

Police Investigating Police

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Under-Theorized Subject

- Police complaints and police investigations happen on the ground but without always asking larger questions about ultimate purposes and effects.

Under-Theorized Subject

- Academics partly to blame for not studying such a dynamic and statutory based subject.
- But see Murphy and McKenna “Police Investigating Police: A Critical Analysis of the Literature” at <http://www.cpc-cpp.gc.ca/prr/inv/police/projet-pip-pep-eng.aspx>
- Report increasing trend to civilian involvement

Murphy and McKenna

- “Review of the research also suggest that calls for "civilian-based investigation and review models" while appealing in theory need to be tempered by a realistic appreciation of the necessity of enlisting police cooperation and involvement. Some police scholars (Bayley, 1983; Reiner, 1992) grounded in an understanding of the realities and dynamics of policing and police culture suggest that PIP review models should reinforce and not undermine police responsibility and ability to govern their own behaviour. Thus the promotion of hybrid police/civilian investigative and review models that recognize a legitimate but limited role for police in the investigation and review process and combine it with vigorous civilian oversight and investigation is advocated. ... So while it is fair to say that there has been a paradigm shift away from the traditional police controlled models of investigation and oversight, the new civilian-police investigation and oversight paradigm is still being developed in various jurisdictions through trial and error as they try to strike the difficult balance between police and public concerns.”

Under-Theorized Subject

- Need for empirical case studies
- Less emphasis on sociological abstractions and dichotomies and more on spectrums and overlaps
- Much literature advocates “independence” but does not study its failings
- Hopefully G20 and other events will increase interest.

Ideal Models of Investigation

- 1) Police Investigating Police
- 2) Hybrid Model: Police Investigating Police
Subject to Independent Oversight
- 3) Independent Investigations

Investigation not an end in itself

- What are the goals of the investigation?
 - 1) Apply the rule of law to all including the police
 - 2) Other forms of accountability of individuals for misconduct tied to their role as police officers
 - 3) Systemic accountability and reform

Ideal Models

- Need to understand purposes of the models as best as they can be so that they are understood and not dismissed by those instinctively opposed to the competing models.
- Also need to understand the reality that is often short of the ideal and dysfunction that can arise within each model.

Police Investigating Police

- Ideal that police may be in the best position to investigate and discipline their own.
- Difficult to penetrate a “blue wall”
- Lower standards of proof for disciplinary offences
- Best chance for shaping organizational norms and reforms
- Police have control over rewards which in organizations and in our lives can be far stronger than threat of sanction discounted by severity, certainty and celerity of punishment

Hybrid Models

- Draw on the advantages of police investigating police but respond to public confidence gap and dangers of self-dealing through independent oversight of investigations.
- Allows independent bodies to focus limited resources on most problematic/publicized investigations.
- Best of both worlds.

Independent Investigations

- Responds to public and media cynicism about self-dealing and perceived conflict of interest.
- In theory can command public confidence even if result is that no charges are warranted or acquittals.
- Braidwood report quotes RCMP officer “we shouldn’t be doing this...Time for an SIU in this province”.

Realities and Problems within all models

- Need empirical studies of responses to various incidents and audits of processes
- One model is 2009 CPC report for the RCMP audit of 28 randomly selected cases of police investigating the police
- *CPC Police Investigating Police Final Report* (2009) at <http://www.cpc-cpp.gc.ca/prr/rep/rev/chair-pre/pipR/pip-finR-eng.pdf>

Police Investigating Police

- Lack of public confidence
- Cynicism about disciplinary sanctions even when applied
- TPS G20 review- 10 recommendations designed to increase planning and organizational resources and pales to subsequent more critical reports

Hybrid Model

- Best of all worlds can be worst of all worlds
- Resistance from police and cynicism from the public
- Depends on resources and skills of independent body to oversee and intervene in most sensitive cases

Independent Investigations

- Police resistance
- “Independence” may be illusive
- Is anyone truly “independent” especially in the face of increasing public cynicism:
Braidwood and independent prosecutors
- Danger of independence as a end in itself
- Even advocates of independence as in the Braidwood report recognize reality of at least temporarily relying on ex police officers

Conclusions

- No easy answers
- Need to make clear what your goals are and different processes may be better at achieving different goals
- Need for more empirical case studies such as G20 including effects of integrated policing and fragmented review