

**CRITICAL ISSUES  
IN POLICE DISCIPLINE**



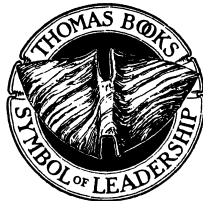
A Project of the Illinois Law Enforcement  
Executive Institute at Western Illinois University

# CRITICAL ISSUES IN POLICE DISCIPLINE

## Case Studies

*Edited by*

LEWIS G. BENDER, PH.D.  
THOMAS J. JURKANIN, PH.D.  
VLADIMIR A. SERGEVNIN, PH.D.  
JERRY L. DOWLING, J.D.



CHARLES C THOMAS • PUBLISHER, LTD.  
*Springfield • Illinois • U.S.A.*

*Published and Distributed Throughout the World by*

CHARLES C THOMAS • PUBLISHER, LTD.  
2600 South First Street  
Springfield, Illinois 62704

This book is protected by copyright. No part of it may be reproduced in any manner without written permission from the publisher. All rights reserved.

© 2005 by CHARLES C THOMAS • PUBLISHER, LTD.

ISBN 0-398-07589-1 (hard)  
ISBN 0-398-07590-5 (paper)

Library of Congress Catalog Card Number: 2005048531

*With THOMAS BOOKS careful attention is given to all details of manufacturing and design. It is the Publisher's desire to present books that are satisfactory as to their physical qualities and artistic possibilities and appropriate for their particular use. THOMAS BOOKS will be true to those laws of quality that assure a good name and good will.*

*Printed in the United States of America  
SM-R-3*

#### **Library of Congress Cataloging-in-Publication Data**

Critical issues in police discipline : case studies / edited by Lewis G. Bender  
... [et al.].

p. cm.

"A project of the Illinois Law Enforcement Executive Institute at Western Illinois University."

Includes bibliographical references.

ISBN 0-398-07589-1 -- ISBN 0-398-07590-5 (pbk.)

1. Police--United States--Discipline. 2. Police administration--United States.  
3. Police--Illinois--Discipline--Case studies. I. Bender, Lewis G. II. Illinois Law Enforcement Executive Institute.

HV7936.D5C75 2005

363.2'068'3--dc22

2005048531

## CONTRIBUTORS

**Aimee B. Anderson** is a partner at Wildman, Harrold, Allen, and Dixon LLP and concentrates her practice in the areas of product liability defense, local governmental liability, and civil rights litigation. Ms. Anderson was formerly a senior counsel in the police policy section of the City of Chicago Law Department and has served on committees of the American Bar and Chicago Bar Associations, as well as the Illinois Law Enforcement Training and Standards Board. She has written and lectures extensively to bar associations and law enforcement agencies on topics such as discovery and trial practice in civil litigation, racial profiling, and civil rights litigation.

**Dr. Lewis G. Bender** is a professor in the Department of Public Administration and Policy Analysis at Southern Illinois University Edwardsville. He teaches courses in supervision, leadership, and policy analysis. He received his Ph.D. from the University of Georgia in 1977. His research and career focus has been on team development and factors impacting workplace teams. His research and writing includes topics such as inter-generational issues, dealing with problem employees and creating more effective approaches to performance appraisal within teams. He has extensive experience working with law enforcement agencies.

**Dr. Jerry L. Dowling** earned his Doctor of Jurisprudence degree from the University of Tennessee and

has been a professor at the College of Criminal Justice, Sam Houston State University (SHSU) since 1972. His primary areas of teaching and research include criminal law, pretrial criminal procedure, and the legal aspects of criminal justice management. In addition to his academic duties, Dr. Dowling has conducted numerous law enforcement training seminars on legal issues affecting police officers and police administrators. He currently teaches as a faculty member at the Bill Blackwood Law Enforcement Management Institute. Prior to joining the faculty of SHSU, Dowling worked as a special agent with the Federal Bureau of Investigation. He has authored several publications in the field of criminal procedure and police personnel practices. He is involved in Justex Systems, Inc., a public safety labor relations consulting firm, and serves as editor of *Police Labor Monthly* and *Fire Service Labor Monthly* newsletters.

