

## You're It!

# How to Psychologically Survive an Internal Investigation, Disciplinary Proceeding, or Legal Action in the Police, Fire, Medical, Mental Health, Legal, or Emergency Services Professions

Laurence Miller, PhD  
Independent Practice, Boca Raton, Florida

***Abstract:** Rightly or wrongly, law enforcement, public safety, medical, mental health, legal, and emergency services professionals may have to face internal investigation, disciplinary measures, license suspension, criminal prosecution, civil lawsuits, and/or personal life disruption related to actions taken in the course of their work. This article describes the main categories of misconduct – or simply mistakes – that can cause different types of professionals to be investigated, charged, prosecuted, and/or sued. It next discusses the kinds of psychological reactions commonly seen in workers who face these kinds of proceedings. Finally, the article offers a set of practical psychological coping strategies and procedural recommendations for dealing with the stresses of an investigation, administrative action, or litigation, and for mitigating their effects on one's life and career. [International Journal of Emergency Mental Health, 2009, 11(3), pp. 185-190].*

**Key words:** *Emergency services stress, excessive force, fitness-for-duty, internal investigation, law enforcement stress, official misconduct, police psychology, professional misconduct, public safety stress.*

You hope it never happens to you: You receive notice that you will be the subject of an Internal Affairs investigation, disciplinary proceeding, administrative action, or legal charge. For some clinical and public safety professionals, this comes as a complete shock; for others, it confirms what

they've suspected has been brewing for a long time. Either way, you expect that your whole life is about to change.

The purpose of this article is not to provide legal advice, and for purposes of this discussion I take a neutral position as to the validity of any particular case against you. Similarly, this article is not about second-guessing the decisions of law enforcement, public safety, and mental health administrators, the overwhelming majority of whom are honorable public servants, dedicated to the welfare of their personnel and their communities. The primary purpose of this article is to provide practical information on coping with the psychological stress of an internal investigation, disciplinary action, or legal charge, and its aftermath.

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*Laurence Miller, PhD is a Police Psychologist with the West Palm Beach Police Department and the Palm Beach County Sheriff's Office. He is a Consulting Psychologist for the Florida Highway Patrol, and works with law enforcement, public safety, and emergency services agencies around the country in cases involving fitness-for-duty, professional misconduct, internal discipline, clinical services, and forensic mental health issues. Correspondence regarding this article should be addressed to docmilphd@aol.com.*

## *Who Gets Investigated and Why*

In my years of practice, I've counseled, advised, treated, and/or forensically evaluated a range of professionals who have been investigated, disciplined, suspended, terminated, criminally prosecuted, lost their licenses, and/or been sued in civil court for a variety of reasons (Miller, 2004, 2006b, 2008c). This list is not exhaustive, but represents the most common factors in my experience.

*Police officers.* Excessive force; abuse of authority; substandard performance; corruption; theft; drug dealing; domestic battery; intoxication on duty; misuse of weapons or other equipment; racial discrimination or insensitivity; sexual harassment; perjury in court; conduct unbecoming an officer, on- or off-duty.

*Public safety personnel.* This usually includes firefighters, paramedics, and other non-law enforcement public safety personnel. Infractions typically involve incompetent or substandard practice; illegal or embarrassing behavior on- or off-duty; excessive conflict with members of the work team; mistreatment, abuse, or harassment of a citizen during a call.

*Medical doctors.* Malpractice or substandard care; medication overprescription; personal abuse of legal drugs or illegal substances; sexual harassment or impropriety with patients or staff; improper business relationship with patients or staff; billing or insurance fraud, or other financial impropriety.

*Mental health clinicians.* Malpractice; improper sexual relationship with patients; improper business relationship with patients; billing fraud; suicide of a patient (clinician failed to observe standard duty of care, which would constitute malpractice, or family is just distraught and angry and seeks to blame someone); failure to observe duty to warn or protect third parties (in states which have this statute); failure to report child abuse (all states require this); record-keeping infractions.

*Attorneys, judges, prosecutors.* Malpractice (usually substandard legal representation); violation of attorney-client privilege; subornation of perjury (encouraging or abetting a client to lie under oath); judicial misconduct; financial fraud; drunk driving or sexual misconduct charges.

