

**ISSUES AND CASES IN
LAW ENFORCEMENT**

ABOUT THE AUTHOR

Dr. James J. Vardalis has experienced the criminal justice system from both academic and professional positions. He began his criminal justice career as a correctional officer in a maximum security state prison. His assignments included security duties in the sex offenders' wing of the prison, managing death row inmates and prisoner court transportation. This knowledge base served as an excellent platform for the next decade of police officer service. During his 15 years of full-time law enforcement employment, Dr. Vardalis served in a number of supervisory/commander capacities, including patrol, investigation services, covert narcotics investigations, and community service programs. His experience with the judicial system includes more than 500 court and grand jury appearances. He has attended numerous police management and training institutes, including the New Jersey State Police Academy, advanced training at the University of Louisville, and the 12-week residential Drug Enforcement Administration National Academy in Washington, DC. His extensive training in multiple states has provided police officer certification in New Jersey, Florida, and Texas. Dr. Vardalis continues to provide consulting for many law enforcement agencies throughout the country in areas of promotion assessment, community policing implementation strategies, and grant and funding evaluations. Since earning his master's and doctoral degrees, he has spent the last 15 years in academia serving as criminal justice faculty, department chair, and criminal justice director. He has authored three books and numerous peer-reviewed academic journal articles dealing with criminal justice issues. Dr. Vardalis is currently Department Head and Director of criminal justice undergraduate and graduate studies at Tarleton State University in Stephenville, Texas.

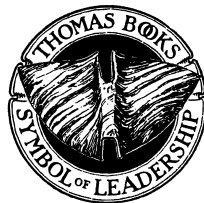
ISSUES AND CASES IN LAW ENFORCEMENT

Decisions, Ethics and Judgment

By

JAMES J. VARDALIS, PH.D.

*Criminal Justice Program
Tarleton State University
Stephenville, Texas*



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FOREWORD

Law enforcement and community concerns continue to change and become more challenging for police personnel. The actions of police officers at the time of an event and their response to crime problems have a direct correlation to the successful prosecution of the offender. The complexities of proper case presentation, testimony, and prosecution in today's environment necessitate that people working in the system have a clear understanding of contemporary dilemmas. Law enforcement officers must use all of the resources available to them in order to develop the skills and the ability to analyze and understand complex materials and investigations. They must seek to increase their ability to write clear and comprehensive reports to document sometimes very complicated events, clearly articulate intricate details in a court of law, and react appropriately to people of different cultures and people with varied problems and perceptions.

Individuals who are currently employed in the criminal justice system and those who plan to enter will benefit from reading *Issues and Cases in Law Enforcement* by Dr. James J. Vardalis. The book presents a variety of stimulating cases and issues that provoke critical analysis of emerging issues in the field. The readers are provided an opportunity to experience many of the difficult predicaments they can encounter on the streets, and by taking advantage of applying proactive thought and consideration it will improve their decision-making process.

Issues and Cases in Law Enforcement provides readers with the opportunity for open exploration of sensitive issues and an understanding of cultural and racial concerns, and it promotes a productive discussion regarding critical topics in law enforcement.

MR. JASON CASHON
District Attorney for the State of Texas
and Board Certified Specialist in Criminal Law
by the Texas Board of Legal Specialization

PREFACE

In the field of law enforcement, the concept of policing has changed from simply patrolling and responding reactively to calls for service to an approach to societal problems that requires police officers to employ good judgment and solve community problems. Good judgment and effectiveness of street patrol are often related to the ability to understand the fabric of the community as well as the tolerance of other viewpoints. In the past, police have demonstrated a resistance or an indifference to points of view outside their own. The role of police is shifting from a reactive approach to a systematic and objective analysis of the community problems that, in many cases, require a complete change in police perspective. Additionally, several new models for investigation, crime detection, crime control, homeland security, and management demand a partnership with the community coupled with analytical skills. The complexities of protecting communities from crime victimization necessitate that people working in the system must have skills and the ability to analyze and understand complex issues and problems. In addition to crime issues, law enforcement personnel must recognize the changes occurring within the American population and learn to react appropriately to people of different cultures and people with a variety of problems and perceptions.

Numerous studies have reported that law enforcement officers who have been exposed to training and case study evaluations select better solutions to criminal justice problems. Decisions supported by case study review provide insight and clarity to complex issues. This is particularly important based on the philosophy that many people working within the criminal justice system have been given a higher level of autonomy in selecting alternative solutions to community problems.

This book seeks to provide law enforcement officers with exposure to difficult situations via case study review to many of the dilemmas and situations they may face in the future. The main objective of the book is to provide a learning tool for criminal justice personnel who are seeking to improve the profession, advance proficiency, and increase performance. The situations in

this book are based on the experience of the author, cases relayed to the author, lawsuits, and reported events or situations. For pedagogical reasons, many of the events, locations, situations, and outcomes have been altered to enhance student interest and learning outcomes. The fictitious names and published cases contained in this book have been intentionally altered, changed, or disguised to avoid any identification to a real event. However, each of the cases has been designed to confront difficult decision-making issues, force students to identify essential information, analyze facts appropriately, identify mistakes, recognize alternatives, choose alternatives, and make reasonable conclusions.

Many law enforcement professionals shared information with the intent to improve this honorable profession. The people involved in compiling, sorting, editing, and organizing this book are innumerable; therefore, to mention anyone at this point would undoubtedly overlook important contributors. Therefore, an open thank you to all current and retired men and women of the law enforcement profession is more appropriate.

J.J.V.

