

The Need for Statewide Oversight in Governing Officer Certification

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Abstract

Law enforcement officers are vested with the authority to uphold the law and are entrusted to do so while maintaining a very high degree of ethical standards. Most states have created P.O.S.T. Boards (Police Officer Standards and Training Boards) to ensure that their officers are held to the highest standards and that they are held accountable when they fail to live up to these expectations. Most states maintain the ability to discipline or revoke the certifications of officers who have committed acts of misconduct. This research seeks to identify and compare the various disciplinary options available to the nine states that comprise the Southeast Region of the International Association of Directors of Law Enforcement Standards and Training (IADLEST).

Introduction and Literature Review

Community concern regarding the unethical behavior of law enforcement officers continues to grow. The Miami Riot of 1980 contributed significantly to sweeping changes in how Florida deals with issues involving officer misconduct. In December 1979, several white Miami-Dade police officers were involved in a high speed chase involving a black motorist. The chase ended with the motorist allegedly crashing his motorcycle and his subsequent death as a result of the “crash”. The medical examiner determined that the injuries sustained by the motorist were not consistent with injuries that would normally be present in a motorcycle crash. In fact, testimony given by the medical examiner and other officers on scene seemed to support the idea that the victim’s death was caused by the officers beating him with their flashlights. A jury ultimately acquitted all of the officers on all charges that were brought against them. Subsequently, this decision led to many violent protests by citizens that resulted in the deaths of eighteen people and property damage in excess of \$80 million (Blackpast.org, 2009).

On March 3, 1991, officers of the Los Angeles Police Department stopped Rodney King, a motorist in California, for speeding. Four officers who were on scene kicked, hit, and shot him with stun guns during the traffic stop. Three of the four officers were subsequently acquitted by a jury a year later, and the jury was deadlocked on charges for the other officer. Citizens took to the streets of Los Angeles in protest of the jury’s findings. After all of the violent protests were over, fifty people died and 3,000 people were injured, not to mention the thousands of businesses that were damaged or destroyed. Two of these four officers were ultimately charged in federal court for civil rights violations, and were sentenced to thirty months in prison. The other two officers

were acquitted, and the city of Los Angeles paid a \$3.8 million settlement to Mr. King (NBCNews.com, 2012).

Most recently, public outcry ensued once again when news outlets reported several officers operating their police vehicles at excessive rates of speed in south Florida. In addition, public protests are currently ongoing as a result of a central Florida law enforcement agency's handling of a shooting involving a young black teenager. Sparked by past and recent events involving unscrupulous actions by officers, the public continues to maintain a deep skepticism toward those individuals who are sworn to uphold the law and who swear an oath to protect and serve.

Very few professions face the immense ethical considerations that exist within the law enforcement community. From deciding whether or not to take that "free cup of coffee" to deciding to tell the truth when faced with an internal affairs investigation, law enforcement officers are continuously exposed to situations that demand that they display the highest degree of integrity and respect within the communities that they serve. Making decisions in real life versus a classroom setting requires tremendous strength of character. Ethical issues are easily discussed in a training environment which affords officers the ability to ponder the right decision as opposed to having to make sometimes critical life altering decisions in the spur of the moment on the street (Schafer, 2002).

Citizens demand that those individuals who are tasked with protecting them be held to an exceptionally high standard. They will not tolerate abuses of authority that cast clouds of distrust over the law enforcement community. While all law enforcement agencies have developed their own internal procedures for disciplining officers who commit acts of misconduct, forty-four states have been given the authority to revoke the certifications of officers who commit certain types of violations (Goldman, Vidali, Becar, 2012). The six states without any regulatory authority are California, Hawaii, Massachusetts, New Jersey, New York, and Rhode Island. The other forty-four states recognized the fact that they could no longer delegate sole responsibility for officer discipline to individual agencies. This statewide oversight is critical to help ensure that officers who get in trouble do not move on to other agencies and commit further acts of misconduct. The establishment of state Police Officer Standards and Training Commissions (POST's) provides the administrative authority to discipline an officer's certification from a statewide perspective. This study seeks to evaluate and compare the different processes used by the nine states that comprise the Southeast Region of the International Association of Directors of Law Enforcement Standards and Training (IADLEST), and to determine what additional measures can be taken at the state level to ensure that our citizens are protected and not victimized by those who are sworn to uphold the law.

