



## IA Investigators and Organizational Change

[Matt Dolan, J.D.](#)

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Law enforcement agency leaders across the country are recognizing that “business as usual” is not a viable option moving forward. Adapting to a shrinking pool of qualified applicants and increased personnel turnover, navigating changing community expectations and re-evaluating how officers are hired, trained and led are all challenges that must be faced head on. **But who is best positioned to advocate for the organizational changes necessary to meet the challenges facing law enforcement agencies beyond the next press conference, protest or allegation of officer misconduct?**

Beat officers are often consumed by day-to-day operational realities in the field—going from call to call in the face of staffing shortages. Administrators are constantly dealing with the realities of “managing their fronts” in the face of political pressures and media attention. Street sergeants are focused on motivating the men and women they lead and confronting performance issues as they emerge on a shift-by-shift basis.

What if those who are tasked with internal affairs (“IA”) functions were to expand their roles? What if their influence went beyond investigating complaints, to include areas of operation as diverse as background investigations, field training, performance evaluations, social media policies, pursuit policies and more? After all, **it is those tasked with investigating misconduct allegations on a daily basis who are best equipped to assist agency leaders in breaking cycles of errors that allow toxic outlier cops to create legal liability and damage public trust.**

### Background Investigations and Field Training

In 2022 and beyond, hiring decisions will be made that will profoundly impact the future of American policing. Who will be our next generation of law enforcement officers? Beyond the

legal liability concerns related to negligent hiring, the societal costs are even greater. And if the past is any indication, rushed hiring frenzies result in unqualified individuals being hired, and in turn, a rise in instances of misconduct. The challenge of recruiting will only get much more difficult.

Confronted with the pressure to hire officers as quickly as possible in an extremely challenging recruiting environment, there will inevitably be the temptation for leaders to cut corners and ignore red flags in order to get more “boots on the ground”—even if those boots are filled with individuals who are liabilities, rather than assets, to their agencies. Short-term fixes are tempting in these situations, as the consequences of bad hiring decisions are often delayed; But IA investigators know too well that the consequences eventually do materialize, as they are likely working now on IA cases involving the hiring mistakes of 5, 10 or 20 years ago.

**IA investigators are extremely well-suited to recognize and interpret patterns that they have observed in officer behavior and “red flags” that are early indicators of an individual who will spend much of their career accumulating citizen and officer complaints and supervisory write-ups.** IA investigators see first hand the time and energy that is sucked out of the organization by individuals that never should have become full-fledged officers in the first place. And they are often most able to cite common examples of early character issues, brushed off as minor performance issues, that later resulted in an individual becoming a “frequent flyer” in the Internal Affairs Division or Professional Standards Division.

**It is vital that background investigations go beyond automatic disqualifiers to include common sense disqualifiers. IA investigators should be at the table, discussing the case-by-case analyses necessary to differentiate an isolated incident of poor judgment in an applicant’s past, as opposed to indicators of propensities that are ill fit for work in law enforcement.**

There is no *good* time for agency leaders and front-line supervisors to determine the severity of performance issues with the possibility of termination on the table. But, from a practical standpoint, the FTO process provides a unique opportunity for close supervision and continuous feedback. From a legal liability standpoint, there is no better time than during the FTO process to identify character and integrity issues—prior to an officer’s status shifting from probationary to permanent, with all of the arbitration, appeals and/or due process rights that come with this change in employment status. **No one is more familiar with the frustration of making disciplinary decisions that do not *stick* when faced with outside scrutiny than IA investigators who have likely seen their work proven futile when challenged.**

For the generation of leaders in law enforcement who will be retiring in the coming years, the most significant impact they will have on their agencies and communities may be the role they play in vetting and hiring the next generation of officers who will answer the call long after they

retire. This may well be their legacy, for better or for worse. IA investigators are too knowledgeable in this area to be left on the sidelines.

