PROFESSIONAL STANDARDS FOR FIRE DEPARTMENTS

Presented by:
Fallon Niedrist de Guzman

AGENDA

-Introduction

-Why Are We Here?

-Challenges to Accountability

-Goals for Professional Standards

-Strategies for Success

INTRODUCTION

This presentation is about the City of Portland's journey in establishing Professional Standards within its fire department. Hopefully, the presentation will provide context as to why doing so is important for fire departments across the country, as well as some guidelines as to how to go about establishing your own Professional Standards.

INTRODUCTION – YOUR SPEAKER

- Fallon Niedrist de Guzman
- Deputy City Attorney (labor & employment for public safety)
- On loan to Portland Fire & Rescue as Professional Standards Manager

WHY ARE WE HERE?

CITY AUDITOR'S REPORT

Source: https://www.portland.gov/sites/default/files/2022/portland-fire-and-rescue-does-not-have-a-coherent-accountability-system-web.pdf

Portland Fire & Rescue does not have a coherent accountability system

June 2022



FINDINGS

- Set clear expectations for work requirements and employee conduct and ensure that employees are trained to meet them

- Offer guidance and tools for filing complaints so that employees and community members understand where to go with concerns

- Direct managers what to do if they receive a complaint

FINDINGS, CONT.

- Document and analyze complaints to identify patterns of risky behavior and where training or policy clarification are needed
- Conduct consistent, impartial, and timely investigations into possible misconduct
- Impose predictable, fair, and prompt discipline for misconduct.

“BUT IS THIS APPLICABLE ANYWHERE OTHER THAN CITY OF PORTLAND?”

-- A lot of people, probably.

GROWING URGENCY FOR ACCOUNTABILITY FOR ALL PUBLIC SAFETY, NOT JUST POLICE

FIRE MISCONDUCT HAS INCREASED

For L.A. City Fire, incidents of misconduct increased 71% between 2019 – 2021.

Most frequent allegations: refusing the COVID vaccine or refusing to accept additional work days

Seven sustained domestic violence cases recorded in 2021, compared with only a single sustained case between 2017 and 2019

FIRE MISCONDUCT HAS INCREASED, CONT.

"This potentially encourages members to commit misconduct, knowing there is an absence of accountability," independent assessor Sue Stengel wrote in a report to the Board of Fire Commissioners.

Source: https://www.nbclosangeles.com/news/firefighter-misconduct-cases-increase-at-la-city-fire/3011770/

TYRE NICHOLS' DEATH

Two emergency medical technicians and a fire department lieutenant were terminated over their response to Nichols' January 7 encounter with Memphis police.

An investigation concluded that the two EMTs "failed to conduct an adequate patient assessment of Mr. Nichols" after responding based on both the initial call – in which they heard a person was pepper-sprayed – and information they were told at the scene. The lieutenant remained in the fire truck.

Source:
https://www.cnn.com/2023/01/30/us/tyre-nichols-protests-monday/index.html

FIREFIGHTER DRESSED AS HITLER

A recently filed EEOC complaint states that a Melbourne, Florida firefighter posed as Hitler, wearing a combat helmet and fake mustache. In the complaint, a fellow firefighter said he went to his union about the photograph but nothing was done. The person in the photo confronted the complainant and told him to stop raising any further complaints about his actions.

Source:
https://www.fox35orlando.com/news/need-to-be-held-accountable-florida-firefighter-posed-as-hitler-giving-nazi-salute-according-to-complaint

PROFESSIONAL STANDARDS AND FIRE DEPARTMENTS

- Historically, fire departments have not had "Internal Affairs" or "Professional Standards" like police departments have had.

- Some larger jurisdictions on the west coast (Pasadena, Los Angeles, Cal Fire) have professional standards now, but it is still not the norm.

