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Mike Mauer,

I am contacting you with regards to state legislation to be placed on the 2012 ballot of Colorado.

I am sure that you are well aware of the fact that each police department in the state of Colorado is "Self Governing". Police departments being self governing has in the past and continues to allow rogue police officers/police departments to go unchecked. I am also well aware of the fact that city councils appoint the police chief of each department.

Unfortunately if there is a problem with the department and the acting chief elects not to take actions the city is very reluctant to take actions due to civil liabilities.

The proposed civilian review group wouldn't interfere with normal police activities as long as the department(s) follow the standard ethics that every officer and department should have. In recent light of video tapes and false police reports concerning individuals it is obvious that the police shouldn't be policing the police. That ranks right up there with the fox guarding the chicken coup.

As suggested by State Legislative Attorney Elizabeth Haskell and the Jefferson County

Under-Sheriff Fleer I have re-contacted Jefferson County District Attorney Scott Story about the improprieties of the Wheat Ridge Police Department and you as the first of the 14 steps I should take to have the voters of Colorado decide on the matter of a civilian review group. In addition I am having a web sight developed so that voters can review the numerous complaints and the money that has been paid out by the departments as “hush” money.

Sincerely,

Jeffrey P. Worthington

Introduction

It is appropriate that in conferring the police with powers, particularly the power to use lethal force, that civilians have a role in determining the standards by which they are policed. And an independent civilian review board affords citizens with an opportunity to engage in that role by providing a venue through which to air grievances, express concerns, and voice recommendations.

It is important to note that for a civilian review board to be truly effective, it must be independent. That is, it must conduct an independent investigation of complaints and not a civilian review of an investigation conducted by a police internal affairs bureau, which would result in the illusion of oversight without the reality. The integrity of the civilian review board will derive from direct civilian review of police conduct, not a civilian review of police review.

An Effective Model

An effective civilian review board ("CRB") has complaints investigated and reported to its board members within 60 days of having received a signed complaint. Within 120 days of having received the complaint, a hearing is held (usually before three board members), a decision on the complaint is rendered, sanctions are determined, and both the complainant and respondent are informed as to the disposition of the complaint. Due to special circumstances, the entire process can be permitted to extend to 180 days.

Professional investigators, an integral part of the CRB and whom its board members choose, conduct the initial fact-finding in a complaint investigation and submit a report to the Board. In some models, the CRB's executive director conducts the investigation. The seven to nine CRB members are representatives of community organizations (ie - ACLU, NAACP, etc.) and serve in two years appointments, while the executive director is selected by the chief judge of the 11th judicial circuit and serves for six years. The CRB is empowered to vote to remove a board

member, appoint new members through a simple majority vote when a vacancy occurs, and petition the chief judge to remove the executive director. The composition of the CRB should reflect the diversity of the city in terms of race, ethnicity, and gender.

The position of executive director is full-time, while the board members are volunteers. It is imperative that the director be a tenacious individual for the first few years of any civilian review board prove to be its most trying. All board members including the executive director should undergo a training regimen before participating in the complaint process. Having current or former police officers on the CRB can be controversial.

It is important that the investigator is not a sworn officer or former officer. In some models, there is one investigator for every 250 sworn officers, so that a backlog of investigations can be avoided. The investigators can be made full-time employees or simply can be hired when needed.

The CRB has subpoena power to require that witnesses testify and documents be produced within a timely manner. It also has the power to sanction police officers for misconduct. All board meetings and hearings are open to the public and are announced and advertised to the public at least a week in advance, along with an agenda.

During the course of the hearing, each of the parties will be allowed the opportunity to cross-examine the witnesses.

The complaint process must be timely. If a complaint is not disposed of within the required 120 days (on exception 180 days), the officer can argue that the case be dismissed. Sanctions should be imposed within 14 days of the CRB's decision to sanction. It is important that the entire complaint process (investigation, hearing, decision, and determination of sanctions) be completed before the statute of limitations on the officer's offense has expired, so that sanctions may be imposed.

If a criminal investigation or proceedings have been initiated, the CRB will defer taking any action during the course of such proceedings or investigation.

The CRB should have an explicit, written mission that defines the roles of the executive director, the board members, and the investigators. And the CRB should produce a clearly defined matrix or table listing, the standard of proof it uses, the decisions it can render, and the sanctions it can impose. In creating the CRB, the civilian review boards in other jurisdictions should be studied. Also, a training regimen for all board members should be determined.

References for other civilian review boards as well as training regimens, including how to investigate a complaint, are provided at the end of this proposal.

The CRB will investigate and hear all complaints that concern the use of force, including shootings; deaths in custody; harassment; abuse of authority; and improper searches or detention. The CRB has the authority to broaden its reach to decide other types of complaints as well.

For discourtesy complaints (including offensive language, derogatory remarks, and slurs) and procedural complaints (when the citizen cannot understand why the officer took a particular action), it is recommended that mediation be used. Such complaints are notoriously hard to prove and have an effect of resulting in a backlog of more serious complaints.

A written procedure should be established for the withdrawal of complaints. And a specific reason must be provided for the withdrawal. After the withdrawal, the complaint process will continue with the complainant serving as a witness to the events rather than as the aggrieved party. Any individual or organization acting to threaten or coerce a complainant to withdraw a complaint will be subject to sanctions.