### **Performance Evaluations**

Broken performance evaluation systems damage law enforcement agencies across the country. Possibly most concerning is the fact that they inaccurately provide documentation of undeserved positive feedback to officers that is later used to reverse important disciplinary decisions in court or in arbitration. **Selecting “Meets Expectations” as the path of least resistance, rather than confronting real performance issues, should be understood by first-line supervisors as a serious impediment to agency operations.**

**IA investigators know the frustration of seeing their work diminished when a sustained complaint in IAD is quickly followed by yet another “Meets Expectations” evaluation for the subject of the investigation.** They realize the importance of personnel management strategies that are documented and cohesive, particularly when serious discipline proves to be necessary.

If law enforcement agencies are going to improve the efficacy of their performance evaluation systems, IA investigators have plenty to offer in the formulation of alternatives to “the way we’ve always done things”. They have unique insight into the pros and cons of using grading evaluations versus simply requiring that supervisors give reasonable and detailed feedback.

IA investigators will likely prove invaluable in creating models for evaluating performance that address the vastly different day-to-day job responsibilities of day shift versus night shift, patrol versus the detective’s bureau, and so on. **IA investigators are tasked with investigating possible policy violations from the various subsets within the department, so why wouldn’t they be involved in the measurements of those individuals’ performance over time?**

### **Policies and Procedures**

As agency leaders revise policies on matters as diverse as pursuits, social media use and off-duty conduct, it would seem illogical not to include in the conversation the very professionals that will be tasked with investigating alleged violations of those very same policies.

**Is the policy sufficiently clear such that the rank-and-file officer understands why the policy exists? Is the policy concise enough to allow officers to confidently know what violating it looks like in practice? Are the ramifications for policy violation clear and predictable? Does the policy adequately address any change to past practice inherent in the text? These are questions that seasoned IA investigators are likely to ask, if given the opportunity, because**

**they understand the practical consequences of seeking to enforce a policy that fails in any of the aforementioned ways.**

If agency leaders allow policy initiatives to become too far removed from the realities of holding officers accountable for policy violations, it is easy to see how time and energy will inevitably be wasted on policy revisions that are not workable, and therefore are quickly ignored by first-line supervisors and rank-and-file officers. IA investigators are uniquely suited to assist agency leaders in ensuring that the practical results of policies more closely resemble their broader objectives.

### **Conclusion**

**If IA investigators do not have a greater role in moving their organizations forward, it is highly predictable that the same conversations around the same personnel management problems will be had in the years to come. The frustrating cycle of IA investigations that would not have been necessary—had vetting, training and early warning issues been resolved in the first place—will likely persist.**

In so many facets of agency operations, there is a “hole in the boat”—whether that is in background investigations or field training or performance evaluations or policy development. If the hole is not plugged, then our IA investigators will continue to diligently do their work, bailing water out of the boat, without making the desired impact.

**If IA investigators are included in a more substantive way in helping shape agency priorities and offering advice about the difficult decisions that lie ahead, they will prove to be an invaluable asset to agency leaders in tackling these challenges. If, however, they are left to simply investigate complaints and turn over findings to the brass without being asked what they would do differently to address the underlying issues, the conversations around police misconduct will likely sound eerily and frustratingly similar as the years go by.**

### **About the Author**

Matt Dolan is a licensed attorney who specializes in training and advising public safety agencies in matters of legal liability, risk management and ethical leadership. His training focuses on helping agency leaders create ethically and legally sound policies and procedures as a proactive means of minimizing liability and maximizing agency effectiveness.

A member of a law enforcement family dating back three generations, he serves as both Director and Public Safety Instructor with Dolan Consulting Group.

His training courses include [Internal Affairs Investigations: Legal Liability and Best Practices](#), [Supervisor Liability for Law Enforcement](#), [Recruiting and Hiring for Law Enforcement](#), [Confronting the Toxic Officer](#), [Performance Evaluations for Public Safety](#), [Making Discipline Stick®](#), and [Confronting Bias in Law Enforcement](#).

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