This research examined the officer discipline processes in Florida, Georgia, Alabama, Mississippi, Louisiana, Tennessee, South Carolina, North Carolina, and Virginia. Florida's Criminal Justice Standards and Training Commission (CJSTC) has the authority to impose the following sanctions: deny certification, issue a written reprimand, suspend certification for a period not to exceed two years, place certification on probation for a period not to exceed two years, direct individual to complete any remedial counseling or training deemed appropriate, and revoke certification (Florida Administrative Code, 2010). The Georgia Peace Officer Standards and Training

Council maintains authority to refuse to grant certification, issue a public or private reprimand, suspend any certificate for a specified period, limit or restrict certification, revoke certification, or direct individuals to complete any counseling or treatment, as directed by the council (Official Code of Georgia, 1993).

Methods

Most states have implemented disciplinary procedures for the certification of law enforcement officers who commit serious acts of misconduct and who pose a substantial risk to the public they are sworn to protect. The survey focused solely on law enforcement officers due to the fact that not all states certify and discipline correctional and correctional probation officers. This survey sought to compare the officer discipline processes of the nine states that comprise the Southeast Region of the International Directors of Law Enforcement Standards and Training (IADLEST). These states include: Louisiana, Mississippi, Alabama, Georgia, Florida, Tennessee, South Carolina, North Carolina, and Virginia. Louisiana, Alabama, and South Carolina did not respond to the survey that was sent, so these states are not reflected in the comparison. The survey was sent to the aforementioned states during the week of July 6, 2012.

In order to establish the per capita number of officers disciplined in each state, each state's officer population needed to be established. It was also necessary to establish each state's authority to certify and/or discipline officers. The survey also sought to determine the types of disciplinary action that each state was authorized to impose (decertification, suspension, probation, remedial training and/or counseling, and other discipline). For each of the various types of discipline, the number of officers disciplined in the respective categories was established, and the most prevalent violations being committed by these officers were identified. Lastly, the survey determined the source of authority to impose disciplinary action. To make comparisons of how many officers were disciplined in each of the nine states, I looked at the two latest complete calendar years (2010 and 2011).

Results

Louisiana, Alabama, and South Carolina did not respond to the survey that was sent, so these states are not reflected in the comparison. The states that were denoted in this survey (Appendix A) represent over 173,000 sworn law enforcement officers. Six (66.67%) of the nine states responded to the survey, and indicated that they maintain the authority to certify and discipline law enforcement officers. All states (100%) also revealed that they have the authority to decertify officers in their state. Five (83.33%) out of six states maintain the authority to suspend and place officers' certifications on probation. Half (50%) of the states indicated that they are authorized to levy alternative disciplinary measures such as the issuance of an oral or written reprimand, and to institute remedial training and/or counseling (Appendix B – Chart 1).

The survey revealed that, overall; Georgia and Florida lead the group in the amount of officers disciplined during calendar years 2010 and 2011. Georgia decertified a total of 821 officers during these two years, and Florida decertified a total of 523 officers during this same period (Appendix B – Charts 2 and 3). The following represents the total number of officers decertified by the remaining states for 2010 and 2011: North Carolina – 71, Tennessee - 31, Mississippi – 10, and Virginia – 0.

Georgia suspended 247 officers during these years, and Florida suspended 284 during this time. The following represents the total number of officers suspended by the remaining states: North Carolina – 13, Tennessee – 19, Mississippi – 10, and Virginia – 0.

Georgia placed 655 officers on probation during this time, and Florida placed 363 officers on probation. The following represents the total number of officers placed on probation by the remaining states: North Carolina – 15, Tennessee – 0, Mississippi – 10, and Virginia – 0.

Georgia and Florida were the only two states to require officers to complete remedial training and/or counseling during this time, with Georgia requiring a total of 230 officers to complete this requirement and Florida requiring a total of 298 officers to complete this same requirement.

The survey determined that the most prevalent offenses committed by officers during the 2010 and 2011 calendar years are: battery, conduct unbecoming, involvement with inmates, falsification of application for certification, and other various criminal activities. Five (83.33%) out of six states indicated that their authority to discipline officers is derived from both state law and other administrative procedures (Appendix B – Chart 4).