**Dr. Robert J. Fischer** received his doctorate from Southern Illinois University. He taught in the Law Enforcement and Justice Administration Department at Western Illinois University and served as department head. Fischer also worked as a police officer in Norman, Oklahoma. Over the past ten years, Dr. Fischer has served as the Director of the Illinois Law Enforcement Training and Standards Board's Executive Institute. In January 2002, Dr. Fischer retired to work full time as the president of Assets Protection Associates, Inc.

**Dr. Larry T. Hoover** received his Ph.D. from Michigan State University and has been a criminal justice faculty member at Sam Houston State University (SHSU) since 1977. Dr. Hoover is a past president of the Academy of Criminal Justice Sciences and recipient of the O.W. Wilson Award from the academy's police section. He directs the Police Research Center at SHSU. A former police officer in Lansing, Michigan and training coordinator with the Michigan Law Enforcement Training Council, he also served on the faculty at

Michigan State University. He is editor of the anthologies *Police Management: Issues and Perspectives*, *Quantifying Quality in Policing*, and *Police Program Evaluation*, all published by the Police Executive Research Forum. In addition, he coauthored of *Enduring, Surviving, and Thriving as a Law Enforcement Executive*.

**Dr. Thomas J. Jurkanin** serves as Executive Director of the Illinois Law Enforcement Training and Standards Board, a position he has held since 1992. He is also Founder and Director of the Illinois Law Enforcement Executive Institute and Senior Editor of the Law Enforcement Executive Forum, both at Western Illinois University. Dr. Jurkanin has 30 years of experience in the policing field and has authored and co-authored a number of books and journal articles. He is a long-time member of the Education and Training Committee of the International Association of Chiefs of Police and serves on the Governor's Law Enforcement Medal of Honor Committee. Jurkanin holds a Ph.D. from Southern Illinois University in Education and Social Justice.

**Dr. Terry M. Mors** is an associate professor with the Department of Law Enforcement and Justice Administration at Western Illinois University. Dr. Mors received a B.G.S. degree from Roosevelt University, an M.A. degree in law enforcement and justice administration from Western Illinois University, and an Ed.D. degree from Northern Illinois University. Having worked for the Gurnee, Illinois police department in numerous positions ranging from patrol officer to commander, Mors possesses over 17 years of law enforcement experience. Professor Mors teaches undergraduate and graduate criminal justice courses at the university level, and has made numerous presentations worldwide on various topics in law enforcement and criminal justice.

**Dr. Vladimir A. Sergevnin** is a Director of Illinois Police Corps Academy and the editor of *Law Enforcement Executive Forum* journal. He earned his Ph.D. at the Moscow Institute of National Economy in 1986. He has 25 years of teaching experience at Illinois State University, Western Illinois University, Saint Petersburg University, and Vladimir Juridical Institute (Russia). He has published over 60 articles and has written seven books.

**Michael J. Zopf** received a BS from the University of Illinois in 1976 and a JD from the University of Illinois College of Law in 1979. He has worked for the Champaign County State's Attorney's Office and presently has his own private practice. He is also a police training specialist at the University of Illinois Police Training Institute as well as a guest lecturer for the University of Illinois College of Law.

**Donald R. Zoufal** is currently the Deputy Commissioner for Safety and Security for the City of Chicago's Department of Aviation. He holds three degrees from the University of Illinois in law (J.D.), public administration (M.A.P.A.), and history and political science (B.A.) and is a Lieutenant Colonel in the U. S. Army Reserves. As a reserve officer he was the Chief Planning Officer for the United Nations International Police Task Force in Bosnia. He is also currently the Chair of the Law Section and legal advisor to the Illinois Association of Chiefs of Police. He was recently the Chief Legal Counsel for the Illinois Department of Corrections. He is also the former Chief of Policy Litigation for the City of Chicago and General Counsel of the Chicago Police Department.



**Personnel Management Retreat  
Panel Roster  
Rend Lake Resort  
January 8-10, 2002  
Discussion Panelists**

This book of case studies exists because in January of 2002, Dr. Thomas Jurkanin, executive director of the Illinois Law Enforcement Training and Standards Board invited twenty-three (23) police chiefs, sheriffs and legal experts together to discuss case examples of police misconduct. For two (2) days this highly experienced and distinguished panel presented, analyzed, and critiqued over twenty (20) cases of law enforcement officer misconduct. This book attempts to capture the essence of the collective wisdom and knowledge of the following august panel.