*Protective services or court personnel.* These are usually child welfare investigators, guardians ad litem, or victim services personnel who misuse their authority. In most cases,

these involve issues of substandard performance, as when the neglected home visits of a child welfare worker result in the child's injury or death.

*Clergy.* These usually involve sexual indiscretion or financial fraud.

*Other.* Airline or other transportation crew personnel (usually intoxication, failure to follow standard flight procedures, or improper behavior with coworkers or customers); corporate or government managers or executives (almost anything, from sexual harassment, to financial fraud, to abusive management style); political figures (problems usually revolve around sex and/or money).

What do these professionals have in common? They all occupy positions of *high public authority and trust*. Society places great power and responsibility in their hands and so we hold them to a higher standard of personal and professional conduct than other types of workers. Supervisors in these fields take the position that tolerating even a few bad apples can have devastating repercussions – practical, professional, political, financial – on their respective fields as a whole. Hence, to preserve the honor and integrity of these professions and the public trust on which they rely, investigators may be especially zealous in pursuing those who are suspected of breaking the rules.

## *Possible Consequences of an Internal Investigation*

Although there can be several kinds of administrative and legal repercussions from a particular action, probably the one that is feared and loathed the most is the departmental internal investigation, because this comes from inside the tribe, from one's fellows and professional compatriots, from the folks that we feel should *understand*. While the details vary from agency to agency, there are several possible outcomes of a departmental internal investigation.

*Exoneration.* The charges are found to have an insufficient basis to sustain them, the worker is thanked for his/her cooperation, and is returned to duty.

*Discipline.* The investigating panel concludes that the worker did do something wrong, but not severe enough to be terminated, so he/she may be subject to a range of sanctions, from suspension without pay, to demotion in rank, reassignment to other duties, removal from a special unit, verbal or written reprimand, or other measures.

*Termination.* The charges are either serious enough in themselves, or the infractions show a recurring pattern, to warrant the worker being fired from the agency.

*Criminal prosecution.* The case is serious enough to be turned over to local or federal prosecutors for further investigation that may lead to criminal charges being brought against the worker, most commonly in excessive force cases or cases in which the worker was involved in outright criminal activity.

*Civil lawsuit.* This is an action that may be taken by a third party who sues the worker – and typically the department and the municipality as well – for physical, emotional, financial, or other damages. Most commonly, the plaintiff is the subject (or the surviving family member of a deceased subject) of an allegedly excessive action (police beating, tasing, or shooting) or of an insufficient action (paramedic incompetence or neglect of procedure), or the direct or indirect victim of the worker's negligent or improper behavior (e.g. a pedestrian is crippled in a crash involving an unsafe police vehicle chase; a bedridden citizen dies because a firefighter neglected to do a room search of a burning residence; a mental health patient commits suicide because she couldn't reach her therapist by phone for several days). Even if the department or agency is not directly involved in this lawsuit, the worker's personnel file and other records may be subpoenaed by plaintiff or defense counsel for use in the case. For medical, mental health, and legal professionals, this may involve a malpractice lawsuit.

*License Suspension.* For medical, mental health, legal, and other licensed professionals, this usually involves complaints made to their state licensing boards. If the board chooses to investigate, it may impose sanctions, such as a period of supervised practice, temporary license suspension, or, if the violation is severe or repeated, permanent revocation of the license to practice in that state.

*Personal damage.* Ruined reputation, family crisis, financial disruption, reduced employment prospects, media intrusion, and personal mental health and substance abuse problems are all possible sequelae to the stress of being charged and investigated.

### *Psychological Reactions to an Internal Investigation and Other Actions*

Again, while each worker will respond individually, based on his or her unique personality, temperament, and personal

history, certain reaction patterns occur fairly commonly.

*Fear.* Suddenly, your career is on the line – and, if you're like most clinical and public safety workers, so is your whole sense of personal and professional identity. Most commonly, something like this has never happened to you and you don't know what to expect. There are good moments, when you're able to put it out of your mind and hope for the best, and bad moments when you are close to panic.