Discussion

Citizens have placed an exorbitant amount of power in the hands of law enforcement. No other profession, other than the military, has the ability to deny individuals of their liberties, and, in some instances, their life. Because of this, officers must ensure that they act in accordance with established law and regulations, and must commit themselves to abiding by the laws that they are entrusted to enforce. The serious issues described earlier in this paper revealed the need for statewide enforcement of officer discipline issues. It was no longer enough for an officer's employing agency to discipline him or her. States needed to become involved in order to ensure that violent acts of misconduct like the Rodney King incident and the incident involving the motorist in Miami were not overlooked. By having this statewide authority, states are able to more effectively police the profession and remove those individuals who commit egregious violations. From the results of this survey, it became quite apparent that Georgia and Florida have taken significant strides over the past several years to construct officer discipline processes that seek to decertify the most extreme violators, while maintaining lesser disciplinary measures for those officers who might be salvageable.

The survey was sent to each of the nine P.O.S.T. directors for their input on their respective states' officer discipline process. The data was analyzed to establish

comparisons between each state and to identify the number of officers disciplined in relation to the entire officer population for that particular state. It is easy to compare and contrast hard numbers using this type of survey. However, one of the drawbacks to this type of survey is that it is difficult to measure the effectiveness of the process. Each state maintains its own set of rules as to what types of violations are reviewed by their respective P.O.S.T.'s. In addition, the survey only captured two calendar years of data, so it is difficult to determine whether or not states have become more or less aggressive with officer discipline matters.

Recommendations

States must continue to take assertive actions when it comes to disciplining officer certifications at the state level. Two of the states (California and New York) without any statewide authority to discipline officer certification represent a very large officer and civilian population. Because of this, laws must be developed to address officer misconduct at the state level. In order to prevent officers from committing acts of misconduct and moving on to other agencies, the state must exercise this authority and ensure that all law enforcement agencies have the ability to secure this information from each respective state. In addition, the public must have the confidence that law enforcement officers are being held to higher standards and that the proper laws are in place to address those individuals who act outside the scope of their authority. For those six states that do not have any statewide authority, citizens should voice their concerns to their state representatives to express a desire to establish a system to discipline rogue officers. For states that do have a very robust system in place, it remains imperative that they strive to ensure that fairness is always the order of the day and that the citizenry can rest assured that the officers serving their communities are well trained and display very high ethical standards.

Bureau Chief Glen Hopkins has been with the Florida Department of Law Enforcement for the past 17 years. He began working in the Officer Discipline Section as an intern during his senior year in college. He promoted into the Officer Records Section in April of 1997, and became the supervisor of the Arrest and Seal/Expunge Sections in the Criminal Justice Information Program in March of 2000. He returned to the Professionalism Program in December of 2001 as a case specialist, and began supervising that section and the Trust Fund Section in October of 2005. He was promoted to Bureau Chief of Standards in December of 2009, overseeing the operations of the Field Services, Officer Records, Professional Compliance, and Trust Fund Sections. Glen served in active duty in the U.S. Army from 1988 to 1991 and then served in the Georgia Army National Guard from 1993 to 1999. Glen earned his Bachelor of Science degree in Criminology from Florida State University.

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Appendix A

Survey - Comparison of State Law Enforcement Officer Discipline Processes

- 1.) What is your state's law enforcement officer population?
 - Virginia – 19,750
 - Georgia – 46,000
 - Mississippi – 10,300
 - Florida – 45,128
 - North Carolina – 32,033
 - Tennessee – 20,000
 - South Carolina – did not respond
 - Alabama – did not respond
 - Louisiana – did not respond

- 2.) Does your state P.O.S.T. have the authority to certify law enforcement officers?
 - Virginia – yes
 - Georgia – yes
 - Mississippi – yes
 - Florida – yes
 - North Carolina – yes
 - Tennessee – yes
 - South Carolina – did not respond
 - Alabama – did not respond
 - Louisiana – did not respond

- 3.) Does your state P.O.S.T have the authority to discipline a law enforcement officer's certification? (If you answered no to this question, please do not proceed any further.)
 - Virginia – yes
 - Georgia – yes
 - Mississippi – yes
 - Florida – yes
 - North Carolina – yes
 - Tennessee – yes
 - South Carolina – did not respond
 - Alabama – did not respond
 - Louisiana – did not respond

- 4.) What disciplinary action is your state P.O.S.T. authorized to take?
 - Decertification – Virginia, Georgia, Mississippi, Florida, North Carolina, Tennessee
 - Suspension - Georgia, Mississippi, Florida, North Carolina, Tennessee
 - Probation – Georgia, Mississippi, Florida, North Carolina, Tennessee
 - Remedial training and/or counseling – Florida, Mississippi, Georgia
 - Other (oral and/or written reprimand) – Florida, Mississippi, North Carolina

(South Carolina, Alabama, and Louisiana did not respond.)

5.) How many officers were decertified during the 2010 and 2011 calendar years?

