

BLUE WALL OF SILENCE

**Blue Wall of Silence:
Degradation of Accountability**

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Abstract

The code of silence is the unofficial, implicit prohibition against reporting misconduct between police officers, which has led to the deterioration of police accountability and trust in the criminal justice system. There has been growing discontent in the United States with police brutality and misconduct in recent years, notably with the conflict between the Black Lives Matter and Blue Lives Matter movements. Since George Floyd's death at the hands of police officers in May of 2020, along with the 2020 presidential elections in November, there has been greater attention towards police integrity, corruption, and racial disparities within police departments. In order to expose these covered-up injustices, the code of silence must be dismantled. The social pressures within police departments hinder officers from reporting their coworkers and superiors, which permits further transgressions. As these covert operations continue, citizens will lose trust in the criminal justice system because officers are not held accountable. Thus, the solution must bolster police integrity from a legislative, disciplinary, and social perspective.

Keywords: misconduct, police integrity, police accountability, corruption, trustworthiness

The blue wall of silence, code of silence, or blue curtain, is the unofficial, unwritten prohibition against reporting misconduct among police officers, which has led to the deterioration of police accountability. On a global scale, most individuals in policing are devoted to honorable and efficient public service and have exhibited unwaveringly high standards of integrity in their duties (Gottschalk & Holgersson, 2011). Unfortunately, in most agencies, there is looming dishonesty, unprofessionalism, and corruption. This foxhole mentality has evolved from police protecting each other to shielding officers from being liable for their actions, including sexual misconduct, brutality, and bribery.

In a study spanning across twenty-one different states, forty-six percent of the officers in the survey responded that they had witnessed misconduct by another officer but did not report (The National Institute of Ethics, 2000). That said, this number may underestimate police misconduct accounts, considering the possibility of dishonesty and bias within the questionnaire's responses. There is a shortage of data and studies on the subject; however, with the current surveys, the reliability of responses should be questioned since they may be affected by the Blue Wall of Silence as well. Moreover, in court cases regarding police misconduct, officers may use the power of their position to sway the trial by misrepresenting the situation and "testilying" for each other (Slobogin, 1996). Not to mention, the Law Enforcement Officers Bill of Rights, established in 1995, provides police officers with further workplace protections. These protections include a formal waiting period before cooperating with internal inquiries into police conduct, clearing records of complaints against officers after a certain time period, and ensuring that only fellow officers could investigate (H.R.878 - 104th Congress (1995-1996): Law

Enforcement Officers' Bill of Rights Act of 1995, 1996). These protections give officers the upper hand in court cases and grants them more flexibility to commit offenses.

There have been two formative cases of the Blue Wall of Silence in history that were turning points for the law enforcement system. The first involved Frank Serpico, an ex-police officer who testified police corruption and bribery in New York City in 1971. His exposé on the front page of the New York Times lead Mayor John V. Lindsay to appoint the Knapp Commission to investigate the situation. The Knapp Commission, a five-person panel lead by the well-known lawyer Whitman Knapp, found incriminating evidence of “grass-eaters” and “meat-eaters” in the NYPD. The second case concerns Michael Dowd, a former NYPD officer who robbed drug dealers and distributed cocaine in his own drug ring for over six years and was eventually arrested by the Long Island Police Department in 1992 (Treater, 1994). Both events highlighted the problematic presence of clandestine operations within police agencies.

In recent news, George Floyd's death in May of 2020 sparked unrest within the police community and is a milestone in the history of police misconduct. Following this significant event, sworn police personnel of varying ranks and departments made statements in social media posts condemning the police brutality that murdered George Floyd (The Crime Report, 2020). Now, it is essential to consider why the blue wall of silence started crumbling only recently, rather than at the deaths of Tamir Rice, Eric Gardner, or Michael Brown.

In another case, nineteen years following her initial “whistleblower case” on her verbal assault by a higher ranking officer in *Kubiak v. City of Chicago*, Laura Kubiak, a former Chicago police officer, was awarded two million dollars by the jury in 2019. Perhaps certain factors influence the likelihood of police officers coming forth to denounce their peers for their

misconduct, such as the severity of the violation, demographics, or publicity of the event.

Strength in numbers can also motivate officers to report their peers because it lessens the risk of ostracization by fellow officers. Given this observation, studies have examined how the code of silence and the stress of police integrity shifts between departments and agencies (Kutnjak Ivković et al., 2016). For instance, different agencies could have codes that differ in what is covered by the code and who benefits from it.

Overall, the code of silence is an unconstitutional force. As a critical component of the criminal justice system under the government, the police force is tasked with implementing the law to ensure citizens' safety, health, and security, as well as preventing crime and civil disorder (Colin Bolger & Walters, 2019). The code enables the continuation of police misconduct and serves as a barrier to investigation and adjudication of offenses. It is important to recognize that the code is not a law, in the legal sense. Rather it is an implied culture that hinders police officers from reporting the transgressions of their peers. If police officers are not held responsible for all actions, police accountability diminishes, and skepticism towards the institutions of the criminal justice system intensifies. Therefore, to find possible solutions to minimize the blue wall of silence, it is crucial to track the blue curtain's development, the potential causes of this phenomenon, and analyze the effects of the code of silence on the criminal justice system and American society. In other words, this paper examines the past, present, and future of the code of silence.

