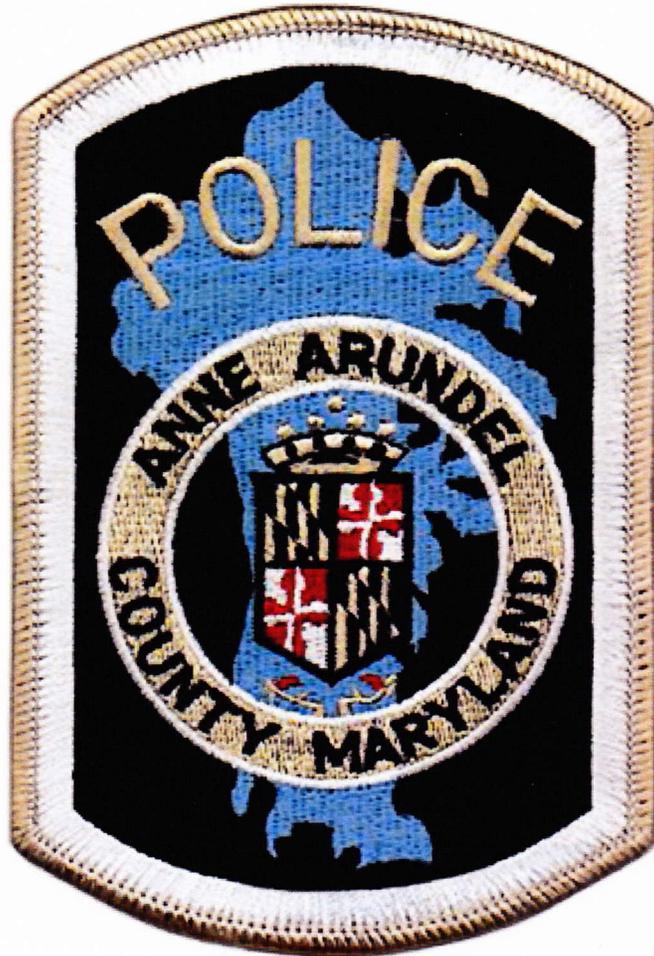


Recommendations in Regards to an Assessment of the Anne Arundel County Police Department



July 25, 2013

Frederick Bealefeld, III

Commissioner Baltimore City Police Department (Retired)

Task Force Chairman

Overview

During the years of 2011 and 2012, the Anne Arundel County Executive, John Leopold, was investigated for misuse of his office. On March 2, 2012, he was indicted on five counts of Misconduct in Office. The County Executive was prosecuted and ultimately found guilty of these charges on January 29, 2013 and resigned as County Executive on February 1, 2013.

The current County Executive, Laura Neuman, was sworn into office on February 22, 2013 and took over leadership of the Anne Arundel County Government.

As a result of the investigation that led to the indictment and conviction of Mr. Leopold, it was learned that sworn members of the Anne Arundel County Police Department assisted him in his criminal activity. Fallout from this investigation resulted in the resignation of Police Chief James Teare in August of 2012. Chief Larry Tolliver was named as his replacement. On May 21, 2013, Chief Larry Tolliver stepped down and the Anne Arundel County Police Department was once again left without a leader.

As a result of the events of the previous years, the County Executive, Laura Neuman, formed a multi-agency task force to look at the overall operations and structure of the Anne Arundel County Police Department. This assessment included a review of their current policies and structure, numerous interviews with a cross section of the department, and the creation of an anonymous phone line for anyone to leave information in reference to mismanagement or misconduct.

As a result of the assessment, this task force has several suggestions that in our opinion, if implemented, would streamline and enhance the operations of the Anne Arundel County Police Department.

Task Force Composition

- Chairman- Frederick H. Bealefeld III, Commissioner, Baltimore Police Department – Retired

- Member- Assistant Chief Michael L. Anzallo, Metropolitan Police Department, Washington, D.C.

- Member- Inspector Ralph G. Ennis, Metropolitan Police Department, Washington, D.C.

