

Unequivocal Investigations, LLC
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January 25, 2010

Mr. Jim Ferree
City Manager
City of Craig, Colorado
300 West 4th
Craig, Colorado 81625

Dear Mr. Ferree,

You requested that I review the existing policies and procedures for Internal Affairs Investigations conducted by the Craig Police Department. Chief Walt Vanatta has provided me with the Craig Police Department Policy General Order 3.01, Complaints Against Personnel and General Order 3.02, Employee Discipline, the Craig Police Department Operations Manual, the protocols of the Colorado Association of Chiefs of Police and the International Association of Chiefs of Police publication "An Internal Affairs Promising Practices Guide for Local Law Enforcement."

The Craig Police Department Internal Investigations are governed by policies adopted under the auspices of the Colorado Association of Chiefs of Police (CACCP) Accreditation Standards. Included in the professional guidelines are "mandatory standards" dealing with protocols for Internal Investigations. These policies are incorporated into The Craig Police Department "General Order 3.01."

Accordingly, a strong foundation exists for protocols that are tested and proven sound practices for investigating complaints of wrongful conduct. Nonetheless, it is always appropriate to examine methods of practice that would serve to strengthen existing policy and insure a greater degree of public confidence.

It is with that in mind that I make the following recommendations:

(1) Outsourcing Serious Complaints / Outside Agency Assist:

I would recommend that when a determination is made that the public interest would be best served, certain complaints of a serious nature should be investigated by other law enforcement jurisdictions and that a similar role for Internal Investigative Services be provided to local area jurisdictions. Whether large or small in agency size, law enforcement agencies are frequently criticized as lacking the will or appropriate impartiality to investigate their own members. Also, claims of bias or favoritism are common when law enforcement personnel investigate officers they have familiar relationships with often due to agency size, friendships or community.

I would recommend that all initial complaints be reviewed at the Commander level with an appropriate recommendation to the Chief of Police, if it is determined that the Department would benefit from the use of outside investigators. This practice should be reserved for cases of a serious nature where public confidence would be enhanced by a decision that external investigations may better serve requirements for maintaining and preserving the integrity of the Department. Additionally, the practice of employing the use of outside investigators allows for a more timely completion period for the inquiry when resources are insufficient to adequately address the complexity of the complaint.

Criteria should be determined for which cases are appropriate for outside review and those which could best be investigated in house. A reciprocal agreement with partner agencies would help to define parameters and protocols for periodic updates to the Chief of Police on case progress. Final determination of which cases should be outsourced should rest with approval by the City Manager upon recommendation of the Chief of Police. I would also recommend that outsourced cases be limited to exceptional cases so that it does not become routine to transfer responsibility of the police superiors responsible for ensuring proper conduct. Determinations should be made in advance if it would be the desire of each agency to allow investigative fact finding only. Penalty assessment and determination of specific agency policy violations should rest with the appropriate command staff that is legally empowered to recommend or impose discipline.

The ultimate benefit derived from outsourcing serious complaints would be to help insure confidence and trust with the community, as well as other public officials who often are called upon to answer for the City when officers are accused of violating their professional responsibilities and the public trust.

(2) Use of Garrity Order and Warning Advisements: *Garrity v. New Jersey*, 385 U.S. 493 (1967).

I recommend that the use of Garrity Order and Warning advisements be employed in all cases where allegations of wrongful conduct are made that rise to a level that would compel police administrators to impose discipline, if the complaint was determined to be founded. In a conversation with Chief of Police Walt Vanatta, I learned that it is the current practice of the Craig Police Department to allow officers to make a voluntary statement concerning their actions in most misconduct complaints. Allowing an officer the opportunity to make a voluntary statement may enlist their cooperation, but it presupposes that the officers will understand that they are compelled to fully disclose information concerning their own actions and observations of others. This practice may put an investigator at a disadvantage in learning the full scope of knowledge of the events under review, as police witnesses may choose only to answer the questions put forth by the investigator. Early in the investigation, limited information may be known or suspected by the investigator.

It is often preferable to provide officers a Garrity Order and Warning and compel a written statement that demands a truthful account of any and all information known by them, with a full explanation of their own personal actions and observations concerning the incident under review. A follow up interview to address areas not covered or those lacking in detail is generally preferred. This practice clearly places the responsibility on the witness or subject officer to fully disclose information known to them and informs them that they are duty bound to comply or face disciplinary sanctions for withholding information. It also helps to encourage officers to understand their professional responsibility to the police service overrides personal friendships and makes certain, they understand how serious the Department views complaints of suspected misconduct. The use of the Garrity Order and Warning also serves to clarify administrative versus criminal misconduct complaints and thereby protects both the City and the officer.

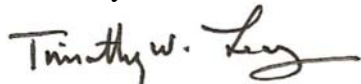
(3) Confidentiality Requirements:

Lastly, I would recommend that at the conclusion of each Internal Affairs complaint interview, officers should be admonished that they are expressly prohibited from discussing or sharing information regarding the nature of the complaint or their own statements until the conclusion of the investigation. This practice serves to insure the integrity of the investigation by forbidding collusion between witnesses and also protects the accused officer against false allegations of wrongful conduct, as well as potential damage to their professional reputation in unfounded complaints.

Because I am not an attorney, I would recommend you confer with the City Attorney if legal questions are at issue with my recommendations. My recommendations are derived from more than 30 years of conducting Internal Affairs Investigations and reviewing the successful practices of dozens of other law enforcement agencies.

I would welcome you to contact me if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Timothy W. Leary". The signature is written in a cursive style with a large, sweeping initial 'T'.

Timothy W. Leary, Investigator

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