

A Brief Discussion of Police Culture and How It Affects Police Responses to Internal Investigations and Civilian Oversight

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While most elements of police culture are universal, each agency possesses its own personal and distinctive organizational culture. So then, what is police culture? I've yet to discover an uncomplicated definition. The definitions I have found are many and varied, some extremely complex. McDonald et al have held: "The concept of police culture is comprised of the merging of two major components a) the image of impartial and professional crime fighters that the police have of themselves, and b) a system of beliefs and behaviour not described in published manuals or agency value statements."¹ This definition, while not necessarily identifying a compelling positive element, does recognize more than just the negative.

The public demands all professions be held to a high standard, but for obvious reasons policing has an even higher threshold to meet. All police officers must accept this higher standard. An integral part of the process of police acceptance of this higher standard is understanding the police culture, while retaining the resilience to both resist the negative and champion the positive.

Discussion of police culture is more apt to be centered upon the negative traits than the positive, so we may as well begin with the negative. Police culture is the sum of numerous subcultures, The Blue Wall being an unfortunate byproduct. Robert Reiner, in THE POLITICS OF POLICE, talks about the strength of the culture being based upon police work being a mission and therefore anything done in pursuit of this mission is serving the greater good. He argues that this foundation makes police culture so hard to reform.

In his 1994 report into police corruption in New York City, Milton Mollen wrote that corruption flourished, among other reasons: "...because of a police culture that exalts loyalty over integrity; and because of the silence of honest officers who fear the consequences of ratting on another cop no matter how grave the crime..."²

¹ P. McDonald, S. Gaffigan, S. Greenberg, Police Integrity: Definition and Historical Significance (Washington D.C.: U.S. Department of Justice, National Institute of Justice, Office of Community Oriented Policing Services, 1997)

² Milton Mollen, The City of New York Commission to Investigate Allegations of Police Corruption and the Anti-Corruption Procedures of the Police Department, Commission Report (1994), P.1

“In an environment perceived as hostile and unpredictable the police culture offers its members reassurance that the other officers will pull their weight in police work, that they will defend, backup and assist their colleagues when confronted with external threats and that they will maintain secrecy in the face of external investigations.”³

A common theme expressed by many who have studied the police culture is the attitude that police must protect each other, whatever the cost, and that loyalty counts more than anything. Unfortunately, the loyalty they are talking about is misguided loyalty rather than loyalty to principle.

Before we move to THE BLUE WALL, let’s briefly discuss some whys.

1. Self protection (it is human nature not to want to be ostracized – and this does include the fear of retaliation especially by way of non-support)
2. Suspiciousness (this may arise from the pressure to detect offenders or concern for danger – it likely causes a tendency to rapidly assess whether people are friend or foe and affects the officer’s subsequent department)
3. Emphasis on team work may be a factor (this can foster group loyalty to the detriment of an officers duty – but how do you not promote team work when it is crucial to the survival of officers in incidents like high risk takedowns)
4. Internal reward systems (desire for coveted transfers can promote elitism and open the door to shortcuts and the resulting abuse of police powers)
5. The Incestuous socialization found in policing (this only strengthens the bond and compartmentalizes the thought process)
6. Police Officers are lied to so often they become cynical (Who do they believe and when)
7. Police Officers witness street level disrespect for the Justice System (at its lowest level it can lead to street justice in an attempt to re-establish authority); and
8. The Erosion Theory⁴ (Over time and with constant exposure to the lower aspects of our society it becomes easier to accept criminal behaviour and easier to justify shortcuts).

For some people, The Blue Wall equals police culture. While it may be only a matter of semantics, I prefer to use the term “Code of Silence”. Blue Wall is a subjective term directed at policing only, (to which I will ultimately confine my remarks) but in reality a “Code of Silence” exists, in varying degrees, in every walk of life, from corporate North America, to the political arena, the clergy, the medical profession, the legal profession, the sporting world, the criminal element of course, and even our own school yards where it is an unwritten rule not to rat out another.

³ Andrew Goldsmith, Taking Police Culture Seriously: Police Discretion and the Limits of Law, (Policing and Society Volume 1, Number 2, 1990)

⁴ Edwin J. Delattre, Character and Cops Ethics in Policing (Washington D.C.: The AEI Press 1996)

So what is a “Code of Silence”? In its simplest form, a “Code of Silence” is the perception that police officers will never inform on other officers even if that officer is involved in illegal activity. Within policing, this “Code of Silence” is distinct to each individual officer who will apply his or her own moral code and personal tolerance level to misconduct.

