

Accountability Through Peer Intervention Teams

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Abstract

Accountability across every aspect of law enforcement is critical. A lack of accountability when officers are involved in misconduct leads to the loss of community trust and fosters resentment within an organization. Police misconduct encompasses actions that may be illegal, unethical, and in violation of individuals constitutional rights by members of our organization under the color of authority. Lack of accountability not only condones and emboldens the bad behavior for that officer, but also has negative implications for the organization, the municipality, and the community. It has been our collective experience that officers who committed misconduct were not always held accountable for prior actions. These actions led officers to believe that the misconduct or inappropriate behavior was acceptable. These missed opportunities for interventions by a peer, a supervisor or any member in the organization who observed or became aware of the behaviors can, and frequently do, lead to further acts of misconduct or additional inappropriate behavior. These failures to intervene can have a dramatic effect on other officers' morale and the good order and discipline of the organization, in addition to often leading to further misconduct or inappropriate behavior that brings discredit to the organization and affects the morale of all.

Accountability Through Peer Intervention Teams

This is a collaboration by three law enforcement leaders of small and medium sized police departments ranging from 60 to 146 uniformed members. As leaders and as peers within our own organizations, we have seen and felt the effects of failing to hold people accountable for their behavior. Failure to hold peers accountable has permitted and emboldened officers to engage in serious acts of misconduct. These actions have led to the termination of employment and, in some cases, the criminal prosecution of the involved officers. These end results significantly affected their careers and their families. In addition, it has affected and changed the culture and morale within our own organizations. The purpose of this work is to address the impact of failing to hold peers accountable for their behavior and the need for intervention at all levels of an organization. This document will examine incidents where officers did not hold their peers accountable, they did not intervene, and eventually all officers found themselves terminated or facing criminal charges for their misconduct or simply by being bystanders who took no action to mitigate the incident. Next, it will examine the need and the process required for adopting and implementing a peer intervention program to promote peer to peer accountability. Finally, it will address how the implementation of the program can institute an organizational cultural change of accountability and the benefits that can bring to the members of the organization and community.

We will examine a small sample of previous incidents that have placed law enforcement in the spotlight of needing to address the problems of misconduct. As an example, in 2020, the murder of George Floyd by a Minneapolis Police Officer precipitated widespread protests and civil unrest. The protests were fueled by high profile incidents, resulting in the deaths of several African Americans, including Eric Garner, Michael Brown and Stephon Clark. In several of

these incidents, some officer's present were passive bystanders and failed to intercede. It was later discovered that these officers had a history of misconduct and their peers failed to intervene. We will examine the benefits of the implementation of a peer intervention program, which is intended to help members of the organization hold each other accountable when they observe behavior that can lead to misconduct. The program can also help prevent officers from acting as passive bystanders, who by failure to intervene, or report misconduct essentially condone the officer's misconduct. When we discuss misconduct, we are not only talking about behaviors which occur when acting under the color of authority. Misconduct also includes incidents which occur while off duty such as obstruction of justice, driving under the influence, or engaging in other illegal acts or risk-taking behavior.

For a variety of reasons such as their perceived concept of loyalty, peers do not intervene. Peers may have a belief that loyalty means supporting a peer's action regardless of right or wrong, or they may fear retaliation from that officer or other peers which may cause other problems amongst members of the organization. This behavior can lead to a culture of progressive officer misconduct (IACP, (n.d)).

It is common knowledge that the goal of a peer intervention program is to stop officer misconduct before it happens. Strategies surrounding peer intervention include a duty to intervene, early warning identification systems and, to a certain extent, remote monitoring of body worn cameras, all designed to help officers hold themselves and their peers accountable. These programs not only help us to be accountable to ourselves, our peers, and our communities, but also help identify the behaviors that can potentially lead to misconduct by an officer. As leaders within our own organization, we believe that without the implementation of programs

designed to prevent misconduct, our agencies will continue to remain reactive. The cycle of behavior that leads to misconduct and the culture of mistrust it creates will never change.

Historical Context

Now more than ever, communities across the United States, and the law enforcement agencies that serve those communities, are recognizing that first responders must do a better job intervening when necessary, to prevent their colleagues from causing harm or making costly mistakes. There are several examples of this throughout the history of law enforcement. One of the first major incidents was on March 3, 1991, when four Los Angeles Police Officers brutally beat Rodney King. During the eighty-nine second video, Rodney King was beaten while several officers stood by and watched. Of the four officers that were actively involved in the assault of Rodney King, all but one had prior disciplinary actions for excessive force. One of those ended in a \$70,000 settlement and the others a sixty-day suspension (Manning & Cannon, 2000). In the federal lawsuit not only were the officers that attacked King named, but also the officers that stood by doing nothing to stop the beating of Rodney King.

