

***DEALING WITH
CHRONICALLY PROBLEMATIC
SUPERVISORS & MANAGERS***



KEITH D. BUSHEY

Considerations and Actions...

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INTRODUCTION

The organizational and personal damage resulting from chronically problematic supervisors and managers is incalculable. Unlike the private sector where the deficiencies of those in positions of leadership are often reflected in easily measurable indicators, this is not always the case in the law enforcement profession. This is often a major contributor in long term failures to realistically recognize and address troublesome performance and behaviors, and the resulting retention of personnel whose presence may damage our organizations. One reality for which there is no argument is that the performance of an organization - any organization - is a reflection of leadership at all levels. Even though the traditional measurement mechanisms may not exist, the law enforcement profession is no exception. Those factors that are absolutely impacted by leadership, strong or otherwise, include but are not limited to: officer-initiated activities, field strategies, traffic enforcement effectiveness and productivity, arrests and prosecution, crime prevention, employee absenteeism and workers compensation, employee morale, a healthy workplace environment and indeed the overall safety of our communities as well. Simply stated, our communities are safer places and our departments are better places when those in positions of leadership have their acts together.

Unlike most publications where the author refers to a body of wisdom that was drawn upon to formulate recommendations and strategies to address leadership challenges, this booklet is more a reflection of scar tissue and failures. Hopefully, the enclosed recommendations and considerations will enable future leaders to succeed where some of those in my generation have occasionally fallen short. Fortunately, most of us get most things right, or at least reasonably so. However, the issue of successfully dealing with chronically problematic supervisors and managers is one of those areas where there remains an opportunity to do a better job. This booklet reflects a compilation of considerations and recommendations that others and myself could have benefited from in the past, and that I hope will be valuable to the leaders of today and in the future.

This booklet is not about discipline or misconduct, but rather *performance and behavior*. While often complicated and difficult, disciplinary situations follow a predictable path that we are all familiar with; determination of prohibited behavior and subsequent discipline, or the failure to establish culpability. Conversely, when dealing with performance and behavioral issues there is typically the need to exert extraordinary effort, develop extensive documentation, and to tread with special care and skill. Additionally, dealing with long time employees who are supervisors and managers requires not just strong leadership, but special courage as well.

I do not suggest that all leaders in the past have failed in their responsibility to address chronically problematic employees, but my experiences and observations that cause me to believe that failures in this regard, including my own, came pretty close to exceeding the number of successes. To be fair, developing and mentoring

all personnel is a time-consuming process that involves great effort. Engaged leadership is tremendously more difficult and time consuming -- requiring near extraordinary skills -- when dealing with a chronically problematic individual who is in a position of leadership. Further complicating an already difficult task are additional considerations such as the turnover of executive personnel, the reality of revolving door assignments in bigger agencies, leadership skill levels and the occasional unfortunate political existence of “sacred cows.”

The art and science of leadership has grown enormously over the past several decades, and our workplaces – generally speaking – have been the fortunate beneficiaries of this growth. Unfortunately, while their numbers continue to decline, chronically problematic supervisors and managers are not extinct. In addition to advances in the area of leadership, other contributing factors to this positive decline have been civil remedies for troublesome behavior and strengthened efforts to address workers compensation and disability retirement abuse, and greater care in the selection of police executives.

Chronically problematic supervisors and managers are nothing new, but what is new is a developing body of enhanced leadership that includes conspicuous awareness of the previously often unconsidered consequences of problematic leadership beyond the workplace, including the families of our employees. Increasingly, the leaders of today recognize the depth and scope of problematic leadership and possess strong commitments to either correct the behaviors or remove the problematic persons from the work force.

There are three absolute requirements in the successful resolution of a chronically problematic supervisor or manager. The first is the **courage** to take on difficult tasks and difficult personalities; without this courage; any effort will fail. The second is a **solid leadership skill set**; resolving serious personnel issues requires particular wisdom, knowledge, and experience. Finally, a long-term and **sustained commitment** is necessary; resolving serious personnel issues are marathons and not short sprints.

This booklet contains three enclosures that I hope the reader will find to be of value. The first enclosure, *The Often Unconsidered Consequences of Toxic Leadership*, discusses the nature and damage of toxic behavior, including the effects beyond the workplace, such as to the families of our employees. The second enclosure, *The Unproductive Police Executive*, describes the nature and consequences of unproductive leadership, and can be most helpful in articulating the specific correlations between poor performance and organizational impact.

I have also included two Performance Improvement Plan exemplars, one oriented towards a supervisory position and the other oriented towards a managerial position. I hope the reader will find these exemplars helpful in developing documentation specific to their own agencies.

Finally, the reader is reminded that this booklet is not intended to provide a “cradle to grave” program for employee remediation. Rather, these are various considerations and “end of the road” recommendations, representing measures essential to recognize and consider when previous employee improvement efforts and strategies have failed. Although my focus is the law enforcement profession, the contents of this booklet are pretty much equally applicable to other professions as well.

I hope the reader finds this information to be helpful.

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CHRONICALLY PROBLEMATIC BEHAVIOR

Seriously addressing the issue of chronically problematic behavior is one of the more difficult and challenging tasks for any executive. However, the best interests of our communities, our organizations and our employees make it an essential task that must be undertaken. As opposed to misconduct -- an area where most of us have a fair deal of experience -- problematic behavior involves personality and/or performance issues that are not typically the focus of disciplinary measures. Further, it is likely that the problematic individuals are well tenured employees with a belief that their behaviors are acceptable. Strong administrative skills and administrative courage on the part of the executive are absolutely essential.

Unlike many leadership challenges, where there are various options and approaches, this booklet addresses the only path that I am aware of to address and realistically resolve the issue of chronically problematic supervisors and managers. All of the other leadership options and approaches will already have been employed, without having achieved the sustained acceptable performance that had been sought. This booklet deals with the end of the proverbial road "where the can had been kicked!" Although the process is straightforward and direct -- documentation and consequences -- it is by no means simple or easily done. Beyond the process itself, I have provided a considerable degree of perspective on related issues, some obvious and some often not recognized -- and some that are not very pleasant -- which are critical for the executive to recognize and consider.

It is important to understand the focus of this booklet, to whom it applies, and to whom it does not apply. For the purpose of this booklet, the following definitions are provided.

Unproductive Performance is just that. Beyond just plain not performing or shirking some (or all!) responsibilities, doing just enough to "get by." This definition includes the supervisor who "picks and chooses" preferred tasks, thereby placing a greater burden on others and diminishes his or her leadership value. A leader is expected to lead, and doing nothing beyond maintaining the status quo is not satisfactory. Enclosure #4 discusses in considerable detail the nature of unproductive performance.

Toxic Behavior is also just that! A toxic leader is a person at any rank in a leadership position who exhibits abusive actions and behaviors. These activities might include, but are not limited to: verbal outbursts, obsessive micromanagement, playing "mind games" with subordinates, hyper critical activity, subtle (or not so subtle) threats and innuendos pertaining to a subordinate's position or employment, and other types of troublesome activities that cause unnecessary consternation among the workforce. Simply stated, toxic leadership includes all types of troublesome and *unnecessary* actions that cause our employees to go home and worry about what is

happening at work. Enclosure #3 discusses in considerable detail the nature of toxic behavior.

Agency. Although this booklet contains terms that are typically related to a police department and chief of police, the contents are equally applicable to sheriff's departments, as well as other types of criminal justice organizations.

Problematic Supervisor/Manager is used to describe the chronically problematic supervisor or manager who is the focus of remediation efforts. In certain instances, for simplicity of understanding, the term **leader** will also be used.

Executive is used to describe the person who is attempting to correct the troublesome performance or behaviors. This person will most likely be a command officer or the chief of police.

Due Process exists if there are laws, rules or long-term practices where employees have an entitlement to their positions, and where non-voluntary personnel actions, such as ranks and assignments, may be contested by the employee and must be justified by the employer. Most states have codified public employee personnel practices, which in many instances are further codified by municipal ordinances. Even in "Right to Work" states, where employees can often be demoted or terminated without cause, some municipalities have chosen to create civil service types of procedures and protections for the employees. There are also agencies where, although no process is codified the executive may choose to use some form of a due process procedure. This booklet is applicable only in those municipalities where some form of due process exists or is otherwise exercised.

IMPACT AND CONSEQUENCES OF UNPRODUCTIVE AND TOXIC BEHAVIORS

UNPRODUCTIVE PERFORMANCE

The unproductive police leader is a critical, often neglected topic. In far too many instances, marginal performance on the part of a long-tenured police leader is seen as an acceptable norm. Considering the critical need for exceptional leadership, strong and innovative administrative skills, and pro-activity in order to deal with today's special challenges, our organizations cannot afford leaders who fail to lead. *It is important to not lose sight of the fact that, in a challenging and dynamic environment, the efficient and effective management of the status quo is not leadership!* A harmful trait frequently exhibited by the unproductive leader is a degree of devil's advocacy that often results in near-paralysis, with the initiative and energy of subordinates being unnecessarily stifled. Those who suggest that such an individual, while of questionable suitability for a command, can still be productive in a staff assignment are mistaken. The need for energetic and dynamic leaders is equally strong for both staff and operations leaders.

I am not aware of any organization that factors decreased energy and productivity into a declining salary scale for senior leaders. To the contrary, such persons are typically among the best-compensated members of our departments, predicated on the assumption of the highest levels of performance and leadership! Successful private corporations do not tolerate the continued presence of an unproductive person in a position of special trust and responsibility. As guardians of the public trust and given the honor of leading wonderful men and women who perform critical and often thankless tasks, our standards must be equally demanding.

Unproductive Performance in Operations Assignments

The unproductive leader in an operational assignment is devastating to a police organization! *Worse, the degradation is often not recognized as the organization gradually adjusts to a decrease in leadership and energy.* The consequences of a marginal leader are many, including: failure to truly understand the needs of a community and allocate resources accordingly; failure to adequately fight crime and deal with issues that affect public safety; failure to adequately investigate crimes; failure to pursue the recovery of victims property; toleration of mediocre performance; failure to provide support and recognition to deserving personnel; failure to hold problem personnel adequately accountable for their actions; failure to ensure adequate processes that yield the best candidates for advancements and special assignments; failure to pursue questionable disability claims; degradation of community support; increased cynicism, and overall dysfunction throughout a

command where others are left to their own devices in grappling with issues that require leadership and coordination.

The highly visible nature of most operational assignments further intensifies the myriad of consequences associated with an unproductive leader. This reality highlights the unproductive traits of a leader, which collectively present a poor example for subordinates, raises legitimate questions of hypocrisy with respect to prevailing expectations, and sends the wrong message to other officials and to the public.

Unproductive Performance in Staff Assignments

The adverse consequences of an unproductive leader in a staff assignment are arguably even greater than his or her unproductive operations counterpart. The unproductive staff leader, as opposed to having a negative impact on a single command, most often has a devastating impact on the entire organization, with severity that varies depending upon the specific assignment. Once again, *the degradation is often not recognized as the organization gradually adjusts to a decrease in leadership and energy.*

Like his or her unproductive counterpart in an operations assignment, the adverse consequences of a marginal leader in a staff assignment are many, such as: failure to pursue policies, procedures, and resources that other leaders need to effectively manage their workforce; failure to ensure the prompt and appropriate resolution of conflicts, grievances, lawsuits, and related difficulties; the unnecessary loss and/or settlement of claims and lawsuits (often capitulating to less experienced and/or overworked government attorneys) which creates horrible precedence and increases the difficulty in managing the work force; increased inappropriate influence of special interests and/or vendors; and other problematic situations that would not exist, or which would be greatly mitigated, had the staff leader possessed the loyalty and energy truly required of the position.

