The “Guarding the Guardians” Problem: An Analysis of the Monitoring Performance of an Internal Affairs Division

Autoria: Sandro Cabral, Sergio G. Lazzarini

Propósito Central do Trabalho:
Many public bureaucracies are plagued with the “guarding the guardians” dilemma: monitoring commissions formed by public officials may refrain from punishing their peers and turn a blind eye to certain deviations. In the police, this is the case of internal affairs divisions (IADs), which are organizations crafted to monitor the behavior of police officers. We expand the extant literature on the guarding the guardians dilemma by proposing a set of hypotheses that are tested using a distinct dataset. The uniqueness of our database stems from its detailed information on internal investigations, allowing us to examine not only the likelihood that a case will be concluded some time after it was initiated, but also the final outcome (namely, whether the case resulted in conviction or not, and the harshness of the associated punishment). Our two-stage procedure allows us to examine not only the likelihood that a case will be concluded, but also the final sanction conditional on conclusion. We find that the organizational design of the investigating commission influences the speed in which process is carried out. However, officer-specific characteristics such an officer’s position in the hierarchy, and the nature of the accusation significantly affect the final verdict, thus suggesting a complex interplay of factors influencing the guarding the guardians problem.

Marco Teórico:
Monitoring in public bureaucracies is challenging. Many activities in the public sector involve multiple principals, with multiple objectives and dispersed in various domains: the public in general, politicians, elected officials, non-governmental organizations, and so on. Unlike for-profit firms, there is no restricted group of principals, such as shareholders, with direct monitoring duty. Supervision of public bureaucrats will generally be performed by other public bureaucrats with limited ability and willingness to influence behavior. These features of public organizations will thus induce a fundamental “guardian the guardians” dilemma, originally addressed by Plato in his The Republic (see Hurwicz 2008). With scant incentives and poor monitoring, who will guarantee that rules within the public sector will be effectively enforced? As a way to improve oversight, governments often create dedicated units or functional supervision tasks in such a way that some public agents will specialize in monitoring other agents who are more directly involved in the execution of public services. We refer to this situation as a separation of roles between agent-monitors and agent-executors. Examples of agent-monitors include specialized positions in internal affairs divisions (IADs) of the police (Stone 2007). With separated roles, agents-monitors should more effectively develop oversight capabilities and become more or less insulated from other agents who may eventually be investigated and punished. However, which factors could then potentially influence IADs’ monitoring and enforcement of internal rules? We submit that three general factors will be critically important: officer-specific characteristics related to their position and history in the police bureaucracy; internal organizational procedures adopted by IADs; and aspects related to the nature of the accusation. In this sense, we draw the following testable propositions: H1 Cases involving high-ranking, high-tenured officers are associated with a reduced likelihood of case conclusion and harsher punishment; H2a Separation of roles between agent monitors and agent executors—i.e. investigation officers who are not specialized in IAD functions—will increase the ability to effectively conclude the case and punish deviants; H2b The effectiveness of the investigation will be reduced when investigated officers have previous ties with commission members or when they were themselves
members of investigating commissions; H3a Deviations legitimized by internal norms and codes of conduct (such as excessive violence against suspects) are associated with less severe punishment; H3b Salient deviations, which are more likely to be covered in the media, are associated with faster investigations and more severe punishment; and, H3c Complex cases involving multiple accusations and multiple accused officers are associated with a reduced likelihood of conclusion and punishment.

Método de investigação se pertinente:
We assess investigations against officers from civil police force conducted by the General Internal Affairs Division (GIAD) of a Brazilian State. The GIAD is a unified agency responsible for overseeing all specialized divisions in the State: the civil police, the military police, and the technical police. GIAD is directly subordinate to the State Public Security Secretary as are the other police divisions. We accessed a list of all the investigation cases against police officers of the State civil force submitted to GIAD between 1999 and 2006, and examined the outcomes of these cases until December 2008, which totals 683 cases. We were also granted access to officers’ individual files, with a track record of officers’ duties, personal data and accusations within their specific departments. As a result, we built a unique dataset on the investigation cases in the State police. The process of gathering information took more than 160 hours, between January and February 2009. During this period, one of us had the opportunity to share the same room as some GIAD officers, thus facilitating interaction and allowing for a deeper understanding of the mechanisms and procedures within the division. We also conducted nine semi-structured interviews with GIAD members. Given that we have information on both whether a case was closed or otherwise and the outcome (conditional on conclusion); we analyze our data in two ways. We start by examining factors that will lead or not to the closure of the cases, and the duration of the process until their conclusion (if any); and then we assess how various factors influence their final outcome. In the first stage we employ survival analysis to examine the impact of our independent variables on the speed of conclusion of the investigation processes against police officers. In the second stage, which models the final outcome of the process (judgment) conditional on conclusion, we use a variety of qualitative dependent variable models, such as ordered probit, multinomial logit, and Heckman-probit (Maddala 1983). We control for endogeneity and for self-selection bias.

Resultados e contribuições do trabalho para a área:
We find support for all our hypotheses except H2b¬ (the effect of observable ties). Tables 1, 2 and 3 (available on request) exhibit respectively: summary statistics/ description of variables; the factors affecting the conclusion of the observed investigations (Cox regressions); and the factors affecting the final judgment of investigations that were concluded. In the sub-sample of investigations that were concluded, we observed that high-ranking, experienced officers (with longer tenure in the police bureaucracy) are punished less harshly than their younger colleagues. This result confirms that the position and tenure of the officer in the force matter. We also observed that certain types of deviations interpreted as a normal “side effect” of police action (such as aggression against suspects) are treated less harshly than other deviations that internal affairs members view as abominable (such as extortion). This result suggests that norms and codes of conduct also matter. In addition, we found that extensive media coverage of officers’ deviations increase the odds that the implicated officers will be convicted. We also obtained interesting results regarding the factors that affect the speed with which investigations are concluded. In general, officer- and accusation-related variables do not significantly affect the rate of conclusion, except for the number of accused people involved in the case (which, arguably, makes the process of evidence collection and hearing
more difficult). We found, however, that the design of the investigation commission does influence the speed of conclusion. Namely, investigation commissions comprised of fixed, specialized officers with good reputations in the force, known in our context as “permanent” commissions, conclude faster than commissions which are temporarily formed with officers who rotate. We also found no evidence that commissions are prone to pressure from the investigated officers who have possible ties with commission members. The creation of specialized investigation commissions, by separating the roles of agent-monitors and agent-executers, appears to have beneficial effects in accelerating the conclusion of investigations, thus affecting performance positively. This finding is particularly relevant in our context given that the observed length of conclusion is much longer than expected and required by State Law. Our theory therefore may expand the extant literature by proposing a host of factors that should influence the performance of public agencies subject to the guarding the guardians problem. We hope that similar studies can be also carried out in other contexts to verify the generalizability of our findings and allow us to learn from the practices adopted by other internal affairs divisions and other public bureaus where agents are appointed to monitor other agents.

Referências bibliográficas: