law enforcement is based on years of personal experience in the very situations they are now assigned to investigate, including shootings and uses of significant force. They continue to have friends, former partners, and even family members in various jobs throughout the Department, and virtually all will go on to other assignments when their tour as investigators is over. They are not the enemy.

By and large, an internal investigator is paid to have a thick skin. Even so, there are times when good investigators feel frustrated by the adverse effects of distrust on their investigations and on the disciplinary process as a whole. They shake their heads when a minor incident becomes a potential discharge because false statements in an investigation have compounded an offense. They regret the suspicions and fears that complicate and protract even simple cases for months. And, as anyone would, they bristle when their character and integrity is derogated or distorted in contexts that leave them with no meaningful opportunity to respond.

In our role as monitors of the Sheriff's Department discipline process since 2001, OIR deals with internal investigators on a daily basis. While not every investigation has been flawless, the work has been largely effective and often impressive. Importantly, we have also found the fundamental good faith of the investigators to be consistent and deserving of recognition. OIR does know of isolated instances in the Department's history where investigators have pushed the envelope too far in their efforts to pursue allegations, but those episodes of questionable tactics have been addressed and are not part of a larger pattern or problematic philosophy.

Instead, the rights of officers under investigation are emphasized and given appropriate deference by LASD's internal investigations units. Those who devote time and attention to asserting otherwise are ignoring the key issue: the responsibility of all involved parties to ensure that the discipline process for law enforcement agencies is constructive, effective, and fair. More importantly, such critics are contributing to an atmosphere in which molehills too often turn into mountains, to the detriment of all involved.