Unproductive performance includes a person who, while potentially very productive, *is failing to be productive where required.* As an example, a person who is very productive in pursuing activities that he or she believes are important (and maybe they are), but to the extent that the guidance provided by the executive is receiving less or delayed emphasis, falls into the category of being unproductive. This author has experienced this syndrome on a couple of occasions, one with a very energetic young command officer who was passionate about an agenda that he had created and the other involving a very tenured command officer who “was going to do as he damned pleased.” In these examples, I did not do a good job in resolving the issues, but hopefully this booklet provide the reader with tools and insight that might have enabled this author to have been more successful.

TOXIC BEHAVIOR

Beyond our responsibilities to public safety, our municipalities and our departments, chief executives have both an ethical and moral responsibility to provide all employees with appropriate and positive leadership. This includes not permitting them to be subjected to a deficient leader, but even worse a leader whose behavior has a toxic impact on subordinates. Notwithstanding the numerous issues associated with problematic leadership, the impact of toxic leadership beyond the workplace and the critical need to address and resolve it, are among the goals of this booklet.

Just about every chief executive with whom I have been acquainted (me included!) has occasionally concluded that a toxic supervisor or manager, despite our efforts, is not likely to change his or her workplace behavior. We end up tolerating that person, and often shuttle him or her off to an assignment where we perceive they will be able to get by and do the least damage to the organization. Unfortunately, when this occurs, we fail to give adequate consideration to the employees who must work for that problematic individual, and who are subjected to his or her troublesome behaviors.

Although all of us wish that it wasn't true, and despite our best emotional efforts, the reality is that the majority of our personnel (just like us) take their work-related problems home with them. While we are in an occupation where there are certainly occasional field-related situations that are upsetting and cause us to go home upset, ***the absolute reality is that the overwhelming majority of upsetting situations are the consequences of internal stress and drama caused by troublesome leadership.*** As we go about our leadership responsibilities, it is wise to reflect on our own past experience with troublesome leadership; the ruined weekends, sleepless nights, and the impact on our families as well.

Ask anyone at any level, from street cop to the chief of police, where the majority of stress comes from in our careers, from the streets or from weak internal leadership? *The answer is always the same: Internal!* Just as there is an unquestionable causal relationship between leadership in police organizations and the safety of the public served by those organizations, a similar causal relationship exists between levels of leadership and drama within organizations. Internally, failed management and weak leadership equates to greater organizational drama resulting in police employees being unnecessarily stressed and distracted from the crime issues impacting their communities; hence, decreased public safety.

REALITIES TO KEEP IN MIND REGARDING CHRONICALLY PROBLEMATIC LEADERS

Like all other complex and difficult leadership challenges, there are some unique realities that executives need to be mindful of in dealing with deficient employees. The following are critical realities that need to be understood and considered:

Strong and Professional Leadership is Required

The strategies discussed in this booklet involve critical sequential steps, continuity of effort, and essential coordination with others. The potential adverse consequences of missteps are such that strong and knowledgeable leadership is essential for activities involving chronically deficient employees.

Chronically Problematic Supervisors and Managers Weaken Your Agency and Adversely Affect Your Ability to Lead and Manage

This is a very significant reality that is often lost as the organization gradually adapts to the decrease in productivity and effectiveness, and we focus superficially on trying to correct behavior, often to the exclusion of acknowledging the damage being done by a chronically problematic supervisor/manager.

Police executives are constantly and appropriately under the spotlight of our employees and the community. Just as the things that we do well contribute to our credibility, the things we do poorly detract from how we are perceived. The workforce absolutely recognizes the presence of a problematic supervisors/managers and judges us, at least in part based upon our success or failure in resolving the situations.

Troublesome Behavior Can Be Infectious, and Creates Potential for the Emergence of a Troublesome Subculture

Supervisors and managers have an impact on the actions and behavior of others, as they should. However, in the case of a chronically problematic supervisor or manager, that impact is often negative. This problem becomes even more acute in the case of newer and/or easily influenced other supervisors or managers. As time goes on, this negative environment sometimes results in the emergence of a troublesome sub-culture, which most of us have experienced and have had to deal with. A chronically problematic supervisor or manager can be very harmful to susceptible subordinates.

Strong Courage is Essential

This is not an idle reminder, but rather a very critical trait that must be possessed by the executive. Without this courage, in conjunction with leadership skills and a

strong commitment to protect your employees from abusive leadership, any effort is doomed to fail. Most would agree that the courage to deal decisively with a tenured supervisor/manager is typically far more difficult to exhibit than the physical courage needed in dangerous field situation!

Permanent Change Seldom Occurs

Although we wish that it were not the case, and we typically try our best to improve the performance of our people, there are some employees who are hard core problematic and who are just plain very unlikely to change their troublesome behavior. There are occasional periods of acceptable behavior following remediation efforts, but the basic problematic behavior is often just in temporary remission. While important to recognize this historic trend, it is equally as important that we not allow this likelihood to become a self-fulfilling prophesy and jeopardize our honorable and professional efforts to remediate behaviors.

An analogy comes to mind. In my career I have dealt with a number of tragedies, such as a hiker lost for several days in a blizzard, a diver who failed to surface from a deep waterfall, and a person who did not emerge from a snow avalanche. In each instance, at some point the effort transitioned from a search and rescue to a recovery; while hoping for a miracle, the futility of the efforts became obvious. In my judgement, the same dynamics apply with a long term chronically problematic supervisor/manager; hope for a miracle, but recognize the likely futility of such occurring.

Chronically Problematic Employees Often Know “*The System*” Very Well

While there are some chronically problematic supervisors and managers who have just not been dealt with, there are many others who are long term survivors of previous unsuccessful efforts to modify their troublesome actions. Such individuals are masters in their ability to manipulate the system and use it to their own advantage. Among the common tactics is to just “wait you out.” A solid understanding of the civil service and disciplinary systems, and of administrative law and processes is a “must” for executives in addressing chronically troublesome behaviors.

Chronically Problematic Employees are Typically Strong-Willed, and Feel their Behaviors are Appropriate, or Certainly Not Inappropriate

They are “old school,” or “have always done it this way,” or “grew up under this system,” and that is the way they are going to continue to lead. People in this category often have selective memory and only recall what they chose to recall about the “good old days,” and often distort that which they do allegedly recall. Those of us who were around during the “good old days” often recall things a bit differently!

Chronically Problematic Employees Often Have Been Dealt with Unsuccessfully by others who have also Attempted to Correct their Behavior

Many of us can look back with embarrassment at some of the chronically problematic supervisors/managers we inherited and, despite our comment to “shape that person up,” ended up leaving him or her for our successor to endure. As an example, in my career, I have reviewed several personnel files where numerous evaluations on the same person often begin with a description of how the employee is now showing signs of improvement...!

The Human Tendency is to Blame Someone Else or Something Else for Our Failures

When a person is challenged as to perceived failures, an initial common reaction is to attribute the problems to something other than our own actions, including: gender, ethnicity, orientation, disability, age or whatever. Make sure that all remedial activities, verbally and in writing, are devoid of any statements or suggestions that the actions are driven by anything other than behaviors, knowledge, skills or abilities. Remember the cardinal rule to attack the behavior and not the person.

The Perceived Causation of the Troublesome Behavior Ceases to be a Factor

Without intending to sound harsh, this booklet deals with the likely end of a very long process that will have hopefully involved activities such as counselling, mentoring, advise, changes of assignment and all of the other things that executives employ when attempting to correct the troublesome behavior of a chronically problematic employee. Injecting the issue of perceived causation has the potential to be counterproductive, as the problematic supervisor/manager may well try to change the focus to previous actions that allegedly contributed to the behavior, as opposed to the executive’s focus on the adverse impact that the behavior is presently having on the workplace.

Aside from the process itself, the organization needs to learn from potential mistakes and situations that may have contributed to the emergence of the chronically problematic supervisor. Factors worthy of consideration include the selection process for supervisors, career planning and mentoring, adequacy of training, pattern of lack of previous accountability, etc. It is also a reality that there is not always a tangible reason for troublesome behavior, as inherent laziness, lack of impulse control, entitlement mentality and other character flaws are factors arguably beyond the ability of the executive to influence.

Troublesome Leaders and Uncomfortable Discipline is Often Related

There typically exists a considerable degree of latitude in situations where employees violate the rules. Managers and supervisors are the ones who decide whether a transgression should be handled as training, counselling or formal

discipline. Among the frequent symptoms of troublesome leadership – especially in the toxic category -- is a person who tends to be harsher than most in disciplinary decisions and recommendations, and someone whose personal behavior sometimes appears to stimulate employee hostility. In situations of this nature, the troublesome supervisor/manager is often technically correct, and has an expectation that the executive will support the disciplinary recommendation; these are the type of instances where the executive supports the supervisor/manager but does not feel very good about what occurred and wished that, early on, the matter had been handled differently. Troublesome leaders seldom bring out the best in people.

Knowing When to Move On (Retire?)

There comes a time when *every one of us*, for our own good and that of the organization, should move on, be it another opportunity or to retire. The difference is that some of us recognize when the time comes to move on, and others do not. In discussions, be sensitive to the absolute difference between tenure and age, and stay away from any statements or inferences concerning the latter. Allegations of age discrimination are not uncommon.

Getting the Attention of a Stubborn Person

It is said that, “Getting the Attention of a Donkey Requires the Strike of a Baseball Bat Right Between the Eyes.” Your baseball bat needs to be administrative, legal, well thought out and with a sincere desire to resolve the problematic behavior in an appropriate and professional manner.

Problematic leaders will Sometimes Attempt to Create Problems for those who attempt to Modify Their Behavior, and/or for the Organization Itself

Troublesome supervisors/managers can often tell you of the alleged sins of every other employee, and how those other employees were allegedly not held accountable for the behaviors you are now addressing with them, or for other “department dirt.” This is a typical smoke screen under the concept that the best defense is a good offence.

You as the executive and others, including potentially appointed and elected officials are not immune from counter accusations during efforts to address chronically problematic behavior. There is no organization without some dirt and no chief without a skeleton or two in the closet. Do not permit this factor to jeopardize remediation efforts; just organize your thoughts and be prepared.

Note: Don’t let yourself fall into the trap of excessive verbalization and explanation in responding to criticism directed at you, as it will just unnecessarily complicate the process. Formulate a quick response (such as, “yep, that was a mistake that I have

learned from,” or “fortunately, your remarks are inconsistent with the findings of the inquiry.”) and keep the focus the remediation efforts of the problematic supervisor/manager.

Keep Other Critical Players Informed

If you are the person within the organization who is dealing with the problematic supervisor/manager, make sure that others in the chain of command, including the chief of police, are kept abreast of your actions. If you are the chief, make sure that the city manager is on-board, informed and hopefully supportive.

Documentation & Discipline – Get it Right!

I think the analogy of one round in the elephant gun and the need to get it right the first time is appropriate. Any missteps or mistakes in the process will raise questions about credibility of the process and those involved, and will often be used to advantage by a problematic supervisor/manager.