*Anger.* "I can't believe this is how I get treated for doing my job!" If you feel that your actions were justified or that the department is making a big deal of this case because of political pressure, a personal vendetta, or just because the powers-that-be can't or won't understand the full story behind your conduct, then you're going to be mad as hell. Even worse is when you believe that the discipline was meted out unfairly: "I know a dozen guys/gals who've done the same thing as me – or far worse – and nothing happened to them." Fear and anger typically alternate in a swirling spiral of emotions that may make it difficult to think clearly at just the time that clear-headedness is vital.

*Hopelessness/Helplessness.* Many charged workers go through periods where they just crash and feel demoralized and defeated: "If something like this can happen, then what the hell's the point of anything?" Motivation is sapped, energy is drained, and you shuffle around like the living dead. Then, boom – something happens and the anger and panic come flooding in again. These kinds of roller-coaster emotional cycles can prove debilitating over time and start to convince you that you're going insane.

*Reckless/Revenge.* Sometimes, as a reaction against feeling like an impotent victim, you'll get the urge to act out in some way: "Okay, they think I'm a criminal, I'll show them how bad I can really be." This is probably a subset of the angry response discussed above. In these instances, it may be really hard to fight the temptation to figuratively stick a thumb in the eye of your tormentors but, as further discussed below, it is vitally important to consider the big picture and keep such impulses in check.

*Guilt.* As much as you hate to admit it, maybe there was some way you contributed to your own plight. Look, none of us is a complete angel and we're all subject to human temptation and emotion. Okay, so the jerk jabbed you with a hidden syringe while you were trying to cuff him, and you whacked him with a baton. Or you did get overflirty with the cute college student at the crash scene and spent way too much

time attending to her minor wounds, to the neglect of the trucker with the compound fracture. Perhaps you convinced yourself that you were doing your divorce client a kind favor when you offered to let her place her funds in your private bank account, so her scheming husband couldn't get his hands on them. Or it was a crushing day at the clinic, you were overbooked and overwhelmed with patients, so you let a few chart notes slip which resulted in a patient getting a dangerous dose of unneeded medication. Or, as is so often the case, maybe you know you really did something wrong but never thought you'd get nailed because everybody does it and gets away with it but – just your luck – you got pinched. In such cases, fear, guilt, anger, and paranoia may all percolate and magnify your distress: “What was I thinking?” “How could I have been so stupid?” “Everybody does it and I get caught!” “I’ll bet this was a set-up – they’ve had it in for me for a long time!”

*Clinical syndromes.* These may be physical, such as headaches, stomach problems, or sleep disruption; or psychological, including panic disorder, depression, or sometimes full-blown PTSD. Alcohol or substance abuse is a distinct risk, further compounding the problem. If you're getting overwhelmed by the stress of the investigation to the point where you're not able to function, it's time to get help because you're going to need to be as strong as possible to handle what's ahead.

### *Psychological Coping Strategies for Dealing with an Internal Investigation and Other Actions*

The following are some psychological coping strategies you can utilize and adapt to the unique configuration of your personality and the individual circumstances of your case. Many of these have been developed out of my work with law enforcement officers and workers in public and private organizations (Miller, 2006a, 2006b, 2007, 2008a, 2008b, 2008c), but they are equally applicable to all of the groups of professionals described in this article.

*Don't panic.* Notice how I didn't say “don't worry,” because that would be like telling you, “don't let it hurt you” after you've just been busted in the kneecap with a baseball bat. You're bound to experience a certain amount of anxiety from now until your case is resolved one way or another; the goal is to deal with it without becoming too overwhelmed to function. Try to learn and utilize a number of basic stress-management techniques, just as you would if you were faced

with the prospect of a serious illness (Miller, 2008b; Rom, Miller, & Peluso, 2009). You can do this on your own through recordings and manuals, or you can seek the aid of a qualified mental health professional. This won't necessarily make you a happy camper, but you'll at least be able to set up and maintain your camp.

*Strategize.* One of the nasty things about anxiety is that it knots up your brain and keeps you from thinking clearly. At some point, sit down and figure out what you're going to do. Review the actions that led to the investigation. Be clear about what's being charged and what your options are. The game plan you develop may be modified multiple times as new information comes in and contingencies change, but at least you'll *have* a game plan, which will give you a little bit more feeling of control.