2010 – Mississippi – 4; Florida – 245; North Carolina – 36; Tennessee – 19;
Georgia – 405; Virginia – 0

2011 – Mississippi – 6; Florida – 278; North Carolina – 35; Tennessee – 12;
Georgia – 416; Virginia – 0

(South Carolina, Alabama, and Louisiana did not respond.)

6.) How many officers were suspended during the 2010 and 2011 calendar years?

2010 – Mississippi – 5; Florida – 149; North Carolina – 6; Tennessee – 8; Georgia – 120;
Virginia – 0

2011 – Mississippi – 5; Florida – 135; North Carolina – 7; Tennessee – 11;
Georgia – 127; Virginia – 0

(South Carolina, Alabama, and Louisiana did not respond.)

7.) How many officers were placed on probation during the 2010 and 2011 calendar years?

2010 – Mississippi – 5; Florida – 183; North Carolina – 13; Tennessee – 0;
Georgia – 330; Virginia – 0

2011 – Mississippi – 5; Florida – 180; North Carolina – 2; Tennessee – 0; Georgia – 325;
Virginia – 0

(South Carolina, Alabama, and Louisiana did not respond.)

8.) How many officers were given remedial training and/or counseling during the 2010 and 2011 calendar years?

2010 – Mississippi – 0; Florida – 147; North Carolina – 0; Tennessee – 0; Georgia – 105;
Virginia – 0

2011 – Mississippi – 0; Florida – 151; North Carolina – 0; Tennessee – 0; Georgia – 125;
Virginia – 0

(South Carolina, Alabama, and Louisiana did not respond.)

9.) What were the most prevalent offenses committed by officers in your state for the 2010 and 2011 calendar years?

2010 – Mississippi – conduct unbecoming; Florida – battery; North Carolina – falsification for application for certification; Tennessee – criminal activity; Georgia – conduct unbecoming; Virginia – no response

2011 – Mississippi – conduct unbecoming; Florida – battery; North Carolina – falsification for application for certification; Tennessee – criminal activity; Georgia – involvement with inmates; Virginia – no response

(South Carolina, Alabama, and Louisiana did not respond.)

10.) Is your state P.O.S.T.'s authority to certify and discipline an officer's certification derived from state law or from other established administrative procedures?

- Mississippi – state law
- Florida – state law and other administrative procedures
- North Carolina – state law and other administrative procedures
- Tennessee – state law and administrative procedures
- Georgia – state law and administrative procedures
- Virginia – state law and administrative procedures

(South Carolina, Alabama, and Louisiana did not respond.)

Appendix B

Chart 1

Penalty Ranges

Decertification	Yes	Yes	Yes	Yes	Yes	Yes	N/A	N/A	N/A
Suspension	Yes	Yes	Yes	Yes	Yes	No	N/A	N/A	N/A
Probation	Yes	Yes	Yes	Yes	Yes	No	N/A	N/A	N/A
Remedial training and/or counseling	Yes	Yes	No	No	Yes	No	N/A	N/A	N/A
Written and/or oral reprimand	Yes	No	Yes	No	Yes	No	N/A	N/A	N/A
	FL	GA	NC	TN	MS	VA	SC	AL	LA

Chart 2

Number of Officers Disciplined by State in 2010

Decertification	245	405	36	19	4	0	N/A	N/A	N/A
Suspension	149	120	6	8	5	0	N/A	N/A	N/A
Probation	183	330	13	0	5	0	N/A	N/A	N/A
Remedial training and/or counseling	147	105	0	0	0	0	N/A	N/A	N/A
Written and/or oral reprimand	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	FL	GA	NC	TN	MS	VA	SC	AL	LA

Chart 3

Number of Officers Disciplined by State in 2011

Decertification	278	416	35	12	6	0	N/A	N/A	N/A
Suspension	135	127	7	11	5	0	N/A	N/A	N/A
Probation	180	325	2	0	5	0	N/A	N/A	N/A
Remedial training and/or counseling	151	125	0	0	0	0	N/A	N/A	N/A
Written and/or oral reprimand	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	FL	GA	NC	TN	MS	VA	SC	AL	LA

Chart 4

Source of Disciplinary Authority

State Law	Yes	Yes	Yes	Yes	Yes	Yes	N/A	N/A	N/A
Other Administrative Procedures	Yes	Yes	Yes	Yes	No	Yes	N/A	N/A	N/A
	FL	GA	NC	TN	MS	VA	SC	AL	LA