Necessity for a Sustained Commitment

As said earlier, these efforts are marathons and not sprints. The frequent turnover of command personnel, and the loss of continuity and momentum is traditionally the greatest impediment to resolving chronically problematic situations. I am always reminded of a comment made to me by a “do nothing” sergeant many years ago. When the sergeant was told by a new captain that his foolish behavior was finally going to be dealt with he remarked, “this too shall pass!” The sergeant was correct; the captain transferred out a year or so later and the process started all over again. Sound familiar?

Balanced Sensitivities

There typically is an appropriate concern for the sensitivities of the problematic supervisor/manager for whom corrected action is being pursued. To the extent reasonable, that person’s personal feeling, ego and stature among subordinates are absolutely factors to consider in the strategy to address the chronically problematic behavior. Sometimes, the problematic supervisor/manager was once the superior or even the training officer of the person who is now the executive addressing the troublesome behaviors. However, these factors must not be such strong considerations as to hinder the remediation efforts. Just as the wing of an aircraft cannot be changed in flight, it may be very difficult and perhaps impossible to address the behavior of a troublesome supervisor/manager without him or her experiencing some degree of humiliation or embarrassment.

Beyond being sensitive to the feelings of the problematic supervisor/manager, there are a number of other sensitivities that also badly need to be taken into consideration, including:

- The goals of the organization, which are being stifled by the troublesome behavior of a chronically problematic supervisor/manager.
- The employees who are subjected to the troublesome actions of the problematic supervisor/manager.
- The community that is entitled to quality crime prevention activities and enforcement, which certainly involves the necessity for quality leadership, innovation, and initiative.
- The families of the employees whose lives are degraded by the anguish of those employees who bring home their frustrations based on the troublesome actions of a problematic supervisor/manager.

LEADERSHIP & PROCESS CONSIDERATIONS

Beyond the aforementioned realities for the executive to keep in mind, there are also a number of additional factors involving the process that are also worthy of consideration:

Fairness & Reasonableness

What seems fair and reasonable to you may not be perceived in the same manner by others. While it is always important to be as fair and reasonable as circumstances permit, it is especially important when dealing with tenured employees, since the strongest of administrative sanctions may result. Look not just through your eyes, but be sensitive to the perception of others, internally as well as externally. Those who will ultimately assess your actions may possibly include not only the problematic supervisor/manager, but also others in the organization, municipal leadership, legal counsel, a civil service commission, the courts, and the public. Among the worthwhile goals is a process that the problematic supervisor/manager may grudgingly acknowledge was fair and possibly necessary.

Personal Reflections & Introspection

Every police chief makes mistakes and has room for additional growth; a reality that is especially true for new chiefs. When considering the strategy for dealing with a person considered to be a problematic supervisor/manager, it is important to give a great deal of quality thought to the overall situation, and to ensure that your actions are not being driven largely by some type of personal animus, or that the situation has been aggravated by a deficit in your leadership skills. The law enforcement workplace, with all of the dynamics involved, can be a pretty complicated place where there is seldom absolute right or absolute wrong. Tenured chiefs often seem able to resolve issues with less trauma than their newer counterparts. Before initiating your actions, be brutally honest with yourself and solicit the thoughts of others whose perspective you typically find helpful.

Be mindful that 95% of what occurs is typically driven by the first 5% of actions and decisions. Getting it right from the beginning is critical.

Municipal-Specific Idiosyncrasies & Political Correctness

The term that, "The Boss is Always Right," is not always right. Certainly, those in charge typically have a great deal of latitude in how they manage the workplace and, like everyone else, have their "pet peeves" and other issues for which they have strong thoughts. These types of issues are frequently reflected in the manner in which they manage their employees, including direction and discipline. Such managerial preferences are not necessarily a bad thing and are often issues that in the big scheme of things contribute the success of the organization. Common

individual preferences include issues such as having particularly strong thoughts about appearance, neatness, promptness, due dates, courtesy, completed staff work, overtime limits, use of sick time, extracurricular sports participation, and any number of other types of issues.

However, as part of introspection the executive has to be honest in assessing whether the issue or issues for which there is concern is something that will be seen as credible beyond the department and the municipality, particularly in the eyes of civil service commissioners, a judge or anyone else who may be the final arbiter of the issue. Most of us are aware of situations where the uniquely strong thoughts of the boss were not shared by others outside the workplace, such as termination efforts for concealed a tattoo, failure to disclose in backgrounds the utterance of an off-color jokes, and a few minor tardiness's over a relatively long period of time. In the above examples, the terminations were reversed in court. Administratively, pursuing sanctions or discipline in questionable situations is not generally a wise course of action, and can be damaging to the organization and to the credibility of the executive.

Confidentiality & Discretion

Maintaining as much confidentiality and discretion as possible is terribly important, especially if the remediation efforts influence the retirement of the problematic supervisor/manager. In all likelihood, the person had at one time been a solid asset to the organization, and has reason to be justifiably proud of previous performance and accomplishments. If the person opts to retire, do everything reasonably to facilitate an honorable departure. That way, the employee can look back with dignity and pride on the organization where most of the adult life was likely spent. Unfortunately, our profession has far too many unhappy endings where former leaders feel nothing but pain and humiliation when they look back on their previous departments.

Note: A word of caution. Retain all documentation that had been prepared and most likely influenced any decision to retire. While the employee's likely desire is that it not be part of the personnel file, it should be maintained somewhere consistent with the law and municipal policies. As an example, that material could be invaluable if at some later date the employee alleges that the retirement was actually a coerced departure based on age, or some other alleged discriminatory practice rather than true performance issues).

The Terminal Arbiter

With all of the legal, procedural and departmental factors that must be considered and incorporated into adverse disciplinary documents, do not lose sight of the fact that the matter may well end up in court, and that the understanding of a judge or jury must be among the focus of your efforts. This is one of those situations where it

may be difficult to see the forest because of all the trees that must be navigated through on the journey. You must create a persuasive case that laypersons, beyond the department, will find compelling to support the adverse action, be it suspension, demotion or termination. For instance, it is likely that a strong adverse penalty for behavior that would jeopardize the public safety would resonate more with a jury more than something like an internal administrative violation. Give quality thought to how situation is likely to appear beyond the organization.

Be constantly mindful of the reality that the ultimate outcome of both legal and administrative cases is likely to be determined by which side has the greatest amount of admissible evidence. Be aggressive on insisting that your department appropriately and accurately document issues of potential importance, especially those dealing with personnel issues. What is created will most likely arise in the discovery process, including your good faith and sincere efforts to address troublesome behaviors. *All of the credible information, good intentions and good faith efforts, if not documented and available to the discovery process, might just as well never have occurred. If not in writing and admissible, it does not exist.*

Previous Acceptance-Tolerance of Problematic Behaviors

Persons must receive guidance and given the opportunity to achieve proficiency and perform adequately in the performance of Essential Job Functions. In instances where guidance was not previously provided, or where problematic behavior was tolerated, instructions and supervision need to be provided, and the employee' needs to be given time and the opportunity to succeed. Under such circumstances, the employee should be given benefit of the doubt and sincere opportunity to perform well. In cases as this, the strategies recommended by this booklet may be premature, with the hope of improved performance.

Avoiding Starting “from Scratch” and Repeating the Failures of the Past

Most of us including myself, have opted to give a chronically problematic supervisor/manager a “fresh start” under our stewardship. Unfortunately, most of us, again including myself have realistically just kicked the preverbal can a bit further down the organizational road. Although there are many instances where the absence of previous documented efforts leaves no alternative but essentially starting from scratch, explore the opportunity to build on any previous remediation or disciplinary efforts. To the extent reasonable and legal, document those things that have occurred in the past, to include deficient behaviors and measures to address the deficiencies. This can be tough, as documentation typically needs to be in a time frame reasonably close to the troublesome behavior. Salvage what you can in a manner that is will hopefully be admissible in the future, if necessary. Also, make sure that you take the time to form your own opinion in the event that the situation is something that you inherited.

The Issue of “Past Practice”

Problematic employees, when confronted with issues regarding performance or skills, will occasionally raise issues such as: “this is not what I was hired to do,” or “I have never been asked to do this before,” or “why do I have to do this when the same has not been required of others,” or “I am from the old school and am not familiar with how this equipment is used,” etc. The executive is wise to anticipate and prepare appropriate responses to these types of claims. There are always new procedures, new equipment, new laws, new reporting requirements, new crime trends, new techniques, new tactics, etc. Be sensitive to the reality that attorneys and labor representatives will sometimes vigorously raise these issues in the advocacy for the employee, and newer or less skilled executives and attorneys will sometimes show unnecessary sympathy for these arguments.

The issue of “past practice” is often misunderstood by many union officials, and their attorneys who like use the term liberally. While there are occasional instances of troublesome past practices, these are far less common and rigid than employee representatives are likely to acknowledge. The term is often used in an attempt to influence management’s actions, stating, “well you did this or that for Lieutenant Smith, so you need to do the same for Lieutenant Jones.” Not so, a prior decision to handle a situation in a certain way doesn’t obligate the organization to doing to the same thing again and again. Don’t be fooled, push back and tailor your action to the specific incident or person at hand.

Some of the issues this author has experienced are worthy of discussion as examples of chronically problematic behavior. A police lieutenant who claimed that proficiency in worker compensation investigations and report preparation was not specifically delineated in his job specifications; he chose to retire while in the process of being demoted. A Marine Corps communications supervisor who claimed that he did not have to be knowledgeable on a new radio being used by his subordinates because it was not a piece of equipment that he had been trained on when he attended Radio School; having failed to remain current, he was forced into retirement. A tenured police secretary, whose compensation was bolstered considerably by stenographic skills that she had allowed to become stagnant, when reassigned to an executive who chose to use those skills, claimed that since she had not been required to use them for several years that she should not be expected to retain proficiency; her steno bonus was appropriately withdrawn. These foolish arguments need to be “nipped in the bud” to avoid becoming distractions.

The Issue of “Permanent & Stationary” Light Duty

Without suggesting that the workers compensation process is rampant with abuse, it is widely recognized that it does occasionally become a refuge for problematic employees who either want to avoid certain tasks or work themselves into a preferred assignment. To the extent possible, and within the framework of applicable laws and civil service requirements, chronically problematic employees

who become “permanent & stationary” should not be accommodated into assignments that are perceived to be within the framework of their physical or psychological limitations, but rather such employees should be retired.

I have a perspective based on experience that I hope the reader will find useful. In my final LAPD assignment, I was the commanding officer of the Personnel Group of Human Resources, with duties that included the knowledge of over 400 sworn officers in “light duty” status. All of these officers had duty restrictions and most had been declared “permanent & stationary” via the workers compensation process. The Department’s mindset and practice was essentially to accommodate every light duty employee. As a result, it was difficult and near impossible to retire some individual employees, even though their continued service was often more of a burden than an advantage.

The overall result was somewhere in excess of approximately five percent of the LAPD sworn workforce being unable to perform field duties, with many cases where the injury and the process were questionable. This practice was, in part, predicated on the assumption that the knowledge that an injured employee would be accommodated would discourage disability pension abuse; instead LAPD ended up with several hundred employees with limiting profiles who continued to serve for many years and still obtained medical pensions, and with much higher retirement pay percentages than if they had been retired when the limitation was first determined. I realize that this issue is further complicated by recruiting challenges and vacant positions. However, I continue to question the wisdom of the degrees of accommodation that have become a practice over the past decades.