It is not bold courage that permits me to stand before you this morning and confess to a “Code of Silence” in policing. There are more than enough documented incidents that unfortunately graphically confirm a “Code of Silence”. “Virtually all experts agree that the single greatest obstacle to achieving accountability is the police subculture, and in particular the code of silence.”⁵

“A national survey of police officers (in the USA) by the Police Foundation in 1998 found that slightly more than half (52.4%) agreed that ‘It is not unusual for a police officer to turn a blind eye to improper conduct by other officers’.”⁶

In research conducted between February 1999 and June 2000, The National Institute of Ethics found that in the USA 79% of recruits acknowledged the existence of a “Code of Silence”. More disturbing, the research found that it really didn’t bother 52% of them. (This statistic lends credence to the position that a form of “Code of Silence” is well established before officers are on the street.)

This shouldn’t come as a surprise to you. This code has been entrenched in all of us, from our earliest days, when we were told by our parents not to tattle on our siblings. Does this mean we should accept this darker side of human nature, a “Code of Silence” in policing? Absolutely not!

I want to make it perfectly clear, before I continue, that nothing I say, should, in any way, be construed as an excuse for, or acceptance of, a lack of integrity in police officers, or anyone else for that matter.

Samuel Walker argues that: “The historic ‘code of silence’ developed because officers learned that there was no risk of punishment for backing up fellow officers, no matter how incredible the tale.”⁷ While I respect his view, this is a simplified statement to an issue that is far more complex.

Negative police culture will undoubtedly directly affect officers’ responses to internal investigations and civilian oversight. It is also important to appreciate that progressive police services acknowledge this culture and have actively engaged their energy toward combating it.

⁵ Samuel Walker, Police Accountability The Role of Citizen Oversight (Belmont, California: Wadsworth Group, 2001), P.109

⁶ Walker, P. 109

⁷ Walker, P.140

Responses by police officers to investigators take many forms, some direct, others more discrete or indirect. These may include formal interviews, informal meetings, comments by association representatives, legal tactics, media stories, or rumour. Officer's personal responses to internal investigators commonly include simply telling the truth. On other occasions, they may choose to remain mute (a suspect officers legal right). In some instances though, despite of the fact that severe consequences may result, officers elect to distort or misrepresent the truth, outright lie, or file false reports, and supply false statements. The phrase: "lie, deny, and act surprised" comes to mind. Once the lie is on the record, verbally or in written form, the die is cast and there is no turning back. The officer must continue the charade for the entire process, or admit to a lie and accept the consequence. This includes testifying in court (or as Alan Dershowitz says "testilying"). The message we must loudly send is that you have a choice how you answer; but you cannot with impunity, knowingly and willfully, answer with a falsehood.

It is not uncommon for officers, during investigations, to not volunteer information, ensuring that without an "independent" witness the likelihood of advancing the investigation is significantly hindered. Even with an "independent witness", civilian witnesses commonly fare poorly in court under the intense interrogation of experienced defence counsel. Investigators, when interviewing officers, must be well organized, skilled interviewers, capable of asking the right questions and not afraid to ask the tough, probing questions.

In the face of extreme peer pressure, officers are generally not forthcoming with information on criminal or regulatory misconduct by other officers. Self protection is human nature, and police officers, like everyone else, are human and subject to the frailties of human nature. Many of you have no doubt heard this comment: "A persons ethic and a tea bag have much in common. You never know how strong they are until they are in hot water."

When officer's transgressions are not only not addressed, but actually concealed, they are not learning that they have acted inappropriately due to the blind support they have received from their peers. This support of negative behaviour intensifies when it is a supervisor concealing the misconduct for an officer thus providing validity and strength to the "Code of Silence".

This lack of cooperation with investigators may be cultivated, for a number of reasons, in a distorted sense of right. These factors are too numerous to deal with entirely, but include the belief that the police are the last line of defence between the citizens we are sworn to protect and the criminal who has all the advantages and protections of the law. Frustration sets in, as officers see the courts as being too lenient, and the rules for the police too restrictive (Feeney), thus the belief that crime fighting has been strangled by due process.

The human factor surfaces when an officer exhibits an elevated sense of compassion for the victim or the victim's family, especially when investigating horrific crimes. Officers can form the misguided belief that, bottom line, the public wants us to solve crime, and as a result, have provided their tacit approval to disregard due process.

Officers often receive mixed messages. For some officers, these mixed messages cause their role in society to blur. On one hand, the vocal citizens of a particular community, usually with a legitimate concern, will demand police action. They will appeal to their police to deal with the problem suggesting they just want the problem to disappear. If the problem is slow to be resolved, believing the police have powers beyond what society has provided, they will vigorously chastise the police for what they perceive as inaction. The community often then will take their cause to the media and their political representatives. Under mounting pressure, the police officers feel inadequate when they can't, through legal means, resolve the issue. In frustration they may enact "the ways and means act". Now internal is investigating their practices; criminal charges are laid against the officers and arrests made. Along comes the community again, this time in support of the officers who have ignored due process and the human rights of individuals. An example of this mixed message is the LAPD Rampart investigation where after several officers were arrested the community hung a banner: "The Community loves the men and women of Rampart Station". For some officers the line blurs even further. We all know the sickening aftermath of the indiscretions of these officers.

