



One Chief's Perspective

Roseville Police Department

8/4/2017

Internal Affairs Investigation of a Minnesota Police Officer

In my July 21, 2017, newsletter, I wrote about how the Fifth Amendment of the United States Constitution applies to everyone, including police officers. I also promised to address how Minnesota police agencies, in general, conduct internal affairs investigations on officers.



If an officer may have violated a personnel policy and a criminal statute, the agency will proceed with the criminal investigation first because of a 1966 U.S. Supreme Court decision in [Garrity vs. New Jersey](#). Information obtained in the criminal case can be used in a follow-up internal affairs investigation but may not be the other way around based on this decision.

The Roseville Police Department's Garrity Warning states: *Police officers may be required by their superiors to answer questions specifically, directly, and narrowly related to the performance of their official duties. An officer's failure to respond to these questions or failure to respond truthfully may serve as the basis of a dismissal. The officer's response, however, cannot be used as evidence in a subsequent criminal proceeding, but may be used in subsequent civil proceedings.* I expect this is similar to other agencies across the state and country.

If the possible policy violation is non-criminal, the internal affairs investigation can begin immediately. The Minnesota statute which authorizes the [Police Officer Bill of Rights](#) was signed into law in 1991. This statute describes a process for these investigations. Several other states also incorporate the bill of rights process.

The mandated process involves notifying the officer of a complaint, a chance to review it, the opportunity to have an attorney present during the formal interview, along with other safeguards. In my experience, on both sides of the interview table, the represented interview can slow down the process because of scheduling issues. It does not hinder the investigation.

In a criminal investigation, the United States Constitution's Fifth Amendment allows anyone to refuse an interview but it does not allow a police officer to escape the mandate of an internal affairs interview. The law enforcement officer can be disciplined, to include termination, for declining the interview or giving false statements during the interview.

Once the investigation is complete and it has produced a finding that the employee violated a policy, it is brought to the final adjudicator for the governmental agency for determination of discipline. Under Roseville's form of government, the final adjudicator is the city manager.

All City of Roseville employees are subject to discipline, including verbal reprimand, written reprimand, unpaid suspension, demotion and termination. Based on city policy or union contract, the employee has a set number of days to appeal the discipline and those processes are subject to the same policy or contract.

Ultimately, the contested discipline for union members could be appealed to the [Bureau of Mediation Services](#), which was established in Minnesota in 1939. *The state legislature enacted the Minnesota Labor Relations Act ([Minnesota Statutes 179](#)) as a means of peacefully settling disputes resulting from the growing size and strength of Minnesota's labor movement. The Act*

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recognized that a sound economy is aided by a constructive labor-management environment. To administer the Act, the legislature created the Division of Conciliation, the forerunner of the present Bureau of Mediation Services. The Division was to perform four functions: conciliation/mediation, arbitration, bargaining unit determinations, and bargaining unit certification elections.

If all of this is foreign to you, it may be because per the [United States Department of Labor](#)- only about 15% of Minnesota workers are represented by unions. The top professions in this group are teachers, police officers and firefighters.

Connecting with our Community

ROSEVILLE POLICE FAMILY NIGHT OUT



NIGHT to UNITE! Neighbors Joining Together



Photos courtesy of Mark Connolly

Take Care, Chief Rick Mathwig

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