CHIEF CARL J. ALEXANDER  
*Danville Police Department*

AIMEE B. ANDERSON  
*Senior Counsel  
Commercial and Policy Litigation  
City of Chicago Department of Law*

CHIEF ROBERT ARNONY SR.  
*Centralia Police Department*

LEWIS G. BENDER, PH.D.  
*Southern Illinois University, Edwardsville*

SHERIFF ROY D. BRADFORD  
*Jefferson County Sheriff's Office*

ASST. CHIEF ROGER CUNNINGHAM  
*Charleston Police Department*

CHIEF JOSEPH T. DAKIN  
*Kewanee Police Department*

CHIEF MICHAEL D. DEVOSS  
*Quincy Police Department*

DR. JERRY L. DOWLING  
*Justex Systems, Inc.*

ED EDWARDS  
*Field Training Specialist, ILETSB*

CHIEF ROBERT T. FINNEY II  
*Carbondale Police Department*

CHIEF GERRIT M. GILLESPIE  
*Collinsville Police Department*

CHIEF MICHAEL HOLUB  
*River Forest Police Department*

CHIEF OF OPERATIONS BRIAN HOWERTON  
*Schaumburg Police Department*

JOHN F. JANSSEN  
*Manager of Field Training, ILETSB*

THOMAS J. JURKANIN, PH.D.  
*Executive Director, ILETSB*

CHIEF EUGENE S. KARCEWSKI  
*Riverside Police Department*

SHERIFF WILLIAM D. KEAN, JR.  
*Ford County Sheriff's Office*

SHERIFF DANIEL J. KELLEY  
*Monroe County Sheriff's Office*

THOMAS F. MCGUIRE, ESQ.  
*Thomas F. McGuire and Associates, LTD.*

VLADIMIR A. SERGEVNIKIN, PH.D.  
*Director Illinois Police Corps Academy*

JENNIFER WOOLDRIDGE  
*Program Coordinator, ILETSB*

PATRICK F. VAUGHAN  
*Board Consultant, ILETSB*



## PREFACE

A concern frequently voiced by police chiefs and sheriffs from small and large departments is that even when the vast majority of officers do their job correctly and in a professional manner, the law enforcement leader still must face the hassles involved with lawsuits and other problems caused by a few “bad apple” employees. A single incident of misconduct in any metropolitan or rural police department can create a dramatic and fast chain reaction within a department and the community it serves. Indeed, numerous examples of police misconduct have captured the attention of the entire country. Police misconduct can undermine the very mission of law enforcement in society—to serve and protect people, and enforce the laws.

Political, cultural, racial, ethnic, and social expectations of the nation have changed. Today, people are expecting uniformed police officers not only to carry a badge and gun but also to demonstrate extraordinary high standards of moral judgment and humanity. To meet these expectations, the law enforcement community has to utilize a zero tolerance approach to police misconduct and elevate the ethical requirements and training for officers. Law is based on moral principles, and individuals who enforce the law cannot be immoral.

It is the discipline of law enforcement officers that has the most significant and powerful effect upon the delivery of the police mission to citizens. These case studies are designed to assist current and future police administrators in navigating through difficult discipline and management issues.

The genesis of this book was a law enforcement retreat conducted in the state of Illinois in January 2002. The Illinois Law Enforcement Training and Standards Board (ILETSB) was interested in identifying skills, knowledge, solutions, and best practices for police executives to manage personnel through discipline. Contemporary literature provides very limited assistance for law enforcement managers in dealing

with problem employees or misconduct incidents. ILETSB was looking for *practical* not theoretical solutions from the two-day brainstorming session.

The discussion led to the following line of inquiry: “What were the most important issues, and concerns in the discipline cases?”, “What factors had undermined effective resolution of the cases?”, and “What has made you successful as a law enforcement executive in dealing with problem employees?”