- Member- Lieutenant James M. Brown, Metropolitan Police Department, Washington, D.C.

Member- Lieutenant Jacob Major, Metropolitan Police Department,
Washington, D.C.

Member- Lieutenant James Humphries, Montgomery County Police Department.
Montgomery County Maryland

Overall Impression of the Department

The most prevalent observation is that Anne Arundel County Police Department is a department made up of professional and dedicated civilian employees, officers, supervisors and managers. The task force was impressed with the level of professionalism and ethics found within the rank and file of the department.

The Department is accredited through the Commission on Accreditation for Law Enforcement Agencies, Inc. (CALEA) and in general, has a strong set of policies and directives to dictate the daily operations of its member's activities and crime fighting abilities.

Overall, during the task force's inquiry, there was no indication of wide spread corruption or unethical behavior by members of the department beyond what has already been reported. In fact, most of the concerns enumerated by the members interviewed were circular and revolved around perception rather than firsthand or factual information. This has been fueled by rumors and misinformation surrounding the Leopold investigation and prosecution. The task force did not uncover any new allegations of criminal activity within the department.

The task force encountered a common theme during its review in that the Anne Arundel County Police Department is starved for stable executive level leadership that can set focused direction and move the police department forward in the wake of the Leopold case.

Recommendations of the Task Force

1) Selection of a Permanent Chief of Police

The task force conducted numerous interviews of members of the department at all levels. One clear observation is that there is still an abundance of turmoil and rumors that affect the morale and operations of the department. This is a residual effect from the Leopold case and his subsequent conviction. This phenomenon is clearly exacerbated by the lack of consistency and direction due to the recent instability in the position of Chief of Police and other executive positions within the department. In order to instill confidence in the management of the department, both internally and externally, it is highly recommended that the County Executive hire a permanent Police Chief from outside the department. An outside Police Chief would be able to bring a fresh

perspective and focus to managing the department, and make tough organizational choices, policy changes without perceived allegiances to any current member(s) of the department and re-establish the departments focus on crime fighting and forging community partnerships.

2) Status of Executive Level Employees

Currently, all members of the department are civil service employees, meaning that once a rank is given it can only be removed due to cause or an adverse action being taken against the employee. This can be problematic when it comes to the executive staff supporting the Chief of Police. The Chief of Police needs to be able to reduce in rank or replace any executive level employee that is not supporting his or her mission and goals. Or, one that is just simply not the best fit for the position currently held. As such, all executive level positions should be "at will." "At will" is defined as serving at the Chiefs discretion. If desired the Chief could reduce the member in rank to the highest non-executive level rank the member previously held.

This change would require changing the current personnel regulations but would provide any Chief of Police the ability to appoint an executive staff that will support a common goal of managing the police department.

3) Structure of the Department

The department is structured with one (1) Chief of Police, one (1) Deputy Chief, three (3) Majors, and nine (9) Captains. The Deputy Chief who is the second highest ranking position on the department does not supervise two of the three Majors. This causes problems with defining the chain of command because two Majors take direction directly from the Chief. Lieutenants, who are union members, run major aspects of the department. This can cause problems when potential conflicts of interest arise involving union matters. Managers of the department should not be unionized. The managers have to be able to take and carry out orders of the Chief of Police.

Therefore, it is recommended that the Deputy Chief serve as the Chief's Executive Officer and that the position supervises all three Majors. Additionally, it is recommended that the County Executive consider realigning the rank structure, or modify the union structure, to ensure that union members are not commanding significant units within the department.

4) Promotions

The department's promotional process for the ranks of Lieutenant and above consists of a certification of that member's eligibility for promotion and then a selection from a resume. This process is very subjective. Best practices around the Nation and supported by organizations like the International Association of Chief of Police (IACP), use a written test and assessment based system that evaluates the force and ranks its

members accordingly for promotion. Since the rank of Captain serves as Division Commanders within AAPD, it would be appropriate that the Captain rank be considered the first level of "at will" employees. Therefore, the recommendation is for all ranks, up to Lieutenant, are to utilize the test and assessment based system to determine best candidates for promotion.

