CONFLICT RESOLUTION IN THE WORKPLACE –
A NEW APPROACH FOR LAW ENFORCEMENT

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Police officers routinely respond to violent crimes in progress. In an effort to help officers deal effectively with violence, law enforcement agencies spend considerable time and expense in searching for innovative ways to provide officers with the latest in less-than-lethal weapons and tactics training.

While violent crime has been plummeting nationwide for several years, violence in the workplace has not. In fact, workplace violence is on the rise and is becoming a greater concern for employers as well as law enforcement officials. The phenomenon of workplace violence has added a new phrase to America’s lexicon – “Going Postal.” That phrase has become commonplace over the past several years because of a large number of highly publicized tragedies involving employees of the U.S. Postal Service. Unfortunately, the potential, and reality, is that workplace violence can happen anywhere.

Law enforcement has been doing an effective job of responding to the potential of workplace violence – in other workplaces. However, the potential for workplace violence in the law enforcement community is just as great as the Post Office. Police officers face the same stresses as employees in other professions. In addition, they have the stress associated with potentially having to make life and death decisions at any time. But there’s one big difference between police officers and other professions – police officers carry guns! Therefore, the reality is that the profession of law enforcement has great opportunity for an epidemic of police officers “Going Postal.” The worst case scenario would result in a new phrase of “Going Cop.”

Conflict between employees has the potential for other problems besides workplace violence. Employee conflict costs an untold amount in the loss of effectiveness and productivity. Many times, this conflict results in a non-resolved complaint that leaves no one satisfied. This negatively impacts morale and harmony in the workplace.

In August 1997, Bernard C. Parks was sworn in as Chief of the Los Angeles Police Department (LAPD). Chief Parks, a thirty-two year veteran of the LAPD, understood the police culture, and in particular the culture of the LAPD. Prior to his appointment as Chief, Parks supervised the Mark Fuhrman Task Force. The Task Force looked into a number of issues, including conflict and other problems in the workplace. One of the conclusions in the Fuhrman Task Force Report was that, while the LAPD had a good system of formal processes to deal with traditional police misconduct, there was no informal system for resolving disputes between employees. One of the recommendations of the Fuhrman report was that the LAPD should develop a mediation program to address disputes between employees in an informal manner.

Shortly after Chief Parks was appointed, he implemented a reorganization of the LAPD. Part of the “New LAPD” was the creation of the Ombuds Office and the position of
Department Ombudsman, since changed to Ombuds Officer. Chief Parks staffed the position with one of his eighteen Commanders which sent a powerful message to all members of the Department that a high ranking staff officer was available to deal with internal problems.

The creation of the Ombuds Office was in addition to the many existing LAPD resources available to employees. These resources include psychological services provided by Behavioral Science Services; Employee Assistance programs; a model Peer Counseling program; a Women’s Coordinator who provides support for female employees; a Wellness Coordinator who assists employees who are off long-term on sick or Injured-on-Duty status; and the LAPD Memorial Foundation which provides financial support for employees and their families at times of crisis.

What is an Ombudsman? The Ombudsman Association (TOA), an international organization of practicing Ombuds, defines an Organizational Ombudsman as, “a designated neutral or impartial dispute resolution practitioner whose major function is to provide confidential and informal assistance to managers and employees.”

Why would a major law enforcement agency, one steeped in tradition, create an Ombuds Office? As previously stated, the LAPD has effective formal processes to deal with personnel complaints, grievances, and discrimination complaints. On top of that, the potential for a civil lawsuit is always present as a resolution to workplace disputes. The problem with each of these remedies is that they are formal and not “user friendly.” Many employees are reluctant to employ a formal remedy when confronted with a relatively minor problem because it may seem to be disloyal to the organization. More likely, the potential for retaliation is always present. Past history has shown that employees who make a complaint against another employee often suffer retaliation. But upon telling a supervisor, a formal process is introduced resulting in rumors, people taking sides, and a negative impact on morale. The end result is both the accuser and the accused suffer when all they wanted was for the behavior to cease. With this in mind, many employees elect to ignore the problem, hoping it will go away. When it doesn’t, the proverbial “straw that broke the camel’s back” occurs and the employee finally comes forward. The result is that everything they previously feared occurs. The end result may very well be the career of the accused is seriously damaged, and the accuser goes off on disability leave, seeks a disability pension, and files a lawsuit. Much of this has occurred because the employee had no informal remedy to solve a minor issue before it escalated into a bigger problem.

The LAPD Ombuds Office developed and manages the Alternative Dispute Resolution (ADR) Program which has two primary goals – risk management and employee wellness. By providing an effective conflict resolution alternative for employees, the potential for employee generated lawsuits is reduced. Overall, the organization is more supportive and understanding of employee needs, and problem trends are identified. This results in long term resolutions and a more productive and effective workforce.