The blue wall of silence originates from social pressures within the police department. In a nationwide study of police officers, one in six officers claimed that the code of silence is essential to good policing (Weisburd & Greenspan, 2000). This sentiment may result from the

belief that the blue curtain builds trust within the workplace. There are also accounts that whistleblowers are shunned, harassed, physically threatened, and abandoned on the streets (Kutnjak Ivković et al., 2016). The best-case scenario for whistleblowers is receiving a “cold-shoulder” from their peers (Weisburd & Greenspan, 2000), or even better, never having their identity revealed in the first place. There is a culture within police departments founded on the fear of being persecuted by authorities or coworkers and herd mentality. Employees may feel inclined to team up against the whistleblower to build rapport with each other, rather than stand up for the whistleblower. Surveys show that police officers are more reluctant to report their coworkers than take the blame for another’s actions. Thus, to motivate officers to come forward, the solution must tackle collectivist culture and hazing tactics within police departments.

As mentioned above, some constraints trickle down from higher ranks and authorities. Despite being knowledgeable of the corruption present in the upper levels, subordinates are prone to remain silent to maintain their superiors’ favor. For example, the accusations in a corruption scandal involving high-ranking commanders of the New York City Police Department insinuate that the exploitation of their benefits must have been known by others beneath them (Soriano, 2016). Their actions led to the loss of hundreds of thousands of dollars while bringing dishonor and shame to their department and the overall profession. Not only were the officials committing the laundering responsible for these losses, but also those who were aware of these actions and allowed the exacerbation of these conditions. Recent survey results imply that these patterns should continue—a staggering 59.7% of respondents claimed that they would not report gifts and bribes from merchants (Kutnjak Ivković et al., 2016). This situation highlights the consequences of the code of silence and should not be underestimated.

Currently, the blue wall of silence affects the American criminal justice system by dropping the accountability of police officers' actions, tarnishing police integrity, enabling misconduct, and overriding the disciplinary system. In a 2016 study, Americans (White Americans, African-Americans, and Hispanic Americans) were generally split on whether or not police think they are above the law, honesty and trustworthiness, gaining the trust of residents, and unaccountable for misconduct (Policing in America: Understanding Public Attitudes Toward the Police. Results from a National Survey, 2020). If police officers are punished accordingly for their offenses, they would feel less inclined to repeat these offenses, and thus reduce the occurrence of police dereliction in the line of duty. If police integrity infringements are kept under wraps, then officers will not receive the discipline they deserve, and the cycle of wrongdoings will continue. Moreover, it takes months or years to move from an allegation of misconduct through the investigation and resolution (Stephens, 2011). As these offenses accumulate and more voices are muted, the public will lose trust in the criminal justice system and reduce the value of police integrity. Survey results indicate that only 33% of the population has a very favorable view of police in their communities (Policing in America: Understanding Public Attitudes Toward the Police. Results from a National Survey, 2020), showing that the majority of people find flaws in the system. As can be seen, the consequences of the code of silence are severe if it continues: the misconduct consequences for offenders of the police integrity (both the violators and the silent), the growing gap and tension between the police and the community, and a dying sense of duty within police departments. Society is at a loss if there is mistrust towards the law enforcement system not only because of the inherent danger left untended but also this negative stigma towards a government medium.

Taking into account the current situation, there must be action taken to minimize the occurrence of the blue curtain in cases of malpractice or misbehavior. Rather than maintaining a code of silence, there should be more enforcement of the code that details ways to discipline officers for misconduct and vary the degree of punishment with the degree of the offense. Regarding the social tension within the police departments, there should be protection for police officers who choose to report their peers. Moreover, there should be structural and legislative changes within the criminal justice system. The Law Enforcement Officers Bill of Rights provides heavy protection for officers from civilian complaints; therefore, this bill should be revised such that people from outside of the police force can report officers, rather than putting all the pressure on police officers. The civilian's word should have more power when pitted against an officer's. Also, the change in legislation should challenge the police privilege to delay investigations and eliminate interrogation buffers. It would be more useful to start from a preventative measure, such as the de-escalation of social pressures within the workplace; thus, there should be positive and negative affirmations. There should also be a solidified protocol that records each police encounter and is reviewed by an impartial third party afterward. This record, such as from a body camera, would provide an accurate representation of both the civilians and the police officers. To support this notion, the majority of officers and the public favor body cameras (Mitchell, 2020b). Positive affirmations would include recognizing so-called "whistleblowers" for enforcing justice and maintaining integrity; this shift in sentiment will require gradual change over time. Meanwhile, negative affirmations would involve implementing a disciplinary system for police misconduct, which incentivizes reporting and discourages the code of silence.

The code of silence at a small extent can arguably develop an advantageous sense of trust between officers in the police force. However, the current code of silence enables overstepping laws and boundaries, which is detrimental to both the criminal justice system and society. A civilian's trust in law enforcement is already dampened when facing an incident of police misconduct; however, if the code of silence is employed and this event is not brought out to the light, this causes an even further loss of faith in the system. If the code of silence is not acted upon soon, then the police force will be viewed as a corrupt organization, and they would not be able to effectively carry out their duties within a sea of doubt. Implementing a disciplinary system and praising those who choose to report their coworkers dissipates the stigma against whistleblowers in a police office. Amendments in the legislation would maintain the ban of the blue wall of silence and perhaps restore trust in the criminal justice system. In essence, the next course of action is to take preventative measures against the continuations, and therefore the social constraints of the code of silence must be eradicated.

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