Assessment centers use a series of simulated tasks that are rank specific and help gauge a candidate's ability to perform the position for which they are competing. They are one tool that offers in-depth information and insight on an individual's strengths, weaknesses, and overall performance potential. Because of their accurate simulation of the job and its duties, assessment centers have proven highly defensible as a selection strategy.

The IACP recognizes the importance of selecting and advancing the right candidates into leadership positions and states an assessment center is a proven technique in identifying the most qualified supervisors, mid-level managers, and senior police administrators.

5) Pay Compression

During the inquiry, it was learned that filling the position of Lieutenant has been a daunting task for departmental leadership. Much of this is fueled by pay compression. Pay compression is the situation that occurs when there is only a small difference in pay between employees regardless of their skills or experience. It is also referred to as salary compression. In this case, the difference in pay between Sergeant and a Lieutenant is not significant enough to warrant taking on the additional responsibility of the Lieutenant position.

The task force conducted an informal inquiry of area police departments and found that the Anne Arundel County Police Department difference in pay between a Sergeant and a Lieutenant was next to the lowest of the agencies surveyed. In Anne Arundel County, promotion from Sergeant to Lieutenant is a five percent (5%) salary increase and promotion from Lieutenant to Captain is a ten (10%) percent increase. Anne Arundel County requires sixty (60) college credits for eligibility for promotion to Lieutenant and ninety (90) credit hours for the rank of Captain. Not all county police agencies require college credit for promotion to those ranks. The average salary increase for county police agencies around the Washington and Baltimore region as well as Northern Virginia is between ten to fifteen (10%-15%) percent for promotion to the ranks of Lieutenant and Captain. Increasing the salary difference for promotion to lieutenant should expand the pool of interested candidates for promotion by providing interest to members of the department who might otherwise not compete due to the lack of salary commensurate with the higher position and its additional duties and responsibilities.

A larger pool of promotional candidates provides the department with the potential to promote some of the best and brightest officers in the organization.

Accordingly, it is recommended that the county have an expert in compensation look at the current pay scale of all sworn members of the agency to determine the appropriate pay scale for its sworn members.

6) Internal Investigations

Another area of concern that arose while interviewing members of the department is the apparent lack of accountability as it relates to internal investigations. Several areas of concern were noted; they include, an apparent lack of oversight on what is investigated and what is not. To date, it appears that there was never an internal investigation completed into the conduct of the members of the department in relation to their complicity in the Leopold prosecution and conviction. The Maryland Law Enforcement Officers Bill of Rights Law (LEOBR) has a statute of limitations for administrative charges of one year from the date after the act that gives rise to the administrative charges comes to the attention of the police agency unless the act relates to criminal activity by the officer. With that in mind, we recommend the department and its new Chief consider pursuing administrative sanctions, pursuant to the limitation on administrative charges specified under Maryland's Law Enforcement Officers Bill of Rights for all members of the department directly involved in the Leopold investigation and conviction as appropriate. At a minimum, a full accounting of the conduct of the members involved should be documented even if sanctions or discipline could not be imposed.

It was learned that members are sometimes left in the dark surrounding the outcome of both internal and criminal investigations on members of the force. When this occurs, it tends to create an environment of apprehension and tends to restrict a members level of cooperation as a witness because they are concerned that there may be a criminal or internal investigation still pending against them. Some of the calls into the TIP line were about this very topic. Many members of the agency either reported misconduct or were the target of misconduct and have never been told the outcomes of their case(s).

Additionally, citizens contacted the tip line also complaining that complaints had been filed but no follow up had occurred. It was also reported that when citizens make contact with the department to complain of the conduct or actions of members, that a preliminary step has been created by the agency to see if the citizen wants to make a "Formal" complaint prior to any action or investigation being conducted. Currently, AAPD tracks these cases separately unless they become a "formal complaint." All allegations of misconduct should be tracked and investigated regardless of the nature of the complaint.