An Ombuds Office must operate using two fundamental principles – neutrality and confidentiality. Each employee who seeks assistance from the Ombuds Office is advised of these principles. They are informed that the Ombuds Office will not be an advocate for them any more than they will be an advocate for the other party or management. This
may seem relatively simple, but when dealing with personnel problems, most people tend
to take sides. By being truly neutral, and having no ego investment in the final
resolution, it is much easier to identify the root causes of the dispute and solve the
problem. The following scenario is offered as an example.

A well-meaning, energetic new sergeant decides to improve the performance of a
marginal police officer who has been allowed to perform at a substandard level for some
time. The sergeant’s motives are honorable. However, in haste the sergeant fails to
inform the officer that his performance is substandard, what the new standards are, and
what the consequences will be if performance isn’t improved. Instead, the sergeant
immediately begins using negative sanctions such as counseling and formal
documentation in the form of comment card entries and Notices to Correct Deficiencies.
The problem now is that the officer is being negatively impacted for performing at the
same level that was deemed acceptable in the past. The officer then goes to the Captain
to complain about the new “attention” he’s been receiving. The Captain, who’s well
aware of the officer’s reputation, is pleased that someone is finally trying to improve the
performance of the marginal officer. As a result, the Captain escorts the officer out of the
office and advises him to quit complaining and get back to work. Now, the officer begins
to look around and sees that he is being treated differently than others and concludes that
he’s the victim of disparate treatment, hostile work environment, discrimination, and
anything else that comes to mind. The final outcome has the potential for a
discrimination complaint and subsequent lawsuit.

Sound familiar? The sergeant and captain are both trying to improve the performance of
an underachieving employee. Their objective was appropriate, yet their execution was
flawed, due in part by a lack of neutrality by the commanding officer. This is where the
Ombuds Office can assist. If the employee seeks assistance from the Ombuds Office, a
neutral, third-party review can easily see what went wrong. Simple advice to the Captain
that the process should be slowed down, and that the new performance standards and the
consequences of failing to achieve those standards need to be explained to the officer.
That way, the officer is being treated fairly and if he fails to respond accordingly, the
negative sanctions that follow will be appropriate and supported by any reviewer of the
facts.

The other fundamental principle, confidentiality, is equally important. The Ombudsman
Association’s Code of Ethics states, in part, . . . . “To be effective and maintain
credibility an Ombuds Office must offer confidentiality to employees who seek
assistance.” In dealing with the issue of confidentiality, the LAPD Ombuds Office
adopted the same confidentiality guidelines as the LAPD’s Peer Counseling Program.
All visitors are informed that their conversation will remain confidential unless serious
allegations of misconduct are brought forward, or if the visitor waives it. In the two years
the Ombuds Office has been in place, confidentiality has been broken due to allegations
of serious misconduct on two occasions. Both times, the person knew this was going to
occur and was merely using the Ombuds Office to report the misconduct. The visitor
waives confidentiality much more often. This is usually done when the employee wants
the Ombuds Office to delve into their issue by gathering more facts. Regardless, absent
serious misconduct, confidentiality is never violated without the approval of the
employee seeking assistance.
In California, the Evidence Code provides protection for an Ombuds Office and mediation program through Sections 1115-1128. All efforts must be made to resist responding to requests for documents or depositions.

The services provided by the LAPD Ombuds Office fall into two general areas – mediation and conciliation. In other areas, mediation is being used more frequently to resolve civil and criminal cases as well as other disputes. Mediation is different from arbitration in that it uses a trained facilitator who acts as a third-party neutral to assist the disputants into resolving their concerns in a mutually agreeable manner. All parties must agree to voluntarily participate in mediation. The role of the mediator must remain neutral and the agreement has to be agreed upon by all parties involved. Mediation has proven to be highly effective because the disputants have resolved the issues between themselves instead of having to comply with an agreement crafted by another party.

Police officers, by virtue of their experience are very effective arbitrators. Early in their careers, police officers master the art of handling a dispute by hearing all sides of the story and then determining the best course of action for the parties to follow. When handling a business, landlord/tenant, or family dispute, the officers usually handle the call by advising the parties what they must do and, sometimes, concluding the call with a statement something to the effect of, “and if you don’t do what we’ve advised you to do, we’ll have to come back and someone’s going to jail.” While this tactic often works, it usually deals only with the current symptoms of the problem, and not the root causes. Mediation is different from arbitration in that it addresses all those root causes that have to be resolved before a lasting agreement can be reached.

Approximately 15% of the cases handled by the LAPD Ombuds Office are resolved through the use of mediation. The rest are resolved through conciliation.

Conciliation consists of a wide variety of resolutions to the problem. Often, the preferred resolution is to develop a list of options for the employee to consider. That way, the employee is able to solve the problem themselves. Sometimes the employee is referred to another source to resolve their problem. When these options fail, or are not viable, other forms of conciliation include intervention with a commanding officer, assistance in obtaining a change of assignment, or other types of support. The Ombuds Office does not intervene in on-going personnel complaint, grievance, or discrimination complaint investigations. However, the circumstances surrounding the issues being formally investigated may be reviewed and monitored to ensure that retaliation doesn’t occur.