Upon retirement from the LAPD I became the Marshal of San Bernardino County and later a Deputy Chief on the San Bernardino County Sheriff’s Department. In both agencies, injured employees were retired when a medical restriction was determined to be “permanent & stationary.” The effect was a workforce where the vast majority of employees were available for all the tasks required of their positions. That reality, coupled with the knowledge that a “permanent & stationary” medical restriction meant early retirement at a lower percentage of pay, resulted in far fewer claims and far more physically qualified sworn personnel.

Our workplaces, like the rest of society, have become interesting challenging in a great many ways, including various issues and considerations pertaining to various types of discrimination. There are a couple of interesting absolutes; although medical challenges do increase with age, a person cannot be discriminated against because of age. A human reality of the aging process is the onset of various conditions that may or may not restrict a peace officer from performing the full range of essential job requirements, with the employee’s self-assessment often contributing significantly to a medical determination of what tasks may and may not be performed. This reality is among the many reasons why executives have to be strong in leadership skills and knowledge as age discrimination can be a giant liability for an organization which fails to articulate a strong difference between

chronical age and demonstrated abilities. If a chronically problematic supervisor or manager has the opportunity to claim age discrimination as part as his or her response strategy, such should be anticipated.

Situations Where the Required Knowledge, Skills or Abilities May Never Have Existed

The problem of a person whose performance is unsatisfactory based on required knowledge, skills and abilities that were never possessed is very real and not all that uncommon. It is not at all unusual for persons, especially those in higher positions, to be selected through an oral and/or background process that does not include testing to measure skills and abilities. This author can speak first hand to positions being obtained based on confidence that the employee would grow into the position and eventually become proficient in critical areas.

The problems occur when someone does not grow and develop as expected, or when the needs of the position grew but the employee did not, or when skills evaporated over a period of time and the employee was unable or unwilling to regain proficiency. Some examples include the computer expert that did not keep pace with emerging technology, the stenographer who refused to regain previous stenographic proficiency when the new boss was someone who preferred to dictate, or the computer expert who become the head of a computer-based dispatch system but who refused to learn the radio side of the system. In these types of situations, it is not uncommon for an employee, although typically being compensated in part because of the non-existent skill, to insist that since the skill was not insisted upon in the past, that it is unreasonable to now expect that it be attained.

Notwithstanding a certain degree of understanding (sympathy?) for a person who is having to develop skills that had not previously been important, the more important considerations are the organization and the public. It is certainly reasonable to work with the employee and take the time reasonably necessary for proficiency to be achieved. However, it is completely unreasonable – and an abdication of the public trust – to permit someone to receive compensation for a skill that the employee does not possess.

THE PERFORMANCE IMPROVEMENT PLAN (PIP)

Placing the problematic leader on a Performance Improvement Plan is the critical component that will enable the discipline, demotion, termination or forced retirement of a problematic leader who fails to establish and maintain a satisfactory level of performance.

Just as with other critical activities, a good deal of thought and preparation should occur prior to serious conversations with the problematic supervisor/manager. These are often difficult conversations that require skill and courage on the part of the executive. For the purpose of this document, the “formal conversation” includes a candid discussion of the problematic behavior, the formal presentation and service of Performance Improvement Plan (PIP) documentation, guidance on required corrective behavior, and a discussion of potential consequences in the event that the required behavior is not achieved.

PROCESS, COMPONENTS & CONSIDERATIONS

Both the substance and the form of the Performance Improvement Plan documentation are essential in the outcome of efforts in dealing with the problematic employee. The following are essential requirements and considerations:

Essential Job Functions

Before initiating any activities, make sure that you and any other involved persons review and completely understand the **Essential Job Functions** of the person whose behaviors you are addressing. These are typically printed civil service types of rules and regulations that delineate the responsibilities of each employee. Any adverse action will need to strongly link any action(s) or lack of action(s) to a specific essential job function, and describe the failure to perform adequately with respect to that dimension. Typically, in addressing chronically problematic behaviors, there are a number of essential job functions where the involved employee is perceived to be deficient. The description of deficient Essential Job Functions is critical in developing the Performance Improvement Plan (PIP). See Enclosures 1 & 2.

Knowledge, Skills & Abilities

As with the Essential Job functions, the requisite Knowledge, Skills & Abilities (KSA) are typically printed civil service types of requirements that delineate the expectations for each position, and also need to be linked to a documented deficiency. These are related to job functions, and are typically used to describe the overall unsatisfactory performance. As an example, the person’s failure to perform completed staff work (an essential job function) may be related to the lack of writing skills (a required skill). The description of deficient Knowledge, Skills &

Abilities are critical in developing the Performance Improvement Plan (PIP). See Enclosures 1 & 2.

Intended Impact of the PIP Documentation on the Problematic Supervisor/Manager

The PIP document is intended to ensure that the problematic supervisor/manager has a complete understanding of perceived deficiencies, the magnitude of those deficiencies, and the consequences of not achieving a satisfactory level of performance. While the nature of the PIP program is such that there have been previous unsuccessful efforts to remediate the problematic supervisor/manager, it is possible that he or she has not previously been dealt with as decisively and thoroughly as this process. It is not unusual for a problematic supervisor/manager to comment that previous executives have not been as thorough, and that the scope and magnitude of their deficiencies had not been previously communicated. Such a comment may or may not be accurate, but given the tendency of some executives to “kick the can down the road”, there may be some merit to such an assertion.

Administrative Courage

It has been the experience of this author that counseling techniques, administrative courage, and performance candor are skills that are most often sharpened through experience. As a new executive, I sometimes lost sleep over pending employee discussions, and would rather have faced a shootout with several heavily armed gunmen than conduct some of the formal internal discussions that were necessary. Just as many of us have rehearsed what we intended to say in promotional oral interviews, the learning cycle for formal discussions can be reduced to some extent by preparation and rehearsing what you intend to say, to include responses to questions and comments you are likely to be confronted with, before the actually formal discussion.

Pre-Scheduled at a Formal Appropriate Location.

The formal pre-scheduling of the conversation sends out a message of seriousness, as opposed to the “drop by my office when you get a chance” approach. In all likelihood, the problematic supervisor/manager will inquire in advance as to the purpose of the meeting; without going into detail, a response such as “to discuss performance issues” is appropriate. Providing some limited information about the purpose also provides the employee with the opportunity to have representation present, which is very often the case.

Discussion and Advocacy

For the purpose of this booklet, the “formal conversation” is not a give and take counseling conversation where the problematic supervisor/manager defends or mitigates behaviors, or where another person advocates on the part of the

employee. Those types of very appropriate meetings should have previously occurred, and were arguably not successful in achieving the desired performance or behaviors. This formal conversation is typically short in duration, where concerns are reiterated, documentation is provided, consequences are discussed, and any questions are answered.

While the presence of an attorney or labor representative is sometimes permitted, it is not unusual for them to attempt to influence what may be occurring, which should not be permitted. Their role at this stage is typically that of observers. If inclined to permit their attendance, be sensitive to the potential for setting a precedent for their presence in other similar situations. If not mandated by law or policy, they should not be allowed to be present.

Other Participants and Witnesses Present During Discussion

The executive who is conducting the discussion and providing the documentation may also benefit from the presence of another management representative, such as the person who oversees the agency's human resources function. While one or possibly two other key persons may be appropriate, any more persons than that may be unwarranted and unnecessarily.

Surreptitious Voice Recordings

Different organizations have different rules pertaining to voice recordings of personnel actions. Notwithstanding laws or rules that may prohibit or restrict such actions, it is wise to always assume that what is being said is being recorded. Surreptitious recordings, with goals that might include embarrassing the executive and/or the department, are clearly within the thought process of chronically problematic individuals.

Time Frame for Attainment of Satisfactory Performance

Not only is it typically appropriate to give a person time to achieve a satisfactory level of performance, but also it is also important to subsequent administrative processes to demonstrate that the process was fair and reasonable. In determining the amount of time that will be provided for the problematic supervisor/manager to attain a satisfactory level, considerations would include the number and complexity of the deficient essential tasks. However, in certain instances, such as personal traits and the professional treatment of subordinates, it is also reasonable, and very appropriate, to insist on an immediate change in behaviors.

The overall duration of the Performance Improvement Plan and periodic updates need to be established and understood by all concerned. Specific dates, times and locations should be established, and not be left "open-ended." At the progress review meetings, written assessment of progress made and areas of continued concern should be provided in writing to the problematic leader.

To the extent that there is an “industry standard” for the duration of Performance Improvement Programs, it is typically something such as one six-month performance evaluation cycle. However, it is also typical that deficient employees be placed on a special evaluation program that includes more frequent evaluation (orally and in writing) and feedback, such as monthly or even weekly reports.

Supportive vs. “Matter of Fact” Comments to the Problematic Supervisor/Manager

It is critical that the problematic supervisor/manager does not see this PIP process as “just another” of the instances to address his or her behavior. In all likelihood, there have been many past conversations where executives have said positive things about the potential to improve performance, and all to no sustained avail. At this stage, I suggest that positive comments not be made, but that the executive’s actions and verbiage be more of a “matter of fact” nature.

It is essential to be 100% candid and accurate in describing the performance. Don’t get off to a good start and then drop the ball by falling prey to the human tendency to be more positive and charitable than the circumstances might warrant, because of a perception that things appear to be going well, and then decide to reciprocate the effort by backing off to some extent. That human tendency, on the part of your predecessor(s), may have been a contributing factor to the situation that you are now having to address.

The executive needs to reinforce the fact that this process is not just one more attempt to improve performance, but rather the end of the road when the kicked can has finally come to a stop!

DOCUMENTATION REQUIREMENTS

Never lose sight of the reality, “If it isn’t in writing, it did not occur!” Equally as important, drive this point home to everyone in your organization! The following factors are essential elements and considerations in the Performance Improvement Program documentation process:

Comprehensive Documentation is Essential in a *Performance Improvement Plan (PIP)* for the Chronically Problematic Leader

Far beyond a general statement that the person is failing to fulfill the duties and responsibilities of his or her rank and position, it is essential to delineate each deficient *Essential Job Function*, describe the employee’s deficient behavior, and indicate specifically what the employee needs to do to achieve and maintain a satisfactory level of performance in that task. The totality of the *Essential Job Functions* for which unsatisfactory performance is delineated then forms the basis

for the overall assessment, which legally and procedurally reflects that the problematic leader is failing to satisfactorily perform the overall duties of the position held.

Be Specific in Describing Deficiencies and Troublesome Behaviors

It is essential to be specific, such as: *“Sergeant Smith has repeatedly failed to respond to critical situations, including the homicide on Main Street on xx/xx/xx, the armed robbery with hostages on Maple Avenue on xx/xx/xx, and the request for a supervisor for an injured officer on 4th Street on xx/xx/xx. Additional related situations reflecting other failures to respond are in the administrative files.”* It is appropriate for employees and their representative to be shown definitive evidence of the alleged unsatisfactory performance, and certainly essential to the terminal arbitrator (judge, etc.).

Note: Everything pertaining to the problematic supervisor/manager, whether part of the employee file or contained in another “administrative file,” is discoverable, and *will* be discovered.

Documentation During Performance Improvement Plan (PIP) Review

Be specific about mandatory and documented performance review meetings. In each of those meetings, provide written assessment of progress, or lack thereof in each of the previously described deficient tasks. Just as the problematic supervisor/manager would like to get out from under the documented sessions, it is important that you maintain these sessions and they be completely documented.