All of these things affect how officers respond to internal investigators because they feel they are only doing what is expected of them. When dealing with an offender they are certain has committed serious offences, they believe they have done nothing wrong and therefore are able to reconcile distorting the truth to investigators. Lastly, they may well know they have committed an act of misconduct that will bring sanction if exposed.

Other responses include officers lining up like lemmings in support of an officer, without consideration of the facts, even though the position they are assuming is folly. They may "book sick" on mass to create operational difficulties or they may fill a courtroom when one of their own is on trial, under the guise of solidarity, but more likely it is to confuse and intimidate witnesses.

Comments have been published in a quarterly publication of the Winnipeg Police Association. These comments, directed at internal investigators, expressed the opinion that investigators on certain investigations should have their property in their wives names. Two of my investigators, in separate conversations with a highly positioned association representative, were reminded that they would eventually have to go back and work with those they were investigating. Rumours were also spread that dead rats had been placed in the locker of a recently transferred internal investigator, a Sergeant, and that his shift would not accept him. Neither rumour was remotely factual. Intimidation? You be the judge.

Tactics by legal counsel for a police association may often stymie investigators. It is almost unheard of now to have a witness officer appear for an interview without legal counsel. While I don't argue their right to legal representation, a serious conflict of interest occurs when, in most cases, the association lawyer represents all the witnesses and the suspect officer at the same time. Who is being represented: the association, the witnesses, or the suspect officer? How are the best interests of each individual officer being represented? How does this lawyer now advise his clients ethically? A conflict of interest? Again, I'll let you be the judge.

While I have addressed the negative culture exclusively to this point, I want to close on the positive. I don't believe that the negative subculture reflects the majority view of police officers. A constructive, professional, ethical, and progressive organizational culture influenced and supported by the executive, senior management, supervisors, in concert with the skilled, "big picture" thinking men and women in the trenches, is widespread in policing today. The majority of officers today exhibit an excellence of character worthy of the public's trust. They are caring, brave, dedicated, trustworthy, and honest. As a word of caution though, this opinion is not a licence for naivety. We must be forever vigilant.

The Winnipeg Police Service's Professional Standards Unit is not flooded with information received from officers implicating other officers in criminal or regulatory misconduct. I can tell you though, three years ago when I assumed my position there was no incoming information. Today, we have had several contacts with officers concerned about the improper behaviour of their peers. Most information is received informally, some anonymously. Some has been gathered as intelligence, while some has been investigated and defaults registered under our Regulations. The courage these officers have exhibited leads me to believe we are headed in the right direction, albeit slowly.

A police service operating in a positive, constructive environment, coupled with the will and commitment of the Service to improve, can influence the structure of the "Code of Silence". We must be intolerant to the "Code of Silence"!

Acknowledging the problem is the first step. The solution, if there is a solution, can only be attained through unwavering positive reinforcement, positive messages, education, vigilance, and, where necessary, direct assertive disciplinary action. There is no quick fix! It is plodding, repetitive, and at times, difficult and frustrating work. The Chief must be the role model in setting a positive organizational culture. His, or her, readiness to be accountable, admit error and expose the warts of the organization; confront the thorny issues, and do what they say they will do, is paramount to gaining organizational trust and grasping success in establishing a predominantly positive culture. His or her actions must be consistent with their words. Realistically though, the "Code of Silence" will no more be completely eradicated from policing than it will be from any other walk of life. Nevertheless, the effort to be the best we can be, must, and will, continue.

Walker says: “Historically police departments have done little to break the code of silence. In addition to the difficulty of the problem, it is embarrassing for departments to publicly expose lying by its own members.”⁸

I know the WPS has taken positive action to break the “Code of Silence” and influence the police culture. As we have discussed, this is a complex issue lacking a simple resolution. To those truly attempting to deal with this issue, the embarrassment Walker talks about is a minor inconvenience.

I have recently been cautiously encouraged in Winnipeg by what appears to be a decline in the number of complaints of a more serious nature being made; this observation, even though we have been very vocal about accepting and investigating complaints. While this may only be a blip on the radar screen, time will tell if we are only visiting the valley for a short period of time. The longer we remain in this valley though gives rise to optimism that the last three years of hard work by Chief Jack Ewatski and the Professional Standards Unit has sent a constructive message to our membership and that this message has not only been heard, but accepted.

As I conclude, let me leave you with the message: THE GLASS IS HALF FULL! The vast majority of people in policing are good people. They need the confidence to persevere knowing that their organization's executive and management strongly support the professional way in which they choose to do business and that those who choose to conduct business as vigilantes will be dealt with appropriately.

Thank you for your attention. Enjoy and benefit from the remainder of the conference.

⁸ Walker, P. 111