The case content of this book reflects the collective experience and dedication of a highly experienced group of Illinois police chiefs and sheriffs. The contributing law enforcement executives represent large and small departments; urban, suburban, and rural communities; and lower and upper income areas. Law enforcement executives developed the ideas, solutions, and practical suggestions throughout the book. The observations of the participants were compiled in draft documents. As coordinating authors, we organized this incredible wealth of knowledge into chapters. We also added material from our knowledge and experiences in working with law enforcement executives from throughout the country and abroad. The cases in the book are fictional, based on the collective experiences of the participants.

In-depth legal analyses and perspectives were offered by Terry M. Mors, Michael J. Zopf and Donald R. Zoufal. Their combined experience in directly dealing with legal issues facing law enforcement executives is an impressive resource for this volume. The writings of all contributors to this text provide readers with an extremely timely and useful body of information.

This book examines the problem of police discipline from the collective perspective of professional law enforcement leaders. It also examines State of Illinois and national case law relative to the cases presented. While not all possible topics could be included, those cases that have been chosen are relevant to the police discipline issues that most law enforcement leaders must face.

This is a faithful attempt to reflect the collective wisdom of an impressive panel of law enforcement leaders. We recognize that time, lack of specific recall, and our own limitations are barriers to recounting all of the insights of this distinguished panel. We are grateful for their participation.

LEWIS G. BENDER  
THOMAS J. JURKANIN  
VLADIMIR A. SERGEVNIN  
JERRY L. DOWLING

## CONTENTS

|  | <i>Page</i> |
|--|-------------|
| <i>Preface</i> .....   | .xi         |
| <i>Chapter</i>   |             |
| 1. Introduction: Critical Issues in Police Discipline .....                              | .3          |
| 2. Case Studies of Police Misconduct .....   | .13         |
| Case 1: The Out of Town Binge (Alcoholism) .....   | .16         |
| Case 2: Politically Incorrect (Upper Command Conflict) .....                             | .22         |
| Case 3: Synchronized Flu Symptoms (Blue Flu) .....                                       | .27         |
| Case 4: Terminating a Minority Employee (Minority Rights) ...                            | .33         |
| Case 5: Labor Pains (Pregnant Borderline Employee) .....                                 | .40         |
| Case 6: Questionable Judgment (New Officer Judgment) .....                               | .46         |
| Case 7: Flare-Up at Home Fuels Fire at Work<br>(Officer Domestic Call) .....             | .51         |
| Case 8: Loyalty Dilemma (Mental Illness) .....   | .57         |
| Case 9: The Anonymous Letter (Sneak Attack) .....  | .62         |
| Case 10: Fender-Bender has Big Impact<br>(Failure to Report an Accident/Lying) .....     | .67         |
| Case 11: Careless Comments Offend Onlookers<br>(Poor Community Relations) .....          | .71         |
| Case 12: Community Policing Isolates Officer<br>(Command-Officer Disconnect) .....       | .78         |
| Case 13: Sick Time Leads to Headaches for the Chief<br>(Sick Time Abuse) .....           | .84         |
| Case 14: Cop Canned for Counterfeit Certificate<br>(Falsified Records) .....             | .90         |
| Case 15: Hiring Secretary Has Political Repercussions<br>(Politics/Best Applicant) ..... | .95         |

|   |     |
|---|-----|
| Case 16: Deputy Causes Injury to Prisoner and Fails to Report It (Prisoner Abuse) ..... | 100 |
| Case 17: Crass Commanding Officer Censured (Abusive Commanding Officer) .....           | 106 |
| 3. Personnel Issues and Cases in Law Enforcement:<br>The National Perspective .....     | 113 |
| 4. Managing Personnel: Best Practices and Solutions .....                               | 129 |

**CRITICAL ISSUES  
IN POLICE DISCIPLINE**





## Chapter 1

### INTRODUCTION: CRITICAL ISSUES IN POLICE DISCIPLINE

*Good news: We have an outstanding staff.  
Bad news: They are only human.*

#### THE SCOPE AND NATURE OF THE PROBLEM

There is no component more valuable or potentially hazardous to a law enforcement agency than its employees. Police discipline in United States law enforcement agencies has been a controversial issue since the birth of the first police organization. “To study the history of police is to study police deviance, corruption, and misconduct” (Kappeler, Sluder & Alpert, 1998, p. 28). The impact of police misconduct on police organizations and the public they serve is tremendous. Because of the nature of the police mission and the public perception of law enforcement officers, police discipline continues to be a significant and evolving issue.