Documentation of the Performance Improvement Plan

The Performance Improvement Program, describing the levels of concern in each of the tasks, should be continued until ***all the tasks*** are being performed in an acceptable manner. Maintaining the PIP program for a reasonable period subsequent to achievement of satisfactory status, to encourage maintenance of acceptable performance is appropriate.

Retention of Performance Improvement Plan Documentation

In a perfect world, it would be very helpful to be able to retain the PIP documentation in a manner where it could be resurrected at some later point in the event of a later repeat of the troublesome behavior(s). However, various municipalities have different rules governing the retention of such documentation, and these rules must be factored into the strategy of each situation. In some situations, the information remains in the personnel file indefinitely, in other situations the information is removed from the personnel file after a specified time frame but available elsewhere if required, and in still other situations the information is destroyed after a given period of time. Whether or not subsequent

verbal testimony regarding previously destroyed documentation is admissible in administrative hearing or court is a question for each executive to address with legal counsel.

Format for the Performance Improvement Plan

There are almost as many different format possibilities as there are different agencies, and there is no one format that all agencies embrace. The key is developing and using a format that serves the needs of concerned, especially for agencies beyond the Department. The various entities that depend on the document to do their jobs include the municipal human resources unit, the city attorney, and possibly a judge and jury. As an example, the legal counsel in one agency that I was involved with found the previously used format to be cumbersome in extracting information needed for the civil service commission hearing; a revised format, with the involvement of human resources as well, resolved that issue. Utilize a format that supports the overall effort. Enclosures #1 and #2 are *examples* of the types of potential formats that may be worthy of consideration.

Note: In the two examples provided, there are more performance issues described than are likely in the case of a single employee. These multiple issues are provided as examples of the various types of performance deficiencies that may be addressed.

The Use of Emails in General

The use of emails in relation to problematic performance or behavior should most often be avoided. To do so just creates more material for discovery and more potential for the perception of conflicting information. A document that says one thing and an email that might say the same thing a bit differently is exactly what attorneys look for and will seize the opportunity to exploit the perceived difference in defense of their client. You should never say anything in an email or text message that you would feel uncomfortable testifying about in court.

Internal Emails Among Command Personnel Pertaining to an Employee's Performance

Depending on applicable laws and rules, and the interpretation of those laws and rules, emails *among command personnel* pertaining to an employee's performance, such as thoughts or ideas to hopefully improve performance, may or may not have to be provided to the employee. However, under a discovery motion for any and all communications pertaining to a particular employee, everything means everything and that would include any emails among managers pertaining to the subject employee, even though the email was not intended to be sent to the employee. For this reason, it is *absolutely essential* that emails pertaining to all of our employees, such as discussions among managers about efforts and strategy to improve someone's behavior and performance, be kept accurate and professional. In litigation pertaining to an adverse personnel action, the employee's attorney is likely to request discovery on everything pertaining to the subject employee, in

hopes of finding documentation that can be used in defense of the employee; your goal should be that any such documentation is strong and professional, and that the attorney will be sorry to have made the inquiry! Emails where managers expressed their good faith effort to improve performance will benefit the agency's efforts, while flippant or negative comments about the employee's character may well jeopardize an otherwise strong case.

Think Discovery - Continually & Always!

LEGAL SUPPORT & RELATED CONSIDERATIONS

The likelihood of successfully resolving a troublesome situation involving a problematic supervisor/manager, without legal support and involvement, is very unlikely. Several important factors and realities need to be considered and taken very seriously:

Attorneys are Staff Advisors – Not Decision Makers

It is the attorney's job to help you achieve your objectives in a legal manner. While there are instances when there may not a legal manner to achieve your objectives, there are many instances when attorneys are overly cautious, have strong personal reservations, or display extreme devil's advocacy to the point of near paralysis. Just as we develop our people, you may need to play a role – obviously in a diplomatic manner – in also developing and enhancing the skills of your legal counsel. Do not settle for advice that you are not comfortable with, and do not hesitate to send your attorney back to the books in order to find legal paths forward and potentially supportive case law that might be applicable. Finally, second opinions may be helpful as well. Attorneys play an important role and their involvement is invaluable, but they exist in support of you, and are not an equal partner in the execution of your responsibilities.

There are times when the potential outcome of discipline is murky and could result in litigation against the agency, but the totality of factors cause the executive to believe the circumstances are compelling and the case must move forward, and that the magnitude (or lack thereof) of the liability to the municipality is worth the risk. Cases of this nature typically involve the concurrence of the city manager, and input from legal counsel.

Anticipate Litigation

Tenured problematic employees typically know the law and the system and will often employ both in their defense. All of your actions should be predicated on the likelihood that the matter will end up in a court of law. Knowledge of state and federal laws is essential, as it is not uncommon for counter accusations to allege violations of statutes such as the American Disabilities Act, Family Medical Leave Act, Fair Labor Standards Act, or the various statutes related to the many various types of discrimination! Claiming to be a “whistleblower” is also an occasional tactic of problematic employees. Be sensitive to areas of potential exposure, address issues that need to be addressed, and maintain solid documentation of all that is done to include efforts and good intentions.

Anticipate Discovery

Litigation means discovery and discovery typically involves a wide net being cast over your department to obtain everything and anything that the involved employee can do to support his or her case, and also to cast you and the department in the most unfavorable light. Beyond the need for solid management, this reality is among the many reasons why law enforcement executives need to provide consistent solid leadership and to deal decisively with troublesome behavior, including situations where other employees say or write foolish things that often surface in discovery processes.

Privileged Communications Between You and Legal Counsel

Despite assertions of attorney-client privilege, it is best to assume that everything you say and write will ultimately surface in one form or another. In my career, time and again, many things believed to be privileged did not remain confidential. I still have scar tissue from an “absolutely confidential interview” that was later ordered unsealed by a court! Nothing remains confidential forever!

Anticipate Counter Accusations

Simply stated, chronically problematic employees typically like to “stir the pot,” and will often do just that as part of their own defense. Under the concept that the best defense is a good offense, counter accusations should be expected.

ROLE OF THE CITY MANAGER

Unlike the attorney who is a staff advisor, the city manager is typically a co-partner in the decision making process with respect to serious discipline and termination, and in some instances is the person with the tie-breaking vote. City managers are just like police executives in that they also have scar tissue, and theirs is often the consequence of perceived problematic behaviors on the part of police chiefs. Most city managers would like nothing more than a strong and well-qualified chief who runs the department, and for whom there is little need for their intervention. However, given the typically significant effect that the activities of the police chief have on the well-being of the city manager, the latter has a strong vested interest in the actions and skills of the police chief, and is wise to insist on playing an oversight role in significant personnel actions.

While most chiefs would prefer to run their departments without external influence, it is critical to recognize that the legal, political and procedural consequences of actions by department heads (certainly including the police chief!) are matters that typically fall directly into the lap of the city manager. Further, the city manager is accountable to the city council, and that often requires not only communications, but the sometimes herculean task of educating persons with little or no municipal or administrative experience.

The city manager has a big job and the police chief needs to understand and respect that person's oversight of critical personnel issues, and occasional necessity for his or her involvement. City managers are just like the rest of us in not always possessing global wisdom, and where there is often room for additional growth and knowledge. A solid professional partnership between the chief and the city manager, where both have open minds and work hard to be objective and do the right things, is an important goal.

ACHIEVEMENT OF SATISFACTORY PERFORMANCE

The obvious goal of the Performance Improvement Program is for the problematic supervisor/manager to *achieve and maintain* a satisfactory level of performance. However, it is essential to recognize achieving satisfactory performance is not the end of effort but most likely the first chapter in a continuous effort to maintain that satisfactory performance.

Maintaining Satisfactory Performance

The obvious goal of the Performance Improvement Program is the achievement and permanent maintenance of satisfactory levels of behavior and performance of the deficient employee. It is advisable to keep the deficient employee on the Performance Improvement Program (PIP) for a period of time, such as one full performance evaluation cycle, subsequent to the achievement of satisfactory status, to hopefully strengthen the maintenance of the appropriate performance and behaviors.

While not a pleasant reminder, a wise executive is one who is mindful of the historic reality that chronically problematic employees usually do not maintain long-term acceptable behavior. Sadly, in many cases the remediation efforts often translate into the remission but not the permanent correction of unsatisfactory actions. *In all likelihood, an employee who had at one time fallen into the chronically problematic category will always require above average scrutiny to maintain satisfactory performance levels.*

Constant Reinforcement of What Constitutes Satisfactory Performance

It is important to provide constant reminders to all supervisory and command personnel as to the agency's definition of what constitutes satisfactory performance for those who occupy leadership positions. Recall that the efficient and effective management of the status quo is not leadership. In order to be satisfactory, those in positions of leadership need to lead, which means providing guidance, encouragement, mentoring, creativity, innovation, and related behaviors. Realistically, as people gain significant tenure the levels of leadership behaviors may not be as robust as they once were, but nevertheless those in positions of leadership should be expected to lead.

FAILURE TO ACHIEVE SATISFACTORY PERORMANCE (Demotion – Termination – Compelled Retirement)

The failure of a chronically problematic supervisor/manager to successfully complete the Performance Improvement Program typically results in the removal of the employee from his or her duties, either through demotion or removal from the organization. In the cases of demotion, compelled retirement or termination there are a number of related critical factors that should be seriously considered.

Potential for Workplace Violence or Self-Destruction

In terms of emotional trauma, the loss of employment ranks high on the traumatic scale, pretty much at the same level as divorce and death of a loved one. While fortunately rare, workplace violence and suicide has and does occasionally occur when someone is facing the loss of a position. This author has dealt with these types of tragic issues, including one in Los Angeles where a long time troubled employee, when facing termination, shot and killed four of his supervisors – it happens. In law enforcement, we are often dealing with a person who is armed, and who has ready access to firearms. The executive needs to assess the potential for difficulties and take whatever actions, if any, might be appropriate.

Demeanor of the Executive

Executives are just like everyone else in that there are things and people that they both like and dislike, and it is very easy to dislike a person who has been a thorn in the side of management and the department. The executive needs to demonstrate professionalism and maturity in all dealings, including terminal actions with a problematic employee, and not gloat or otherwise make snide or hurtful remarks. Being brief, professional and to the point is most likely the best course of action.

Appropriate Time for Delivering the Bad News

Unlike most situations where efforts should be taken to avoid giving an employee bad news on a Friday; really bad news, such as demotion or removal, should probably be delivered late on a Friday afternoon. Such timing would most likely occur when there are fewer other persons in the workplace, less opportunity for a person to “make a scene,” enable the employee to remove personal property from the workplace over the weekend, and create a couple of days for the employee to reflect on what is occurring and how best to deal with the situation.

Emotional Support

A person who is in the process of losing his or her position may well require some level of emotional support. Take this reality into consideration and take whatever

measures (if any) that may be appropriate, such as the involvement of a peer counselor, close friend, association representative, etc.

Retention of all Related Documentation

It is natural for an employee to desire that his or her personnel file be void of troubling information, and not unusual for a departing employee to request that negative material be removed from the personnel file, sometimes as a bargaining chip in a departure agreement. ***DON'T DO IT!*** Remember, if something is not in writing it did not happen. Just picture a scenario where the executive agrees to the destruction of derogatory information, and the former employee later sues for reinstatement or damages or whatever. Depending upon the rules of the municipality and legal advice, it may be acceptable to place the derogatory material in a separate but accessible location, but it absolutely must be retained.