*Get legal help.* Retain competent, qualified legal representation, whether it's your departmental legal rep provided to you by your agency or private counsel that you independently hire. This professional will help you focus your activities so that they will be most likely to help you, not hurt you. The rule of thumb before you take any action on your own behalf is “Ask your lawyer first.” You can disagree with your attorney, you can argue with him/her and, ultimately, you can choose not to take his/her advice, but use this person's knowledge and experience to guide your efforts so that they'll be maximally productive.

*Keep a low profile.* There may be a great temptation to “take it to the streets,” to publicize your trials and tribulations so that the whole world will rise up and declare with one voice, “No, we shall not let this injustice stand!” Forget about it. Except for a few close family members and allies, most people's reaction will be more like, “Sucks to be you, so what else is new?” Aside from this apathetic response, turning your case into a crusade and making yourself the poster-boy/gal for wrongful discipline will, in most cases, only backfire and damage your chances of being exonerated or, if you've already been sanctioned or terminated, diminish your chances of being reinstated.

That's because one of the primary principles of any negotiation is to *make it as easy as possible for the other side to give you what you want.* They're much more likely to do that if you can hand them a face-saving way of letting you slide, such as: things aren't as bad as they first appeared; new information has come to light; intelligent, well-meaning individuals can sometimes make ill-informed decisions, but

once they clearly see how their reasoning got sidetracked, they will of course do the honorable things and reconsider; and so on. But if you turn this into an us-versus-them contest of wills – and especially if you do your best to blab it to the world – they’ll have no choice but to defensively dig in their heels and redouble their efforts to expunge you.

Meanwhile, beware of those who are only too eager to make your case their own *cause celebre*. A cottage industry has sprung up of individuals and organizations who offer to consult, represent, and support workers who feel they’ve been wrongly disciplined: click on the web and you’ll find their sites easily. Many of these outfits in fact do some good work and can be of substantial benefit to your case, if guided by common sense and the counsel of your own attorney. But be careful if any of these helpers seem a little too keen on pushing their own agenda or nudging you to say or do things that don’t necessarily bear on your case or that otherwise seem irrelevant or uncomfortable. Always ask yourself and them, “how will this or that recommended action help or hurt *my* case?” Then, discuss it with your lawyer.

Keeping a low profile also means staying out of further trouble. During a suspension, with too much free time on your hands, and “lousy” being your predominant emotion, you may be tempted to go out, have some fun, and raise a little hell while you still can. Don’t. From now until this case is resolved, behave as if there is a surveillance camera on you 24/7. No, it’s not fair for you not to have a life, but remember the point about the big picture: how do you want this to end? Do you want your review or appeals board to be on the verge of cutting you a break, only to learn at the last minute that you were just pulled over for a DUI, were involved in a domestic violence call, got into a bar fight, made threatening phone calls to an obnoxious neighbor, or were seen out partying, as if this whole affair were just one big joke to you? You may be bummed-out, stressed-out, and ticked-off, but don’t shoot yourself in the foot. Tough it out and work toward a favorable resolution.

*Work your case.* This might also be termed *obsess constructively*, and is actually a better way of utilizing all that nervous energy you were just advised to squelch. Since you’re going to have all this free time, and since even the best attorney can’t do everything by him/herself, you might be able to serve as the point-man/woman on your case and start doing some research. Create a card or disk file and keep it organized. If this clerical or computer stuff is not your strong suit, get help. You may lack the legal training and

experience to distinguish what’s really useful from what’s bogus but, in the beginning, be comprehensive: haunt the library and scour the internet. The more information you can glean that’s helpful to your case, and the more clearly you organize it, the easier time your attorney will have punching it up into a form that will get your point across to those who have your fate in their hands. Just remember – check everything with your lawyer first. Be a helper, not a pest. If nothing else, constructive action on your own behalf can help psychologically detoxify the feeling of helpless rage that would otherwise mire you in a state of self-destructive despair.