WHY? SPECULATION:



NATURE OF WORK



REPUTATION



LESS PUBLIC SCRUTINY



FAMILY ATMOSPHERE

CHALLENGES TO ACCOUNTABILITY

CHALLENGES TO ACCOUNTABILITY



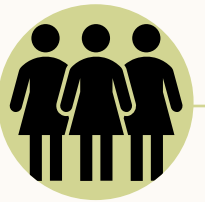
FAMILY ATMOSPHERE

- Very different work environment than most other careers
- Willingness to "look the other way" due to close-knit relationships
- Belief that problems can be solved in-house



MANAGEMENT CHANGES

- Frequent changes in management can translate to lack of consistency
- Can lead to differing goals, missions, etc.
- Changes to investigation procedures/experience



STRONG UNIONS

- Many firefighters stay represented far up in the org. structure; no experience in managing throughout career
- Lack of non-rep. managers contributes to lack of appropriate resources for professional standards

CHALLENGES TO ACCOUNTABILITY



HISTORICAL PRACTICES

- Previous application (or lack thereof) of lax discipline leads to challenges in changing discipline going forward



RESOURCES

- Government agencies always seem to be facing budget cuts and deficits
- Especially as an agency grows, need for dedicated resources becomes apparent; usually not at top of needs list



POOR RECORDKEEPING

- Complaints and concerns can get lost in the shuffle if there is not a sufficient recordkeeping system in place.
- Well-documented investigations, discipline, corrective action necessary

GOALS FOR PROFESSIONAL STANDARDS

GOAL 1: RESOURCES

- Ideally, at least one new funded position can be dedicated to Professional Standards
    - PF&R's Professional Standards consists of 1 Professional Standards Manager (temp), 1 Admin Specialist (temp), and 1 HR Business Partner
    - Sought funding for temp investigator

- Realistically, setting aside an existing position, or part of a position, to focus on investigations and policies, is the bare minimum

GOAL 2: BACKLOG AND ORGANIZATION

- Typically, the most pressing issue will be organizing files and a complaint process, and completing outstanding investigations

- Timeliness of investigations as element of just cause

GOAL 3: INVESTIGATION POLICIES

- If there are no existing procedures on how investigations are processed, create these procedures
    - Improves consistency and transparency; aids in training new managers

- Portland modified policies from police's internal affairs

GOAL 4: UPDATE POLICIES & PROCEDURES

- Review existing policies, procedures, rules, regulations, etc. around employee conduct

- Ensure policies are current and reflect administration's actual expectations of conduct

GOAL 5: ADDRESS RECORDS ISSUES

- Accurate personnel records are essential for ensuring accountability

- Determine whether personnel and discipline records have been adequately and accurately maintained

GOAL 6: TRAINING

- Ensure managers know the principles of discipline: just cause, progressive discipline, investigation strategies, etc.

- For low-level supervisors (including represented), train on how to engage in appropriate coaching and counseling to prevent need for discipline in the first place

GOAL 7: PERFORMANCE EVALUATIONS

- If the department does not have a means of formal performance evaluations, consider instituting

- Can be an excellent tool for early intervention for performance and behavioral concerns before they rise to the level of discipline

GOAL 8: BARGAIN A DISCIPLINE GUIDE

- Very novel concept in fire, though used in police departments regularly

- Especially helpful if history of discipline has been lax, inconsistent, or requires adjusting for new workplace expectations

- Portland (as far as we know) is the first fire department to successfully bargain a discipline guide as part of our collective bargaining agreement

DISCIPLINE GUIDE FEATURES

- Accounts for levels of misconduct
- Accounts for prior discipline – increases level of discipline
- Accounts for multiple allegations – increases level of discipline
- Accounts for aggravating and mitigating circumstances
- Allows for management's discretion to apply education-based alternatives
- Allows for management discretion if outcome of rubric does not comport with notions of just cause or progressive discipline

STRATEGIES FOR SUCCESS

STRATEGY 1: EQUITY LENS

- Fire departments have historically been white, male spaces

- Professional Standards should help account for a changing and diversifying workforce by applying an equity lens to work, including in policy revisions, standards of conduct, etc.

STRATEGY 2: STATEMENT OF PURPOSE

- Develop a statement of purpose with management

- Should both guide work and provide framework to workforce for why change is needed and happening

PF&R'S "VALUES AND GOALS"

- Each value includes a definition, the value proposition, and discrete goals
- Clear Expectations
- Resources for Success
- Transparency
- Results-Driven Outcomes
- Fostering Trust

STRATEGY 3: UNION RELATIONSHIPS

- Discipline is often one of the most contentious aspects of the management/union relationship

- Tensions can be eased through transparency, consistency, and a shared goal of rehabilitation over punishment

- Strong management/union relationship can smooth transition into Professional Standards

THANK YOU

Fallon Niedrist de Guzman
fallon.niedrist@portlandoregon.gov