In more recent events, on July 17, 2014, NYPD Officer Daniel Pantaleo wrapped his arms around Eric Garner's neck and squeezed. He held tight as his colleagues slammed Garner to the ground. Garner, who was unarmed at the time, gasped for air, arm outstretched, saying "I can't breathe" over and over as officers piled on top of him. Then he fell silent. Before he put Garner in the chokehold, the records show, he had seven disciplinary complaints and fourteen individual allegations lodged against him. Four of those allegations were substantiated by an independent review board.

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The event that galvanized the country happened on May 25, 2020, with the death of George Floyd. Minnesota Officer Derek Chauvin knelt on George Floyd's neck for nine minutes and twenty-nine seconds while three other officers observed. Before the death of George Floyd, Officer Chauvin had eighteen complaints on his official record, two of which ended in discipline, including official letters of reprimand. The three other officers that were on scene stood by while Floyd suffered have been charged with violating George Floyd's civil rights by federal prosecutors. The federal prosecutor, Samantha Trepel, stated during the trial the officers ignored their training and did nothing to save Floyd's life. "They watched as Mr. Floyd suffered a slow and agonizing death," said Samantha Trepel. She said the law requires police officers to intervene — to stop police officers they see using excessive force and to provide medical aid. "Failing to do so is a crime," Trepel said (NBC News, 2022).

In each of these major incidents, the officers that committed these outrageous offenses had one thing in common. They had fellow officers that were with them that did not do anything to stop the tragedies before they were committed. If only those officers had the moral courage to stand up and not let their fellow officers go down the dark path of misconduct. That requires agencies to change the way they think and act. These police agencies need cultural change in policing that equips, encourages, and supports officers to intervene to prevent misconduct and ensure high-quality policing.

Peer Intervention Programs

In her 2021 article, *Police Accountability in the USA: Gaining Traction or Spinning Wheels?*, Carol Archbold brings to bear the importance of accountability from a peer perspective within an agency. She states, "Police officers need to feel confident that their colleagues will

conduct their work in a lawful manner that does not jeopardize their safety or the safety of others; that does not result in people questioning their professional integrity or expose them or their police agency to costly litigation.” (Archbold, 2021, p. 1666). This same concern was shared from an executive viewpoint in a 2020 survey conducted by the Police Executive Research Forum of over 375 police executives. The survey was focused on what assistance or concerns police executives had with the incoming presidential administration and police reform. These executives' concerns mirrored those of officers' peers, only from the executive position of being able to terminate officers for misconduct and not have that decision reversed by labor unions or arbitrators, thereby effectively limiting police executive's ability to hold officers appropriately accountable (PERF, 2020).

Archbold recognizes two types of accountability when dealing with law enforcement; the first is internal, coming from leadership to a subordinate; the second type is external, coming from some variation of an external review board having various authoritative powers ranging from recommendation to implementation of discipline (Archbold, 2021). According to a 2019 article from *Journal of Public Affairs*, *Impact of Accountability on the Performance of Police Service; Palestinian Police Case Study*, in which 332 executive level police officers from the four largest departments in the West Bank were surveyed, internal accountability was considered the most effective, with 76% indicating that internal accountability mechanisms increased the effectiveness of external methods (Ahmad & Barakat, 2019). It is the authors' opinions that internal accountability is considered more effective as it is police who are policing the police and holding officers accountable internally gives a certain legitimacy to external review boards amongst police.

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The need for accountability is an overarching theme that both the rank and file and administrators at all levels agree is a necessity. Taking this into consideration, it is time for law enforcement to evaluate other alternatives other than the reactionary administrative and disciplinary actions we currently have in place. We need to evaluate proactive approaches and strategies to address preventing misconduct through peer intervention techniques. In an article written for *Subject to Debate*, Jonathan Aronie discusses the highly successful EPIC (Ethical Policing is Courageous) model used by the New Orleans Police Department for peer intervention. In this article, Aronie describes a method for preventing misconduct before it happens. This EPIC program is designed to teach officers how to intervene, it also teaches how to accept intervention. The premise of the program is not to “rat” on your fellow officers, but to help them in that moment when they in the process of making a poor decision for the situation they find themselves in (Aronie, 2016).