Termination of Access to Agency Systems & Information

Terminating access to various systems is an important measure to be taken when the decision to terminate employment is made. Not only is it the right thing to do for procedural and privacy issues, access to a system by unauthorized persons is often a violation of the law. Be sensitive to the reality that an unhappy and vindictive person with access to our automated systems can do a lot of damage in a lot of ways.

Non-Precedent Setting Settlement Agreements

While not often possible or appropriate, there are occasional unique circumstances when it is in the best interest of all concerned to structure an unconventional departure. Depending upon the inclination of the parties and their representative, such a settlement might include permitting and funding a premature retirement, permitting immediate retirement in grade as opposed to demotion, a promotion followed by an immediate retirement, etc. Situations that I am familiar with that fall into this category include: the accelerated retirement by two years of a person who should never have been placed in a command position; permitting a disciplined executive to prematurely retire at a lower rank, with the monetary difference funding the early retirement; and, resolving a law suit by promoting an employee to the next rank with a subsequent immediate retirement.

Sensitivity in Processing the Departure

Accomplish the termination processing in a private setting. Be sensitive to the exceptional humiliation that a person would likely experience when turning in a badge and other equipment to the person who had issued it, processing the final paycheck with the person who had been doing the payroll for years, and other types of likely painful encounters.

Departing with Dignity

To the extent reasonable and possible, showing thoughtfulness and sensitivity to a departing employee is the proper thing to do. While determined to be unsuitable for continued service with the department, the employee is still most likely the most important person in the world to others, such as a spouse and children, and will move on to another of life's chapters. Although there are times when the behavior of a departing employee can be very troublesome, the executive should maintain a professional demeanor and not say or do things that will further impede the healing process for the departing employee.

In the case of career employees and compelled retirement it is important to realize there will come a time when each of us needs to recognize that retirement is appropriate, and that to do so is in the best interest of both the individual and the agency. Not everyone recognizes this reality and it can get unpleasant, and sometimes very ugly when a long term and previously valuable contributing employee is being compelled to retire. Situations of this nature really test the leadership and human skills of the executive, in striking that balance between gently ushering the employee out of the organization while at the same time placing the outward focus on the employee's previous fine performance and contributions. Long term employees are often troubled and sometimes outwardly hostile to change, and may say and do things they may later regret, and for this reason it can be valuable for the executive to solicit the assistance of someone who is respected by the departing employee, to hopefully play a positive role in the departure and the demeanor of the employee.

The reader is encouraged to reflect on situations -- and we all know of some -- where a certain employee spent an entire career serving an agency and a community. He or she came and went into the facility for years, and did a lot of good things. However, because of unpleasantness at the time of retirement he or she is now a pariah and too humiliated to even visit the station. I encourage each reader to try to prevent this from occurring, and to correct any situation of this nature that may have been inherited. Realistically, there are often situations where some retirees may well have individual ill-will for one another, but that should not be something that keeps any of them from social contact with the agency. Have a representative reach out to those retirees, whose most likely has great pain in their hearts over being an outcast from where the good years were spent. Consider orchestrating a function, such as a luncheon, and in such situations endeavor to develop a healing path forward in reestablishing organizational cordiality.

A FEW CLOSING REMINDERS...

This booklet has discussed a very wide spectrum of considerations pertaining to chronically problematic supervisors and managers, and paths towards addressing this very serious issue. The reader is reminded that this booklet did not address the very long path towards improving performance, but rather the end of that path when all of the conventional methods to attain satisfactory behavior have failed. This booklet also raised a number of peripheral considerations and realities that are often present on this complex topic. I am hard pressed to think of a leadership challenge that is more difficult and complex than that of finally resolving the issue and impact of a long term chronically problematic supervisor or manager, whose behavior is damaging not only to the organization and its employees, but also doing harm beyond the workplace by affecting the families of those employees as well.

Finally, the reader is reminded of several key considerations in addressing and resolving the issue of chronically problematic supervisors and managers:

*Exceptional **Courage*** is essential

*Exceptional **Leadership Skills*** are essential

*Recognition of the **organizational damage*** done by problematic leaders is essential

*Exceptional **Consideration*** for the **Welfare of the employees** is essential

Toleration of Subordinate Problematic Leaders is a **Poor Reflection of YOU**

*Continuous **documentation*** is essential

Do What You Know You Have To Do and Do It Right

KEITH D. BUSHEY

Keith Bushey is a fifty-year veteran of law enforcement who holds emeritus status as senior staff instructor for the FBI Law Enforcement Executive Development Association, where he frequently travelled throughout the United States (occasionally Canada) making presentations to law enforcement agencies in the areas of leadership, supervision and ethics. He retired as a Commander from the Los Angeles Police Department, as a Deputy Chief from the San Bernardino County Sheriff's Department, and as a Colonel from the United States Marine Corps Reserve. Additional law enforcement experience includes having served as a Los Angeles County Deputy Sheriff, a California State Deputy Game Warden, as the Marshal of San Bernardino County, and as Law Enforcement Liaison on the Executive Staff of the Los Angeles County District Attorney. He is a high school drop out who holds the General Education Development Certificate (USMC), an Associate in Arts Degree in Sociology, a Bachelor of Science Degree in Police Science & Administration, and a Master of Science Degree in Public Service. He is a graduate of numerous courses and institutes, including the California POST Command College. He continues to lecture, and his writings have appeared in a number of publications, including Police Chief, Public Management, California Peace Officer and the FBI-LEEDA Quarterly Magazine. He may be contacted at kdbs255@aol.com or (909) 224-5682 (2018)

Enclosure #1

PERFORMANCE IMPROVEMENT PLAN Supervisory Focus

Date Initiated: July 1, 20XX

Employee: Sergeant John Smith #1212

Administered by: Chief Arthur Johnson

Your performances as a Sergeant of Police is UNSATISFACTORY, because of your failure perform the below listed Essential Job Functions in a satisfactory manner, and to demonstrate necessary levels of Knowledge, Skills and Abilities (KSA) as indicated.

- **SUPERVISE AND HAVE KNOWLEDGE OF THE SKILLS AND ACTIONS OF SUBORDINATES.** You are not paying adequate attention to the actions of the personnel on your shift, with examples that include: On May 2, 20XX, although clear on the radio, you failed to respond to the request for a supervisor by Unit 402; On April 23, you remained at the station instead of responding to the HAZMAT incident on Main Street; On March 23, 2017, although in the field and not otherwise engaged in any activity, it took you 25 minutes to arrive at the scene of an injured officer. These and other similar deficiencies are documented in the administrative support file for this PIP.

Beyond the issue to satisfactorily perform this essential job function is the requirement (KSA) that you coach and mentor subordinate personnel in the performance of both routine and tactical tasks.

- **DETECTION & RESOLUTION ISSUES & PROBLEMS.** Your supervisory reports most frequently document perceived problems, complaints, and perceived deficiencies, but seldom reflect any resolutions. You suggest that various officers receive additional training, but fail to discuss the issues or specific courses with the training coordinator; you complain about locations for community meetings, but make no recommendations for alternate locations; you complain about the lack of filings by the district attorney for various arrests, but fail to discuss with detectives the report deficiencies that often contribute to the lack of filings. You are quick to complain, often without understanding all of the related issues, but seldom offer suggestions and even more seldom initiate potential remedial action.
- Beyond the issue of satisfactory performance in this essential job function is the requirement (KSA) that you provide supervisory oversight of functions,

detect and evaluate areas of potential improvement, make corrections where appropriate, and coordinate additional corrective measures as required.

- **DEVELOP, PLAN AND EXECUTE CRIME PREVENTION MEASURES.** There is no indication that the primary reason the this department exists, to prevent crime, recover property and to arrest criminals, is among your concerns, with examples that include: No record of crime and criminal trend information being provided at your roll calls; no indication of any of your personnel being assigned to targeted locations for crime prevention or apprehension; no indication of reasonable efforts to ensure that your personnel remain, to reasonable extents, in their areas of assignment; and, your frequent permitting, without explanation or justification, field deployment to fall below minimums on days of the week when calls for service are typically the highest. This troubling trend is well documented in the administrative support file for this PIP.

Beyond the issue to satisfactorily perform this essential job function is the requirement (KSA) that you have the ability to analyze reports and statistics concern crime, traffic and arrests.

- **MAINTAIN KNOWLEDGE OF PROBLEMATIC TRAFFIC LOCTIONS AND AREAS, AND PROVIDE APPROPRIATE LEADERSHIP TO PERSONNEL ASSIGNED TO TRAFFIC DUTIES.** Accident and enforcement correlation surveys conducted during the months of February, March, April and May of this year show no measures to inform officers of accident trends, or to direct actions in the area of traffic enforcement. So as to ensure absolutely no misunderstanding, there is not direction or suggestion of any level of citation issuance, which is both inappropriate and in violation of state law. You are directed to familiarize yourself with appropriate strategies that include a combination of factors, to include: education, enforcement, engineering, increased presence at certain times of the day, etc. The correlation surveys are documented in the administrative support file for this PIP.

Beyond the issue to satisfactorily perform this essential job function are the requirements (KSA) that you have the ability to analyze reports and statistics concerning crime, traffic and arrests **and** the ability to develop and maintain appropriate liaison, and coordinate activities with other agencies (in this case the Sheriff's Department and the Highway Patrol at common problematic locations on our respective agency boundaries).

- **VERBAL INSTRUCTIONS AND COUNSELLING OF EMPLOYEEES.** Your demeanor in the counseling of employees is inappropriate and unsatisfactory. During the conduct of briefing on February 12, March 16, April 23 and May 14, you were overheard to unnecessarily raise your voice and shout potentially offensive comments at several employees, when a

private counseling session would have been the proper venue to express your concerns and discuss the matters. The administrative support file for this PIP contains further documentation on each of these incidents.

- Beyond the issue to satisfactorily perform this essential job function is the requirement (KSA) that you possess a solid knowledge of contemporary supervisory techniques, to include employee development, motivation, self-improvement and team building, and that these traits be reflected in your interactions with other employees.

COMMENT BY CHIEF OF POLICE. A team is only as strong as its weakest member, and your deficient performance is having an adverse effect on this entire department. You occupy a key position, and your failure to perform in an acceptable manner causes the entire organization to be less effective than it might otherwise be. Your subordinates and not being well led or properly trained and supervised, with the resulting impact on key elements of this department's core function.

REQUIRED DATE FOR ACHIEVEMENT OF SATISFACTORY PERFORMANCE. The required date for achieving satisfactory performance in all of the areas delineated in this Performance Improvement Program is December 15, 20XX. If overall satisfactory performance has not been achieved, adverse administrative consequences will be initiated at that time.

CONSEQUENCES. A failure to attain a SATISFACTORY level of performance in each of the above-described Essential Job Functions will result in serious disciplinary actions. Actions may include suspension, demotion, or termination.

FOLLOW-UP REVIEWS. Either Captain Williams or myself will meet formally with you during the first week of July, August, September, October and November, to discuss and document your progress, or lack thereof, with respect to this Performance Improvement Program. A representative may accompany you. If for some reason a scheduled date becomes unavailable, my secretary will coordinate a mutually convenient date and time.

