



## LAW ENFORCEMENT INTERNAL AFFAIRS

### *The Need for Federal Guidelines in Reporting Data*

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#### Background

The National Uniform Crime Reporting (UCR) system was established in the 1920's-30's. The International Chiefs of Police Association (IACP) formulated a committee, which developed a system for capturing crime statistics to enable law enforcement agencies to measure their effectiveness and better manage their resources. Using the recommendations of the IACP Committee, Congress enacted Title 28, Section 534 of the United States Code authorizing the Attorney General of the United States to collect crime data throughout the nation. The Federal Bureau of Investigation (FBI) was designated to maintain the clearinghouse of crime data and developed specific definitions and reporting requirements, which has proven to be very valuable in measuring crime and the effectiveness of law enforcement agencies. The Crime Index specifically defined the violent crimes as murder, non-negligent homicide, forcible rape, robbery, aggravated assault and property crimes including burglary, larceny-theft and motor vehicle theft. In 1979, Congress mandated arson to be added as an Index Crime.

While not all police managers believe the UCR is without flaws, most would agree that it is a measuring tool which does effectively measure the fluctuations of significant crime in their respective jurisdictions. Perhaps one of the most valuable features of the UCR system is that it provides for universal definitions of crimes, which police agencies are required to utilize, resulting in a consistent reporting format. For example, while some states may have slightly different statutes, which define burglary or robbery differently, the UCR rules define these crimes for reporting purposes in a universal, consistent manner.

#### Internal Affairs:

While the UCR for crime reporting has been operating for over 90 years, the classifications utilized by those responsible for investigating police complaints and misconduct, often referred to as Internal Affairs, have no such guidelines for



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reporting complaints, and/or the disposition of those complaints. As a result, police agencies report their complaint data to their respective communities without any required reporting guidelines. While one agency may document all complaints or potential complaints, another neighboring agency might only report complaints which result in discipline. There are no existing federal guidelines similar to UCR which would provide valuable information to the agency administration. The United States Department of Justice (DOJ) has identified what they refer to as “Best Practices” citing agency policies in consent decrees which they believe are the best approach to handling many aspects of complaint investigations. The DOJ has not, however, provided any guidance for the definition of a complaint or how case dispositions should be reported.

### **Definitions:**

Many law enforcement agency policies throughout the nation rarely define significant terms utilized in the complaint process. Defining those terms is the foundation upon which the complaint investigation process becomes engaged. The following is just a sample of how some law enforcement agencies define a few of the key terms in the I.A. process.

- An **allegation** is an unproven accusation that a member of the law enforcement agency violated department policy procedure, rules, regulations, or the law.
- A **violation** is an act or omission by a department member that is a breach of Department policy, procedure, rules, regulations, or the law, which if proven true could result in disciplinary action.
- A **complaint** is an expression of dissatisfaction that contains an allegation, which if proven to be true, is a violation.
- An **inquiry** is based upon a misunderstanding or a lack of knowledge of acceptable or desired conduct, procedures, or practices which a supervisor is able to resolve with the complainant and the officer.

Unfortunately, there is no official universal definition of these terms, or others, which would provide law enforcement agencies with consistent terminology that all agencies should follow.

### **Complaint Dispositions:**

Since 1990, the IACP Model Policy has recommended the following case dispositions:

- a. *Sustained*: Evidence sufficient to prove allegations.
- b. *Not sustained*: Insufficient evidence to either prove or disprove allegations.
- c. *Exonerated*: Incident occurred but was lawful.
- d. *Unfounded*: Allegation is false or not factual or the employee was not involved.

These case dispositions are utilized by many police agencies, but are often applied differently. Other dispositions that some agencies utilize in the disposition process include:

- e. *Training Issue*: During the course of the investigation, it is determined that the involved department members were not sufficiently trained to handle the situation.

- f. *Policy Deficiency*: During the course of the investigation it is discovered that the agency policies are in need of revision in order to provide department members with direction.
- g. *Violations not based upon the complaint*: During the course of the investigation other departmental violations are discovered in addition to the allegations lodged by the complainant.

To illustrate the problem, two same size agencies in the same county could report their Internal Affairs findings with differences in their results which could be very misleading. While one agency may boast they have a 75% sustained rate, the other agency may only report their sustained rate as 15%, even though their actual results are essentially the same but their reporting formats are very different.

The following are examples of disparities, which can occur when police agencies determine case dispositions:

1. A complainant alleges that an officer used profanity three different times during a traffic stop. There were several credible witnesses and the allegations are sustained. Should the agency count this sustained disposition as (3) sustained charges or (1) sustained case. **There are no existing government regulations which clarify this issue.**
2. A complainant is arrested and alleges excessive force was utilized by the arresting officer. The allegation is not-sustained, however, during the course of the investigation, an administrative violation of failing to document the force used on the required Use of Force Form is discovered. As a result, the officer is disciplined. Should the agency report this case as sustained or not-sustained? Some agencies would report the allegation as not-sustained, but with other findings of violation not based upon the complaint. **There exists no government regulation which clarifies this issue.**
3. A citizen calls the police to report a stolen bicycle and insists on filing a complaint because the officer did not arrive to take the report for over an hour. Is this a complaint against the officer or a policy complaint or a non-complaint, and how should the agency report it? **There exists no government regulation which clarifies this issue.**
4. An arrested subject protests that he is innocent and his arrest is therefore improper. The detective handling the case believes he has probable cause the subject committed the crime. Should this complaint be investigated? **There exists no government regulation which clarifies this issue.**

These are just a few examples of the ambiguity and lack of clarity facing law enforcement agencies on the correct way to report their internal complaint data. While the IACP Model Policies and the Commission on the Accreditation of Law Enforcement Agencies (CALEA) guidelines provide some direction on handling these issues, they are only recommendations which each agency interprets on their own, and often differently.

## **Conclusion**

It is important to establish federal guidelines, which regulate how law enforcement agencies report their complaint data, including the definition of a complaint and how case dispositions should be reported, in order to measure the effectiveness of internal investigations. Without a federal mandate, defining dispositions and key terms such as what constitutes a “complaint” or an “allegation,” law enforcement agencies will be unable to accurately report the results of their internal investigative process.

I have raised these issues with representatives of the DOJ and the National Internal Affairs Investigators Association (NIAIA), and both agree that this is an area, which needs to be addressed. If law enforcement agencies are ever going to elevate their professional status concerning internal investigations, than they need to seek guidelines, which require them to utilize the same playbook.

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