One of the key tenets of the EPIC Program is to teach officers to be active and not passive bystanders when they witness an act of misconduct (Aronie, 2016). So often, Police Officers are willing to risk their lives for their fellow officers; however, when the officer is about to make a bad decision it becomes difficult for that peer to speak up. Mark Twain once asked, “Why Physical Courage should be so common in the world and Moral Courage so rare?” (Twain, 1940, cited in Aronie, 2016) This question embodies the problem we face. EPIC is a program designed to aid officers in finding the Moral Courage to step in and help their fellow officers.

EPIC trains officers on multiple facets of intervention as well as addresses concerns with intervention. The training focuses on helping officers understand the benefits and risks, identify signs that intervention is necessary, how to intervene effectively and safely, how, and why to accept intervention and protecting officers who intervene and accept intervention (Aronie, 2016).

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As these concepts are introduced, role playing is used to ensure that officers can demonstrate applicability of the skills and techniques they have learned.

Benefits and risks associated with peer intervention include early intervention to mitigate a simple policy violation down the road or in an extreme case saving the career and up to including the freedom of an officer. Even when officers understand the benefits, they also recognize intervention may not be accepted or welcomed. Intervening officers face the possibility that their attempts to intervene will be met with hostility, or possibly a physically violent response.

When the hostility or violent response is turned towards a member of the public, officers must know they absolutely have a duty to intercede. Officers can use code words which are known agency wide as a method for intervention. Intervening officers can insert themselves and task the officer in question to perform a different task or take on a different responsibility to separate the officer from that member of the public.

Equally important is the acceptance of the intervention. We must learn to recognize not only the signs of an escalating situation in others but also ourselves. As we recognize these signs on both sides of the coin, we must also accept the fact that it is okay for someone to step and tell us to perform a different function. When someone steps in, we should recognize they are doing so for a reason and accept this, even if we cannot understand it now. Being able to accept or not accept this intervention is a key insight into our emotional intelligence and as such, is something that can be trained through the program.

Having the courage to intervene also brings with it the possibilities of ostracization by fellow officers. There must be protections put in place for these officers that include the

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penalization for retaliatory behavior against them. In addition to protections against retaliatory behaviors, there should also be incentive for those officers who accept intervention. The primary of which is to consider it a mitigating factor in any internal investigation, in the event that the intervention did not prevent a complaint to begin with.

Following the death of George Floyd, agencies around the country began looking for intervention policies and strategies that could be implemented in their agencies. Building on the foundation of EPIC, Georgetown University Law Center's Innovative Policing Program, in partnership with the Sheppard Mullin Law Firm, created ABLE -Active Bystandership for Law Enforcement. The program contains the same basic intervention principles as that of EPIC. It was designed with a foundation flexible enough for any agency to be able to adopt and adjust to their own specific needs. However, there are specific requirements for the agency to meet to participate (Elkins, 2021).

The Board of Advisors for ABLE developed ten standards for agency participation. Some of those standards include the following: training for all officers from the from the agency head to the newest recruit, accountability against retaliation through strong written policy and thorough investigation when retaliation occurs, full support from the agency leadership who will ensure department-wide implementation , and most importantly community buy in and support in the form of support letters written by two community organizations, a letter from the participating agency Chief of Police, and a letter from at least one local government leader (Elkins, 2021).

As leaders within our own agencies, we tend to tell our staff to be courageous; however, we fail to provide them the skills necessary to intervene successfully. Too often we become

focused on policies telling them they have the “duty” to intervene; yet these same policies and training fail to tell them “How” to intervene. ABLE provides intervention strategies in the form of training modules. The three “D’s” modules include Distract, Delegate, and Direct as different ways to intervene (Elkins, 2021). In addition, ABLE trains officers not only to intervene effectively, but also to be receptive to the intervention from others themselves.

In the United States there are currently 140 law enforcement agencies participating in ABLE. The program has expanded into Canada where they have three law enforcement agencies participating in this program (Elkins, 2021).

Role of Leadership

One of the primary responsibilities of leadership at all levels within an agency is risk management. Dr. Rosalyn Harrington defines risk management as a formalized way of dealing with hazards, with hazards being a source of danger and risk as a possibility of something bad happening (Harrington, 2017). There is no greater liability or risk than an officer who deliberately, negligently or with indifference commits an act of misconduct. As progressive law enforcement leaders we must recognize this and utilize a proactive approach to accountability through the implementation of peer intervention programs.