*Don’t lie.* Let me say this again: *do not lie*. One attorney I know put it delicately: “All you need is one tiny crumb of bullshit to stink up the whole room.” Translation: If I think you’re lying to me once, what are the chances of me ever believing anything you say again? This goes for what you tell your attorney, their attorney, investigators or examining clinicians, or attest to in any deposition or court testimony. I’ve had more than one Internal Affairs investigator tell me something like: “Look, I know the guys think we’re all a bunch of self-righteous ferrets, and if a worker did something truly wrong, it’s our job to get it out. But we’re professionals, too; we’ve been out there where he/she is and we understand the strains and pressures of the job. So if there’s a way we can find something justifiable in the worker’s actions, we’re not going to bust someone’s chops just for spite. But what we can’t tolerate is a liar, because then you’re just handing us the shovel to bury you with.”

*Seek mental health counseling.* If you need it, that is. Not everyone, even those under severe stress, needs to be in psychotherapy. If you feel you can deal with this on your own, then all power to you. But the right counselor can make a tremendous difference at those times when it looks like it’s all going to hell and there’s no one else you can vent to, either because your usual sounding boards are getting tired of hearing it or you don’t want to further burden them. Many workers who have faced disciplinary or legal action have noted that having a mental health clinician in their corner was not only a source of emotional support, but was an invaluable resource for providing frequent, needed reality-checks that kept the worker from acting like a royal blockhead and screwing up his or her own case. Again, if you seek the services of a mental health counselor, let your attorney know and, if you want the two professionals to communicate, be sure to sign the appropriate release forms.

A special application of the earlier issue of what and how much to say to whom sometimes arises in a psychotherapy context, where the worker has sought or been referred for counseling (not part of the investigation itself): “Listen, doc, I don’t know if I told this part of the story yet, but I’m afraid if I tell you something, you’ll report it – we’re protected by confidentiality, right?” Answer: doctor-patient confidentiality says I can’t violate our trust unless you are a clear and present danger to yourself or others, or I become aware that you’re physically or sexually abusing a child. So, in most cases, what you say in my office stays in my office. But doctor-patient confidentiality is still not as inviolate as attorney-client privilege (or, for that matter, clergy-parishioner privilege) so, theoretically at least, a judge could issue a court order for my records and jail me for contempt if I refused to produce them. In all my years of practice, this has never happened to me or to any psychologist I know, and it would probably have to be a matter of national security for something like this to occur but, theoretically, it could happen.

Even then, by the time you get to the therapist’s office, you’ve probably told your story so many times to so many people, that it’s unlikely he or she is going to learn anything startlingly new from you at that point. Nevertheless, for your own peace of mind, if there’s something you don’t feel 100% safe telling a mental health counselor, then don’t tell them, at least for now. Talk it over with your attorney and if he/she says its okay, then feel free to let it all out. However, if your legal counsel tells you to clam up about a particular detail, then mum’s the word, and a good clinician can still do productive therapy around those little holes in the road. In such a case, a competent and ethical mental health clinician will appreciate your openness, but will want you to feel secure so that you and he/she can work together effectively. Conversely, any mental health clinician who seems to be pumping you for information should be asked why this particular piece of information is so important to them.

*Have a Plan B.* And, preferably, a C and a D, too. If, despite your best efforts, worse comes to worst and it looks like your professional career in this field is over, have some contingency plans made ahead of time for what you’re going to do in your new life. Understandably, this kind of advance planning is harder than it sounds because the mere acknowledgment of any Plans B-Z may seem like a pessimistic capitulation to the possibility of failure of Plan A, which is keeping or reinstating your present job. But make these contingency

plans for the same reason people buy insurance: you hope the big one doesn’t hit, but if it does, you want to be prepared.

So don’t give up: fight the good fight in every legitimate way that you can, but in the meantime, check out alternative employment opportunities, get some additional training, finish that degree you always promised you’d complete, call up some old contacts and call in some old favors, reconnect with your family, and so on. Remember, the clouds won’t weave their own silver lining and the lemons won’t squeeze themselves to make lemonade – *you’re* going to have to do it. Acting rationally, constructively, and courageously on your own behalf can be one of the most stress-reducing and self-empowering actions you can take to finally climb up out of the hole and walk in the sun again.

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