ACKNOWLEDGMENT. Without necessarily concurring with the contents, I acknowledge receipt of this document:

Sergeant John Smith #1212

Enclosure #2

PERFORMANCE IMPROVEMENT PLAN Staff-Command Focus (Enclosure #2)

Date Initiated: July 1, 20XX

Employee: Captain John Doe

Administered by: Chief Arthur Johnson

Your performance as a captain of police is UNSATISFACTORY because of your failure to perform the below listed Essential Job Functions, and to demonstrate necessary levels of Knowledge, Skills and Abilities (KSA) as indicated

- **UNACCEPTABLE COMPLETED STAFF WORK, AND THE FAILURE TO TRAIN SUBORDINATE SUPERVISORS IN COMPLETED STAFF WORK SKILLS.** The very small amount of staff work that you have supposedly completed, and the staff work that you have delegated to Sergeants Smith and Jones, is consistently substandard, unacceptable, and frequently must be corrected by others. Common and consistent deficiencies exist in the areas of spelling, punctuation, grammar and completeness. The administrative support file for this PIP contains numerous documents that reflect concern in this essential job function.

Beyond the issue of your failure to satisfactorily perform this essential function is the requirement (KSA) that you to possess satisfactory levels of skills in punctuation, grammar, and spelling.

- **YOU FAIL TO REMAIN CURRENT WITH RESPECT TO VARIOUS ASPECTS OF YOUR RESPONSIBILITIES.** At City Council meetings and hearings, you are frequently unable to provide adequate information, as requested, on current crime and department strategies/initiatives. In recent appearances before the city council, you were unable to provide reasonable responses when asked about the status of remaining allocated overtime funds, recruiting and hiring initiatives for new officers, and ongoing initiatives to address vandalism and graffiti in the downtown business district. These issues are all clearly within your purview and your lack of knowledge reflected poorly on you and upon the department.

Beyond the issue of your failure to satisfactorily perform this essential function is the requirement (KSA) that you establish and maintain effective working relationships with city officials, state and local authorities, and the

general public, including the provision of information and responsiveness to appropriate inquiries.

- **RESPONSIVENESS TO MY GUIDANCE AND PRIORITIES.** While recognizing the merit to most of the priorities that you have established and are working on, you have failed in general to place your primary emphasis on the priorities that I have established and directed you to pursue. Examples include the inordinate amount of time you have devoted to designing a new department shoulder patch; explorer scout involvement in Eagle projects and vehicle maintenance and cleanliness; all worthy of some attention, but not to the degrees of the time you have devoted to them. Conversely, you have failed to give adequate attention to oversight and accuracy of the annual budget; to the research and acquisition of a downtown “drop in” center; and to conduct detailed audits of the community relations fund and evidence room. Your continued primary focus on the things that you feel are most important are hindering progress and accomplish on the things that I feel are the most important, and continually contrary to the guidance that I have provided to you.

Beyond the issue of your failure to satisfactorily perform this essential function is the requirement (KSA) that all employees comply with the key provision of the City’s Code of Ethics and Core Values in the area of responsiveness to guidance from superior officers and municipal officials.

- **INVESTIGATION OF INDUSTRIAL INJURIES AND RELATED CLAIMS.** In the two of industrial injury claim investigations conducted by yourself this year, in both instances the claim adjusters and hearing officers commented on the inadequacy of your investigation, including a failure to document the circumstances of the injury and some information that was not correct. The follow-up comments from the Workers Compensation Board are contained in the administrative support file of this PIP.

Beyond the issue of your failure to satisfactorily perform this essential function is the requirement (KSA) for you to be familiar and have a working knowledge of personnel laws and requirements involving workers compensation, benefit abuse and related litigation.

- **COORDINATION, COMPLETION AND SUBMISSION OF THE ANNUAL DEPARTMENT BUDGET.** In both 20XX and 20XX, you certified as complete and accurate the Department’s final budget at the time of submission to the City Manager. In both instances, there were deficiencies which reflected a lack of attention and oversight on your part, and which subsequently made necessary mid-year budgetary requests and adjustments, which reflected poorly on this department and required some adjustments elsewhere throughout other city departments. Among the most series errors were

failures to; calculate step raises for the new positions that had been authorized, use accepted forecasting formulas to predict marked and unmarked vehicle usage, factor overtime usage into special events, and calculate the costs associated with the basic academy attendance of the new police officers. The above issues, while critical, are not complicated and would most likely have been corrected had you developed liaison with representatives in the Office of the City Treasurer.

Beyond the issue of your failure to satisfactorily perform this essential function is the requirement (KSA), delineated in your job description, under the supervision of the chief of police, to create, present to the City Manager and City Council, and implement the annual department budget.

- **RESEARCH, REVIEW, SELECT AND COORDINATION OF GRANT REQUEST APPLICATIONS.** In the past year, at each month staff meeting, and in numerous conversations, the issue of pursuing state and federal grants for both personnel and equipment has been discussed. Without suggesting that various grant requests would have been successful, there were a number of potential opportunities that were not pursued. The single request that was created, for a school resource officer, was returned because of the wrong format and late submission. The overall issue of Grants is an Essential Job Function of your position, and your performance is unsatisfactory.

Beyond the issue of your failure to satisfactorily perform this essential job function are the requirements (KSA) that you possess satisfactory proficiency in the completion of staff work and maintain a satisfactory level of liaison with other City departments, in this case the Budgetary & Grants Coordinator in the Office of the City Manager.

- **SUPERVISE, OVERSEE AND ENSURE COMPLIANCE WITH PATROL DIVISION DEPLOYMENT SCHEDULING.** The recently completed (XX/XX/XX) deployment audit, as part of the overall City Services Survey, revealed a troubling practice where crime and traffic needs are often not factored in police officer deployment. Specifically, there were often more officers deployed on Wednesday and Thursday evenings than on Friday and Saturday evening; when the calls for service are typically much higher on the latter days of the week. As the manager over the patrol function, your performance in the Essential Job Requirement of coordinating the appropriate response for police services is unsatisfactory.

Beyond the issue of your failure to satisfactorily perform this essential job function is the requirement (KSA) that you have the ability of analyze reports and statistics concerning crime, traffic and arrests.

COMMENT BY CHIEF OF POLICE. A team is only as strong as its weakest member, and your deficient performance is having an adverse effect on this entire department. You occupy a key position, and your failure to perform in an acceptable manner causes the entire organization to be less effective than it might otherwise be. Your subordinates and not being well led or properly trained and supervised, with the resulting impact on key elements of this department core function.

REQUIRED DATE FOR ACHIEVEMENT OF SATISFACTORY PERFORMANCE. The required date for achieving satisfactory performance in all of the areas delineated in this Performance Improvement Program is December 15, 20XX. If overall satisfactory performance has not been achieved, adverse administrative consequences will be initiated at that time.

CONSEQUENCES. A failure to attain a SATISFACTORY level of performance in each of the above-described Essential Job Functions will result in serious disciplinary actions. Actions may include suspension, demotion, or termination.

FOLLOW-UP REVIEWS. Either Deputy Chief Jones or myself will meet formally with you during the first week of July, August, September, October and November, to discuss and document your progress, or lack thereof, with respect to this Performance Improvement Program. A representative may accompany you. If for some reason a scheduled date becomes unavailable, my secretary will coordinate a mutually convenient date and time.

ACKNOWLEDGEMENT. Without necessarily concurring with the contents, I acknowledge receipt of this document.

John Doe

ENCLOSURE #3

Focus on Leadership...

THE OFTEN UNCONSIDERED CONSEQUENCES OF TOXIC LEADERSHIP

Keith D. Bushey

The time has come to give greater attention to the emotional trauma that our employees and their families experience because of toxic leadership, and to see such situations as priority challenges to be addressed!

Beyond our responsibilities to public safety, our municipalities and our departments, chief executives have both an ethical and moral responsibility to provide all employees with appropriate and positive leadership. This includes not permitting them to be subjected to a troublesome supervisor, but even worse a supervisor whose behavior has a toxic impact on subordinates. Notwithstanding the many related personnel issues associated with problematic leadership, the focus of this article is the impact of toxic supervision beyond the workplace, and the critical need to address and resolve it.

For the purpose of this discussion, a toxic leader is a person at any rank in a leadership position who exhibits abusive actions and behaviors. These activities might include, but are not limited to: verbal outbursts, obsessive micromanagement, playing “mind games” with subordinates, hyper critical activity, subtle (or not so subtle) threats and innuendos pertaining to a subordinate’s position or employment, and other types of troublesome activities that cause unnecessary consternation among the workforce. Simply stated, toxic leadership includes all types of troublesome and unnecessary actions that cause our employees to go home and worry about what is happening at work.

Just about every chief executive with whom I have been acquainted (me included!) has occasionally concluded that a weak and toxic supervisor, despite our efforts, is not likely to change his or her workplace actions. We end up tolerating that person, and often shuttle him or her off to an assignment where we perceive they will be able to get by and do the least damage to the organization. Unfortunately, when this occurs, we fail to give adequate consideration to the employees who must work for that problematic supervisor, and who are subjected to his or her troublesome actions.

Although all of us wish that it wasn’t true, and despite our best emotional efforts, the reality is that the majority of our personnel (just like us) take their

work-related problems home with them. While we are in an occupation where there are certainly occasional field-related situations that are upsetting and cause us to go home upset, ***the absolute reality is that the overwhelming majority of upsetting situations are the consequences of internal stress and drama caused by troublesome supervision.*** As we go about our leadership responsibilities, it is wise to reflect on our own past experience with troublesome supervision; the ruined weekends, sleepless nights, and the impact on our families as well.

Ask anyone at any level, from street cop to the chief of police, where the majority of stress comes from in our careers, from the street or from weak internal leadership? *The answer is always the same: Internal!* Just as there is an absolute correlation between public safety and the quality of leadership, there is also an absolute correlation between weak leadership and unnecessary workplace drama.

The Realities of Weak Supervisory Skills

Realistically, not all of our supervisors are adequately skilled in the art of leadership. While we typically exercise our best efforts to develop and enhance the leadership skills of those who supervise and lead others, it is not unusual to ultimately conclude that a person is just who they happen to be, that a skill level plateau has likely been reached, and that the performance is most likely as good as it is going to get. This already serious problem becomes much worse in the case of supervisors whose troublesome actions and behaviors create a toxic environment for their subordinates. *Unfortunately, this attitude is tantamount to determining that the subordinates of those weak supervisors are just going to have to put up with being poorly led and emotionally abused!*

Never Give Up On Supervisory Development

The chief executive is responsible for all that occurs, and this includes ensuring that all subordinate supervisors practice appropriate leadership. If communications coverage is inadequate, we assess the weak signal and improve performance. If a car is not running as well as it should, we determine the problem and improve vehicular performance. If a person in a supervisory position is failing to perform in an acceptable manner, and especially if causing a toxic impact on the workplace, these issues need to be addressed as well. We must never give up on the continued development of a person who is vested with the honor of leading our personnel. Every one of our employees deserves respect and the best supervision that we are able to provide.

True leaders strive to ensure that all of their employees are treated the same way that they would hope one of their family members would be treated under the same circumstances. When we apply that standard and question whether

or not we would want our family members working for a particular person, we become far less cavalier about potentially tolerating a toxic person in a supervisory position.

In the Interim – Blunt Guidance If Necessary

This is not a perfect world and not all of our supervisors are always as competent as we would like them to be, with varying degrees of skills, knowledge, motivations, and behaviors. While we must never give up on the development of any supervisor, neither should we tolerate troublesome behaviors as we work to improve their skills. Although we may not always be able to improve the totality of their performance, we do have the ability (and the obligation to their subordinates!) to make clear the specific behaviors that we expect them to both exhibit and avoid. As examples, we can make clear that they will not raise their voice, they will not rant and rave, they will not use offensive terms, and they will not counsel an employee without another supervisor also being present.