As leaders, it is our responsibility to train our officers to accept that intervention is not indicative of their job performance. The training is intended to help them understand themselves and how to deal with their own emotions and triggers. In addition, the training helps in recognizing potential behavioral issues in others (Robinson, 2017). When officers recognize they are being affected by their own triggers or recognize that in others, officers must know it is okay to intervene or accept intervention. In the July-September 2016 issue of *Subject to Debate*,

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EPIC Program Director Jacob Lundy states that, “EPIC is premised on the idea that police officers are human beings who must respond to immensely stressful scenarios, day in and day out, and they *will* have human reactions to stressful events. We cannot create “police-robots.” We are here to train humans to better negotiate a challenging job.” (Lundy, 2016. p.3).

For any program to be successful, there must be a palpable buy-in of the philosophy from the top of the agency that filters down through command to include civilian members of the department. It is incumbent upon the leadership of the organization to embrace, support and train the program to all members of the organization. As leaders, we must be willing to face feedback, criticism, and other concerns of our officers in order to improve the program. This includes addressing the fear of retaliation from officers at the line level for doing what we are asking them to do. It is critical in order to change the culture of the organization and leave a legacy of healthy measures to hold each other accountable.

The virtue of loyalty transcends through all members of law enforcement. Police are loyal to each other, to their agencies and to the profession. That loyalty that drives an officer to stand beside their brother or sister in life-or-death situations, is also the same loyalty that hurts each other by keeping silent when they should speak-up.

The key step to beginning any program is taking the first step. The key step to beginning any program is taking the first step. Police leaders have the responsibility of implementing the program in a way that it promotes buy in among all employees. The buy in will be instilled through proactive training, supervision at all levels, and peer networking channels. The ABLE program provides for this in its criteria. ABLE not only legitimizing the processes, but also

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ensures everyone in the agency is trained by a certified ABLE trainer and that there is follow through consisting of full support from agency leadership (Elkins, 2021).

As police leaders, the responsibility for implementing a program that expects our officers to challenge the actions of their fellow officers falls squarely on us. The execution steps can be delegated, but it is our responsibility to implement this program in such a way that our officers know it is a “shall” not a “should” or “may”. The ABLE program provides for this in its criteria for acceptance into the program, not only legitimizing the processes, but also ensuring everyone in the agency is trained by a certified ABLE trainer and that there is follow through consisting of full support from agency leadership (Elkins, 2021).

Personal and Professional Experiences

Accountability for misconduct by law enforcement leadership has been inconsistent across the board. Reasons for the inconsistency range from a leader’s lack of moral courage, turning a blind eye to misconduct, or pressure from collective bargaining groups. In either sense, where leadership can’t or won’t hold people accountable, peer intervention is a viable solution, especially when the intervention is coming from a friend and not in the form of an administrative action.

One example we would like to share is as follows: An officer was faced with a disorderly subject who had been arrested and refused to get into the back of a patrol vehicle. While attempting to place the subject in the back of the patrol vehicle, the subject began a verbal tirade about how he had to get home because his two daughters were there. He accused the arresting officer of not knowing what it was like to leave two daughters at home. Unbeknownst to the arrestee, the officer was in the process of a contentious divorce where his two young daughters

were moved to the far end of the state and he was unable to see them often. The backup officer arrived on scene and knowing what his peer was going through personally, he recognized the officer was becoming increasingly agitated and took the initiative to intervene. Although the arresting officer did not violate policy the intervention ensured the arresting officer had a moment to separate from the situation and re-set and assess his emotions. In this situation, the intervention by the cover officer was pivotal. His actions may have prevented the misconduct by the arresting officer and mitigated liability for the agency.

Conclusion

Holding police officers accountable for their actions is something that cannot be overemphasized. As leaders, it is our responsibility to ensure that not only are we holding our officers accountable for their actions, but that we expect and permit them to hold themselves, their peers, and their leaders accountable. This can be accomplished by empowering our officers and giving them ownership and responsibility through peer intervention programs. The countless benefits for members of the organization, the risk management for the agencies and trust regained by our communities is invaluable. The individual officer receives the benefit of intervention prior to misconduct that leads to discipline or other serious consequences. Our agencies are kept out of costly litigation and avoid negative publicity, and our communities trust us that much more when they know we have a culture of policing ourselves.

We strive as leaders to develop magnus officers within our own organizations. We seek to leave behind a positive cultural change amongst our officers, our organization, and our communities we serve in. Thus, we hope to leave a legacy of officers with the highest virtues of good moral character and accountability.

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