A joint recommendation from the IACP and Community Oriented Policing Services (COPS) says once a finding in an internal investigation is reached, the department should notify the subject officer and the complainant in writing. The employee should be advised of the findings whether or not charges are sustained. Also, the complainant should receive written notification of the name and contact information of the commanding officer who can answer any questions concerning the investigation. This recommendation was discussed at length in their guide publication *Building Trust Between the Police and the Citizens They Serve: An Internal Affairs Promising Practices Guide for Local Law Enforcement* in an attempt to standardize the practices and procedures of how law enforcement executives address ethical or misconduct problems within their departments. The guide's advisory committee was composed of representatives from the COPS Office, IACP, and numerous police agencies including all agencies participating in this task force.

Therefore, it is recommended that strict requirements be put in place that outline what is to be investigated, who is responsible for the investigation, and also sets strict timeframes that the investigation must be completed. This should be in accordance with the Maryland Law Enforcement Officers Bill of Rights law (LEOBR). Additionally, it is recommended that a policy be put in place that institutes a requirement that members and complainants are to be informed of the outcome of an internal or criminal investigation for which they are a target or complainant.

7) Executive Protection Unit

The Anne Arundel County Police Department currently provides sworn officers for the County Executive Protection Detail. At times during the previous County Executive's administration, police officers assigned to this detail were at odds with department policy and state law when they were requested by that County Executive to perform certain tasks. The task force believes all county employees must be guided by State law regarding their participation and involvement in political activities. Where State law is silent on this issue, the IACP recommends employees should be guided by the following examples of prohibited political activities during working hours, while in uniform, or otherwise serving as a representative of a police agency:

- a) Engage in any political activity;
- b) Place or affix any campaign literature on city/county-owned property;
- c) Solicit political funds from any member of this agency or another governmental agency of this jurisdiction;
- d) Solicit contributions, signatures, or other forms of support for political candidates, parties, or ballot measures on property owned by this jurisdiction;

- e) Use official authority to interfere with any election or interfere with the political actions of other employees or the general public;
- f) Participate in any type of political activity while in uniform.

During the task forces work, the issue of sworn officers assigned to the executive protection detail conducting political related activities was raised as a concern within the police department. In an effort to remove sworn officers from becoming potentially involved in this type of activity in the future, the following recommendations are made:

- a) This detail be moved from within the police department and transferred to the County Executive's Office and is made part of the workforce tasked with providing county security services or the Office of Homeland Security.
- b) Replace the current detail staff with non-sworn county employees who would be licensed as Maryland Special Police Officers (SPO).
- c) Assign members of the executive protection detail other security related duties in Anne Arundel County consistent with SPO regulations when the details duties are less than full time.
- d) Staff the detail with employees that are certified through the federal Law Enforcement Officers Safety Act (LEOSA)
- e) Employees of the detail should have specific prior experience in the area of executive protection. This will enhance the quality of service currently provided. Examples include recruiting/hiring retired members from the US Secret Service Executive Protection Detail, the Maryland Governor's Protection Detail or retired members from other dignitary protection details.
- f) With SPO and LEOSA certification, allow the employees to be armed with a firearm both within and outside the State of Maryland. Special Police Officers are regulated by the Maryland State Police and licensed at the state level. It is recommended that any armed SPO receive the same level of training and be held to the same qualification standards as officers of the Anne Arundel County Police Department.
- g) Establish clear and definitive guidelines, policies and procedures for the unit concerning its specific duties and conduct of its members. Spell out prohibited behavior.
- h) When circumstances arise that would require traditional police powers, the executive protection detail could contact the Anne Arundel County Police Department for assistance. An example would include contacting the

Special Enforcement or Criminal Investigations Divisions to implement an investigation when a threat to the safety of the executive is received. During any time when the safety of the executive is a consideration, use of sworn police officers to augment the executive protection detail is currently done and should continue under this recommendation.