Functions of the Civilian Review Board

1. To establish the principle of police accountability by investigating and hearing citizen complaints on police activity. To ensure that citizens with grievances have a place to turn and thereby to help discourage police misconduct. Of course, the CRB accepts complaints in all languages.
2. To promote community awareness as to the citizen's opportunity to file a complaint concerning police misconduct, as well as to disseminate information as to how and where to file a complaint. Also, to educate the public as to its rights in dealing with the police and about the merits of civilian oversight.
3. To make concrete recommendations about police policies and procedures and to suggest improvements in training. Also, to alert police administrators to the steps they must take to curb abuse as well to provide recommendations as to how future abuse may be prevented.
4. To hold regular monthly meetings that are open to the public so that citizens and representatives of organizations can voice criticisms, make proposals, and introduce resolutions to review or reform specific police practices. To provide a mechanism through which the community can voice its concerns and suggest recommendations.
5. To create and utilize an "early warning" or "at-risk" system to identify officers who are the subject of repeated complaints. Often a small percentage of officers taint an entire police force because of the complicity of superior officers, who do not hold them accountable by supervising, disciplining, or dismissing them when appropriate. A strong reporting mechanism and an early warning system are essential components of an effective civilian review board.
6. To publish a semi-annual report listing the numbers of the following: complaints received; complaints investigated; hearings held; complaints withdrawn; and local, state, and federal cases filed against the police department. Of course, the disposition of the complaints should be provided, and the number of use of force complaints as well as the number of shootings also should be listed.

The report should include the policy, procedure, and training recommendations that were made and whether the police department implemented those suggestions in a timely manner. The report also should include the following patterns in complaints: type (ie - racial profiling, discourtesy), geographic location of incident, race/ethnicity/gender of complainant, and characteristics of the officers (ie-race, ethnicity, gender, rank, etc.). Finally, the report should provide statistics as to the trends in complaints (ie ? that there is 20% increase in racial profiling complaints compared to the prior six month period.)
7. To author and make available to the public a summary report on each complaint and its disposition.
8. To forge a relationship with local prosecutors as well as the Offices of the State Attorney and the US Attorney. Complaints alleging serious allegations should be forwarded to the relevant prosecuting agencies for appropriate action. And when local prosecutors fail to act on cases concerning police misconduct, it is the responsibility of the federal government to prosecute if an individual's civil rights have been violated.
9. To contact the civilian regarding the filing of a complaint, if a case of police misconduct is known to have been alleged against that civilian and no complaint has been received.
10. To protect officers from petty and vengeful complaints as well as protect the due process rights of officers engaged in the complaint process.

Requirements for an Effective Civilian Review Board

The civilian review board requires the authority to act independently to receive, investigate, conduct hearings on, and issue findings on complaints. It also requires the authority to independently determine and impose sanctions.

An effective CRB requires authority to collect and release a large range of information about local police conduct, thus necessitating access to information concerning police shootings, use of force, etc. In most large cities, police are required to file a report after every firearms discharge. Accordingly, the CRB and its investigators should be provided with unfettered access to all police files, including prior as well as current and pending complaints.

It is important to note that police departments are an agency of the government and should not withhold from public view their policies, procedures, memoranda, records, reports (including "internal" reports, documents, etc.), tape recordings, or civilian complaints filed with the police department itself.

The CRB also requires the authority to compel the police department to inform the Board of the standard(s) of proof it uses in deciding whether to sustain a complaint. Does it use the criminal "beyond a reasonable doubt" rather than the "preponderance of the evidence" which is the generally accepted standard for internal inquiries?

The CRB requires the authority to compel the police department to provide it with a disciplinary matrix or table describing the range of penalties that officers should expect for various offenses. This will assist the Board in removing the broad discretion currently exercised by some police officials in applying discipline.

The CRB requires the authority to compel the police department to provide it with the number of officers who are racial/ethnic minorities and women as well as their distribution and rank throughout the department. Such information is useful in assessing the "culture" of the police department.

The CRB requires the authority to compel the police department and the city government to provide it with the number and type (ie ? local, state, federal) of lawsuits that have been filed against it. For each lawsuit, the CRB should be provided with a list of the charges, the number of officers involved as well as their names, the disposition of the suit, and in the case of successful suits, that the city paid in damages.

The CRB requires the authority to compel both police departments and jails to notify it of any and all allegations of police brutality. Such notifications will serve to trigger the initiation of a complaint on behalf of the alleged victim. Both police departments and jails are required to take photographs of the complaining victim's injuries and provide those photographs to the CRB.

The CRB requires subpoena power to ensure that witnesses testify and documents be produced within a timely manner. Without the ability to compel police cooperation, the CRB would be unable to perform its mission.

The CRB requires the authority to sanction an officer for misconduct as well as to sanction any officer who attempts to subvert the complaint process, particularly any officer who acts to dissuade or threaten an individual from filing a complaint or who attempts to threaten or coerce an individual into withdrawing a complaint. The CRB should also have the authority to investigate the behavior of supervisors and to discipline a supervisor for a line officer's actions.

It is imperative that the police are required to accept the findings of the CRB as well as implement the sanctions imposed by the CRB. It is also important that the police not delay in

acting on the CRB's decisions until after the statute of limitations on the officer's actions have expired. Or the statute of limitations must be extended to provide for the CRB's thorough investigation.

The CRB requires the power to provide whistleblower protection to police officers who report the misconduct of fellow officers.

The CRB requires an adequate budget that is shielded from politics.

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