The importance of discipline is greater in law enforcement agencies than other organizations because of the special requirements of trust imposed by the dual mission of protecting the public and providing law and order maintenance services. By its very nature law enforcement creates opportunities for individual officers to misuse their authority. Police organizations need the kind of discipline that prompts subordinates to willingly carry out the instructions of their supervisors and abide by the established and known rules of conduct within the community. The public expects and demands a certain level of service and integrity from the police. Never in history have

police been held more accountable (Trojanowicz & Bucqueroux, 1990). The police are the most visible representatives of government in their community. To be effective law enforcement leaders must attentively guard their profession while protecting human rights and the lives of their citizens.

Public confidence in law enforcement can be negatively impacted from many sources. For example, mass media stories of police misconduct oftentimes erode public trust in law enforcement. Clearly some stories are exaggerated or without merit, however, many media stories are based in fact. For example, approximately 74 percent of all civil rights investigations reported each year allege police misconduct. The FBI reports that the most common types of police misconduct include excessive force, sexual assault, intentional false arrest, falsifying evidence, extortion, and other related offenses (Freeh, 1999).

### ***Lawsuits***

Police misconduct and the use of discipline by law enforcement agencies must be viewed within the context of the evolving litigious environment. In years past, the misconduct of an officer, or the disciplinary actions of a department rarely led to criminal or civil litigation. That is no longer the case. Lawsuits filed against police officers and their departments have become commonplace. Over 30,000 civil actions are filed against police officers and law enforcement agencies every year. About one of every 30 officers is sued each year, with between 4–8% of them resulting in an unfavorable verdict in which the average jury award is between \$187,000 and \$1.75 million per case. This does not include the huge sums of money spent on legal fees (Anderson, 2001). In addition, there are hundreds of cases settled through out-of-court settlements. These cases probably cost hundreds of millions and involve about half of all cases filed. It may take up to five years to settle a police liability case.

Such lawsuits have often resulted in conflicts between the officer and his or her department over issues of procedure and supervision. One recent survey indicated that 56 percent of the responding chiefs of police felt that fear of lawsuits was rational and not excessive. In addition, 86 percent of the responding chiefs believed that some lawsuits had helped make police better and more professional (Martinelli & Pollock, 2000).

Civil liability and court decisions dealing with employer/employee rights have changed the military-like, autocratic discipline of some departments and introduced more flexible attitudes. Over past decades, the decisions of state and federal courts have tended to support police officers more than police agencies in issues related to personal conduct. The largest number of police disciplinary cases arise under rules prohibiting “conduct unbecoming a police officer.” Traditionally, these rules, in many agencies, have been vague and ambiguous. They attempt to control an officer’s conduct both on and off duty. As a result, most conduct unbecoming regulations have been challenged for being unconstitutionally vague, with the basis for the claim resting on the concept of “reasonableness” as it is applied to the misconduct (Swanson, Territo & Taylor, 1993). Lawsuits and evolving court rulings have forced law enforcement agencies to search for new tools and approaches in regulating police officer conduct and discipline.

### ***Discipline in Law Enforcement***

The term “discipline” derives from the root word “disciple,” which denotes one who receives training, education, knowledge and skills from a teacher or mentor. This historic definition reflects the essential characteristic of discipline: to be a functional tool for training and development of a person. Over the years this positive, developmental, view of discipline has been supplanted by a more negative, even insidious, view. For many, disciplinary action has come to mean only punishment. The developmental and learning aspects of rendering and receiving discipline can be quickly lost in a litigious and/or union-management environment.

Nonetheless, discipline should involve many goals and should not be narrowly defined or utilized. To be effective, discipline must involve moral or mental training, professional education, behavioral control and regulation, correction and finally, as a last alternative, chastisement (Iannone & Iannone, 2001). Discipline should be viewed as a form of training that helps to produce desirable professional behaviors. Mayer (1999) suggests that discipline should involve instruction and training that corrects, molds, strengthens, or perfects the processes by which management ensures that conduct of subordinates conforms to its standards.

In essence, the basic long-range purpose of discipline is to develop