Individuals are referred to the Ombuds Office from a variety of sources. Many are self-referrals, having heard of the services provided through word-of-mouth or an internal marketing program. Many others are referred by peers, supervisors, or managers. The Police Protective League, the LAPD union that represents officers at the rank of lieutenant and below, has also referred a number of officers to the Ombuds Office. Finally, the Chief of Police has referred people to the Ombuds Office. It is interesting to note that the Chief of Police and the union, who are often at odds, refer about the same number of cases. This is seen as testament to the reputation of credibility and neutrality that has been developed by the Ombuds Office.
The Ombuds Office also provides confidential advice to managers and supervisors who are struggling to resolve a personnel problem. This service of providing a “sounding board” helps managers consider all alternatives in a safe, confidential manner. It can also help the manager “sell” a creative decision to a superior officer if challenged.

There is considerable training available for perspective Ombuds Officers. In Los Angeles, the City Attorneys Office has a very successful Dispute Resolution Program in place. Training in mediation skills has been provided to several hundred City employees who serve as mediators for both civil and criminal cases that come before the City Attorneys Office. All staff members of the LAPD Ombuds Office have received this three-day training.

The LAPD has a very successful Peer Counseling Program. A four-day Peer Counseling School, which teaches active listening skills, is also mandatory for Ombuds Staff.

Outside sources of training include TOA, which presents a basic course for Ombudspersons, and an advanced course for experienced, practicing Ombudspersons. The Ombudsman Association also presents one-day seminars and provides various publications for members. The Ombudsman Association also provides good opportunity for networking with other practicing Ombudspersons.

LAPD Ombuds staff also attend CDR & Associates training in Boulder, Co. CDR presents a five-day course on mediation that includes many hours of practical application.

The original staffing for the LAPD Ombuds Office consisted of one Commander, one Sergeant, and a Secretary. Two additional existing positions, the Department’s Wellness and Women’s Coordinators, were reassigned to the Ombuds Office. Since then the staff has grown by one Lieutenant, Assistant Ombuds Officer, and two Sergeants who serve as Associate Ombuds Officers. Budget requests have been submitted for two civilian counterparts and one additional clerical person.

When looking at staffing an Ombuds Office, it is important to select personnel who have credibility and experience within the organization. The junior member of the LAPD Ombuds Office has nearly 13 years of experience, and the average is over twenty. Their backgrounds cover virtually every assignment in the LAPD. The staff is also ethnic and gender balanced.

It has been recommended by some private sector Ombuds professionals that career LAPD officers, and particularly a high ranking officer, should not staff the Ombuds Office. That advice is based on private sector experience. Law enforcement agencies are closed societies with strong organizational cultures. It would be extremely difficult for someone not intimately aware of the culture of a police organization to be effective in an Ombuds role. In the same manner, police agencies are para-military organizations. At times it is valuable having a person at the rank of Commander as the Ombuds Officer. This is important when it becomes necessary to inform another high-ranking officer of news that he or she may not want to hear.

The Ombuds Office is located in Parker Center, headquarters for the LAPD. It has been recommended by some that the office should be housed outside of headquarters in leased
space away from other department facilities. This recommendation is based on a belief that employees would be more willing to seek assistance if it didn’t mean they had to go to a police facility. This recommendation should be carefully considered. It has been the experience of the LAPD Ombuds Office that being in headquarters results in a lot of “walk-in” business. Employees can usually find a reason to be in the headquarters building, and by being visible, many employees stop on the spur of the moment. In addition, the Ombuds Office staff is flexible and will meet with a client off-site.

It is difficult to quantifiably measure the effectiveness of an Ombuds program since an absence of problems can’t be measured. However, in the two years the LAPD Ombuds Office has been in existence, anecdotal evidence supports that the Ombuds Office is cost effective. A total of 237 cases have been handled, and the number of new cases each month continues to grow. Surveys of those employees who have sought assistance have almost universally reported satisfaction with the resolution of their problem. Specific examples of successes include resolving a problem for a three year police officer who had a typed resignation in hand when assistance was sought. That officer continues to be a productive member of the department as a result of assistance provided. Other officers have withdrawn pending lawsuits and complaints. A number of employees have returned to work after being off on Workers Compensation claims. There is no question that in the areas of risk management and wellness the LAPD Ombuds Office has had a positive impact.

Alternative dispute resolution programs, including Ombuds Offices and formal mediation programs, are commonplace in the private and academic sectors. The need exists in government, and particularly law enforcement, to look at these alternatives. The good news is that some police agencies have implemented alternative programs. A recent TOA conference included representatives from the LAPD, Los Angeles County, Washington DC Capitol Police, United States Secret Service, Department of Alcohol, Tobacco, and Firearms, the Federal Bureau of Prisons, and the Royal Canadian Mounted Police.

Any law enforcement leader who is concerned about reducing risk management and improving employee wellness should consider alternative methods to conflict resolution in the workplace. This may help prevent the next highly publicized example of workplace violence from occurring in the law enforcement profession.

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