Further examples might include a mandate that they not be the sole signatory on an evaluation, that they will provide periodic written reports on specific activities, that they will respond to field situations, that they will immediately bring certain situations to the attention of their superior officers, and that they will not discipline an employee without the active involvement and concurrence of both a mentor and upper management.

Assign a Mentor

As a profession, we usually do a pretty good job in the training, mentoring, and development of new personnel, but oftentimes fail in providing mentoring to troublesome tenured supervisors. Historically, it has been common to defer to someone's seniority in resigning ourselves to the realization that a plateau has been reached, that performance is not likely to change, and to just wait for that person to retire. Unfortunately, this practice has not served our profession, public safety, subordinate employees, or our agencies very well.

Mentoring is a word that is appropriately being used more and more. However, we as a profession need to seriously apply the mentoring concept to weak tenured supervisors as well. Not as a hint or suggestion, but as a definitive and clear expectation where weak supervisors are formally assigned a more competent counterpart. This process should include mandatory meetings, coaching, feedback, and regular updates to executive level personnel. This type of mentoring can be very challenging, as strong and toxic personalities are often rigid personalities as well, and likely resistant to change (Chief, that is why you get the big bucks!).

Truly a Reflection of YOUR Leadership

Most of us can look back on our own troublesome experiences caused by weak leadership, and recall questioning as to why the chief executive tolerated troublesome supervisors, and failed to take realistic measures to improve very conspicuous problematic behaviors. Just as chief executives deserve credit for their positive accomplishments, they also must take ownership for any failures. Tolerating toxic supervision is a very poor reflection of one's leadership.

The Root of Some Evil – Litigation & Liability

Beyond the personal trauma associated with weak leadership is the very real issue of litigation and liability. Those of us who have spent appreciable time in command positions are absolutely aware that there is very often a relationship between workplace related litigation and troublesome supervisors. Without suggesting that troublesome supervision is always at the heart of workplace difficulties, the reality is that solid supervisors are often able to resolve problems, while troublesome supervisors often play a role in instigating and aggravating workplace drama and dissatisfied employees. The time has come for our profession, on a regular basis, to deal not only with the weak behavior of employees, but also the troublesome supervisory actions that contribute to workplace difficulties.

The all-too-often practice of automatically backing the actions of our supervisors, even when wrong, has been detrimental to our agencies, our profession, and to our employees. *Those supervisors who seem to specialize in bringing out the worse in their subordinates need to be dealt with!*

No Leader is Better than a Weak Leader!

In the rare instance of a particularly troublesome (toxic) supervisor, serious consideration might well be given to putting that person in some type of a special assignment, where he or she is not doing damage to the organization and/or the employees, until and unless the leadership skills reach an acceptable level or the matter is otherwise resolved. Assigning someone “out of class” can be a very drastic and unconventional move, however depending on the degree of troublesome behavior, going without a person in a given position may be far preferable to letting that person remain in place and continue to cause organizational damage and drama. Should the chief executive determine that such an extraordinary action is appropriate, comprehensive documentation is essential.

There have been occasions where the drastic action of temporarily removing a troublesome leader from his or her regular assignment has been deemed essential. The first example involved a high-ranking person in a state police organization who was taken out of the chain of command, and relegated to writing grant and funding requests. The second example involved a sheriff's captain who was removed from his command and "loaned" to another county agency, with a lieutenant installed as the long-term acting commanding officer. The final example involved a police deputy chief who, subsequent to being terminated, and after having been ordered reinstated by a trial judge, was assigned as "law enforcement liaison" at city hall. In each of the situations, the chief executive chose to go without a person in a critical assignment, as opposed to permitting the toxic abuse of subordinates in those commands.

Personal Reflections & Regrets

Decades of experience and scar tissue have provided a degree of clarity that I wish I had possessed earlier in my career. While I believe that I have just about always recognized and tried to strengthen the skills of weak supervisors, I have to be candid in acknowledging that I was occasionally not all that effective. If I could have a "do-over" in this area, I would emphasize three areas: First, recognize that in many instances weak supervisors have strong personalities and that verbalization, in the absence of some action to truly get their attention, is not likely to be effective. Secondly, I wish that I had been just as sensitive to the feelings of their subordinates as I was to not hurting the feelings of the supervisor whose skills I was seeking to improve. Finally, I wish that I had assigned strong supervisors to mentor the weak supervisors.

Most of us who have held chief executive positions have endeavored to be sensitive to the feelings, and to preserve the dignity of those supervisors whose skills we have sought to strengthen. This is particularly true in the case of supervisors who recognize their weaknesses and are genuinely trying to improve. In several of my past instances, I think it likely that problematic supervisors were outwardly cordial and allegedly receptive, however ultimately made no appreciable long term progress in addressing the concerns that were raised and eventually "came out of remission" and resumed their troublesome behavior. In those instances, "clipping" their discretionary wings and the assignment of a formal mentor may have made a real difference.

Documentation

Another fairly common workplace reality is the tendency of troublesome supervisors to feel that it is they who have been wronged, and for them to initiate complaints and/or lawsuits because of disagreement with the actions taken in an effort to improve their performance. This problem becomes even more aggravated because of occasional failure to create comprehensive documentation as to the weaknesses of the troublesome supervisor, the

adverse impact of the problematic behavior on both the agency and subordinate personnel, and measures taken to mitigate the problematic actions and strengthen the weak supervisor's skills.

Failing to document the troublesome behavior of a weak supervisor, typically stemming from good faith intentions and not wanting to appear overly harsh, can be today's solution and tomorrow's nightmare. Never forget: If something is not in writing, it did not happen!

Something for Which We *Must* to be Constantly Mindful

Weak and problematic supervision has consequences far beyond our workplaces, and often takes a terrible toll on the most important factor in all of our lives – our loved ones!

Final Question

Be honest with yourself about the skills and behaviors of your supervisors. Ask yourself a very critical question: If your family member worked for that person, would you feel comfortable with the leadership being provided. If not, do something about it...

Unpublished manuscript. March 2016.

ENCLOSURE #4

Focus on Leadership...

THE UNPRODUCTIVE POLICE EXECUTIVE

Keith D. Bushey

The unproductive police executive is a critical, often neglected topic. In far too many instances, marginal performance on the part of a long-tenured police executive is seen as an acceptable norm. Considering the critical need for exceptional leadership, strong and innovative administrative skills, and pro-activity in order to deal with today's special challenges, our organizations cannot afford leaders who fail to lead. *It is important to not lose sight of the fact that, in a challenging and dynamic environment, the efficient and effective management of the status quo is not leadership!* A harmful trait frequently exhibited by the unproductive executive is a degree of devil's advocacy that often results in near-paralysis, with the initiative and energy of subordinates being unnecessarily stifled. Those who suggest that such an individual, while of questionable suitability for a command, can still be productive in a staff assignment are mistaken. The need for energetic and dynamic leaders is equally strong for both staff and command officers.

I am not aware of any organization that factors decreased energy and productivity into a declining salary scale for senior executives; to the contrary, such persons are typically among the highest paid and best-compensated members of our departments, predicated on the assumption of the highest levels of performance and leadership! Successful private corporations do not tolerate the continued presence of an unproductive person in a position of special trust and responsibility. As guardians of the public trust and given the honor of leading wonderful men and women who perform critical and often thankless tasks, our standards must be equally demanding.

Command Assignments

The unproductive executive in a command assignment is devastating to a police organization! *Worse, the degradation is often not recognized as the organization gradually adjusts to a decrease in leadership and energy.* The consequences of a marginal commanding officer are many, including: failure to truly understand

the needs of a community and allocate resources accordingly; failure to adequately fight crime and deal with issues that affect public safety; failure to adequately investigate crimes; failure to pursue the recovery of victims property; toleration of mediocre performance; failure to provide support and recognition to deserving personnel; failure to hold problem personnel adequately accountable for their actions; failure to ensure adequate processes that yield the best candidates for advancements and special assignments; failure to pursue questionable disability claims; degradation of community support; increased cynicism and overall dysfunction throughout a command where subordinate managers are left to their own devices in grappling with issues that require high-level command and coordination.

The highly visible nature of most command assignments further intensifies the myriad of consequences associated with an unproductive executive. This reality magnifies the unproductive traits of a high-level leader, which collectively present a poor example for subordinates, raises legitimate questions of hypocrisy with respect to prevailing expectations, and sends the wrong message to other officials and to the public.

Staff Assignments

The adverse consequences of an unproductive executive in a staff assignment are arguably even greater than his or her unproductive command counterpart. The unproductive staff officer, as opposed to having a negative impact on a single command, most often has a devastating impact on the entire organization, with severity that varies depending upon the specific assignment. Once again, *the degradation is often not recognized as the organization gradually adjusts to a decrease in leadership and energy.*

Like his or her unproductive counterpart in a command assignment, the adverse consequences of a marginal executive in a staff assignment are many, such as: failure to pursue policies, procedures, and resources that command officers need to effectively manage their workforce; failure to ensure the prompt and appropriate resolution of conflicts, grievances, lawsuits, and related difficulties; the unnecessary loss and/or settlement of claims and lawsuits (often capitulating to less experienced and/or overworked government attorneys) which creates horrible precedence and increases the difficulty in managing the work force; increased inappropriate influence of special interests and/or vendors; and other problematic situations that would not exist, or which would be greatly mitigated, had the staff executive possessed the loyalty and energy truly required of the position.

Conclusion

It is critical that we set aside personal loyalties and tenure considerations in the selection and retention of subordinate executives. A simple inventory can help determine whether a person is continuing to advance the organization. Ask yourself what programs, policies, and/or initiatives the individual has been

responsible for that were truly the product of his or her initiative, imagination, or vision? Ask yourself also if the individual creates and maintains a progressive environment, or if he or she exhibits a degree of devil's advocacy that often results in near-paralysis, and has the effect of stifling the initiative and creativity of subordinates? Finally, remember that the efficient and effective management of the status quo, including responding to unavoidable situations, is not leadership.

Those of us who have the honor of leading law enforcement organizations were selected based upon a belief that we would provide the best possible leadership, apply the strongest management principles, protect the public to the very best of our abilities, and do the best job we possibly can. We violate that trust when we fail to insist that **energy, enthusiasm, initiative, and pro-activity** are among the qualities expected of our key personnel. Our subordinate executives are highly visible to our personnel, civic leaders, and to the communities we serve. Their strengths and weaknesses are abundantly clear to all and are a continuous reflection of our own leadership and effectiveness.

Those who argue that civil service procedures are so rigid as to prevent the decisive handling of an unproductive executive suffer from the same lack of energy and initiative as the unproductive executive! Is it always easy? Of course not, but we hold the positions that we do in part because our appointing authorities had confidence in our abilities to deal with and resolve troubling situations. Certainly, our initial strategy must be positive, extensive, and intended to revitalize the unproductive executive. Should efforts to revitalize such individuals fail, it is important that we resist the temptation to suffer in silence and wait for the person to retire. We must take reasonable and necessary measures to ensure that key personnel are worthy of the positions they hold. Our department, our personnel, and the citizens we serve deserve nothing less.

"The Unproductive Police Executive." *Police Chief*. January 2000