Utilizing non-sworn employees with these credentials, training and experience to serve as members of the executive protection detail does not degrade the current level of protection or service provided to the county executive. SPOs are commissioned by the Governor, take an oath of office, have arrest powers on property they are to protect and can exercise the powers of a police officer while on that property. This includes the ability to control and direct traffic on public roadways in the immediate vicinity of the property and to enforce traffic laws if they have graduated from a police academy and can work in plain clothes or uniform. These employees would not have access to nor be authorized for any electronic data base queries such as MVA, Meters or NCIC. Currently there is discussion taking place in Maryland to enhance the position and training level of SPOs by requiring all SPOs be trained through the Maryland Police and Correctional Training Commission.

8) County Ethics Commission

During the work of the task force, it was identified that the current configuration and authority of the ethics commission did not provide county employees with the feeling of it being able to accomplish any change or hold county departments and personnel accountable should it conduct an investigation and determine the county ethics laws were violated. By law it is limited to issuing opinions. Therefore it is recommended to increase the oversight ability of the county's Ethics Commission and provide it more authority or consider adding an Inspector General's Office that can refer cases for prosecution and levy administrative sanctions or fines.

9) Staffing Shortages "Drafting"

Establish guidelines for "drafting" of officers for overtime purposes. Take into account the schedule officers worked immediately preceding or following a draft attempt. Working long and uncontrolled hours has a negative effect on employee work life balance and could put employees at risk. The National Institute of Justice (NIJ) reports contrary to what most people might think, more officers die as a result of accidents than criminal assaults. Ninety-one percent of accidental deaths are caused by car crashes, being hit by vehicles while on foot, aircraft accidents, falls or jumping. It is known that the rate of these accidents increases with lack of sleep and time of day. Sleep loss related fatigue degrades performance, productivity, safety and health. Sleep deprivation is dangerous. NIJ also reports research has shown that being awake for 19 hours produces impairments that are comparable to having a blood alcohol

concentration (BAC) of .05 percent. Being awake for 24 hours is comparable to having a BAC of roughly .10 percent. This means that in just five hours — the difference between going without sleep for 19 hours versus 24 hours — the impact essentially doubles. Balancing the needs of the Anne Arundel County Police Department with the needs of its officers is a challenge. Drafting guidelines that help ensure the health and safety of officers as far as is reasonably practical yet meet the needs of the department is important. Guidelines must take into consideration any labor contractual obligations as well as applicable personnel regulations and department policy.

10) Utilization of the Department of Justice - Office of Community Oriented Policing Services (COPS) Collaborative Reform Model of Technical Assistance

The task force recommends that the County Executive request through the Attorney General of the United States, assistance from the DOJ-COPS- Collaborative Reform Model of Technical Assistance. This program could provide technical assistance to the department on significant law enforcement-related issues. Using subject-matter experts, interviews, direct observation, as well as conducting research and analysis, the COPS Office will assist law enforcement agencies with enhancing and improving their policies and procedures, their systems, their culture, and their relationships with the communities they serve. If appropriate, the COPS Office can issue a series of recommendations, and be instrumental in assisting agencies with the implementation of those recommendations or finding the right resources to do so.

The task force recommends that this program look into the following areas to see if improvement could be achieved in best practices and procedures:

- a) Diversity in hiring
- b) Staffing in comparison to population in suburban environment
- c) Salaries
- d) Internal Investigation process procedure and working relationship with other investigative agencies. ie.. States Prosecutors Office
- e) Records Retention Schedule
- f) Outside employment of sworn members
- g) Establishment of a crime fighting strategy
- h) Disciplinary Process
- i) Promotional Standards and Processes
- j) Mandatory Reporting Requirements of misconduct

Conclusion

The task force is impressed with the Anne Arundel County Police Department. It has found that the rank and file members for the most part are working for the greater good of the agency and the citizens of the county. It appears that over the last several years, a single scandal involving a very small group of people and their conduct has held the agency captive. The process in how this scandal was handled broke down, not necessarily the members charged with its handling and investigation. Since the process appears to be the larger issue, solid leadership from the Chief of Police, and recommendations in this report, should set the Anne Arundel County Police Department on course to be a national role model and leader in the law enforcement community.