INTRODUCTION

The rapid development of technology, the changing economic climate, and the increasing diversity of the U.S. population create a variety of new and unique problems for people working within the criminal justice system, especially law enforcement. In terms of technology development, video cameras have captured law enforcement mistakes and oversights and posted them for viewing around the world. This type of selective and extremely negative projection of the police is distorting their public image. Crimes utilizing the Internet as a tool are rapidly emerging as the method of choice. Modern police are facing community problems with unfamiliar packaging and are dealing with ever-changing community directions. The United States has an ever-increasing diverse population that is now approaching 300 million people, many of whom are facing unemployment issues and lost opportunities or investment prospects, and others are waiting for the government to correct social and economic problems. The challenges associated with this change directly affect the criminal justice system, necessitating transformation and progress. Many criminal justice leaders have recognized that new concepts and approaches in the delivery of judicial/law enforcement/corrections/ security service will need to emerge.

In the area of law enforcement, the concept of policing has undergone radical change within the last two decades—changing from patrolling and responding to calls for service to an approach to problems that requires police officers to be problem solvers and advisors to the community. Moreover, law enforcement must develop and deploy strategies contingent upon analysis of the incident and circumstances. The role of police has transferred from a reactive patrol approach to a systematic and objective analysis of community problems that, in many cases, require the police to engage tactics that are endorsed by society. Additionally, several new models for police investigation, crime detection, crime control, homeland security, and police management demand advanced law enforcement skills and approaches. Under the current climate of national security, one of the more important concepts is for police to understand and appreciate their role in a free socie-

ty.

This book attempts to identify complex law enforcement situations that provoke discussion and analysis. The cases are categorized into 26 chapters or case studies. Each has been labeled with a corresponding letter of the police phonetic alphabet in order to familiarize the reader with words used to identify letters when using police radios. With the advent of patrol vehicle computers, the author realizes that this means of communication has a limited life. Nevertheless, the chapters are numbered and lettered for identification but are not sequential regarding subject matter.

The main purpose of the cases is to increase the reader's skill in analyzing difficult dilemmas and making decisions regarding the outcome. It is important to understand that analysis is applied to problems or issues and alternatives are developed from proper analysis of the problem. The cases were written to cover a wide variety of topics and provoke thought and consideration, and they were not developed to assign blame or misconduct. The intention of the events described in the chapters is to improve law enforcement professionalism. The skills essential to the successful application of law enforcement go far beyond the basic academy training. The skills acquired through case study analysis will contribute to exceptional preparation required for professional policing.

The author is a supporter of, and participant in, the ongoing process of providing educational material to present and future employees of the criminal justice system and is dedicated to improving the image and safety of the men and women seeking to enter, improve, or advance in this honorable profession.

ACKNOWLEDGMENTS

Although many extremely important people and agencies have earned mentioning in this section of the publication, they are far too numerous to even begin constructing a list. However, the recognition of two groups, police officers and military personnel, is appropriate.

First, the only objective of this book is to make a contribution to the advancement and professionalism of the law enforcement vocation. Many continue to take the dedicated service of police work for granted as evidenced by the unrelenting verbal and published criticism of enforcement decisions and actions. Having served more than 15 years as a full-time law enforcement officer, the experience has furnished firsthand knowledge of the commitment required from the men and women currently serving, retired, or about to enter this honorable profession.

Second, as a former U.S. Marine who served in Vietnam, the experience provided an understanding of the enormous dedication of our military personnel. The willingness to serve this country in an extraordinarily complicated world of conflict and politics is beyond commendable. Although many people voice their understanding for military personnel and their families, few will actually know the innumerable sacrifices endured while serving and during the years after returning home.

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Law Enforcement Code of Ethics

This book incorporates many areas dealing with the following topics

All law enforcement officers must be fully aware of the ethical responsibilities of their position and must strive constantly to live up to the highest possible standards of professional policing.

The International Association of Chiefs of Police believes it is important that police officers have clear advice and counsel available to assist them in performing their duties consistent with these standards and has adopted the following ethical mandates as guidelines to meet these ends.

Primary Responsibilities of a Police Officer

A police officer acts as an official representative of government who is required and trusted to work within the law. The officer's powers and duties are conferred by statute. The fundamental duties of a police officer include serving the community; safeguarding lives and property; protecting the innocent; keeping the peace; and ensuring the rights of all to liberty, equality, and justice.

Performance of the Duties of a Police Officer

A police officer shall perform all duties impartially, without favor or affection or ill will and without regard to status, sex, race, religion, political belief, or aspiration. All citizens will be treated equally with courtesy, consideration, and dignity.

Officers will never allow personal feelings, animosities, or friendships to influence official conduct. Laws will be enforced appropriately and courteously;

in carrying out their responsibilities, officers will strive to obtain maximum cooperation from the public. They will conduct themselves in appearance and deportment in such a manner as to inspire confidence and respect for the position of public trust they hold.

Discretion

A police officer will use responsibly the discretion vested in the position and exercise it within the law. The principle of reasonableness will guide the officer's determinations, and the officer will consider surrounding circumstances in determining whether any legal action shall be taken.

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Consistent and wise use of discretion, based on professional policing competence, will do much to preserve good relationships and retain the confidence of the public. There can be difficulty in choosing between conflicting courses of action. It is important to remember that a timely word of advice rather than arrest, which may be correct in appropriate circumstances, can be a more effective means of achieving a desired end.

Use of Force

A police officer will never employ unnecessary force or violence and will use only such force in the discharge of duty as is reasonable in all circumstances.

Force should be used only with the greatest restraint and only after discussion, negotiation and persuasion have been found to be inappropriate or ineffective. While the use of force is occasionally unavoidable, every police officer will refrain from applying the unnecessary infliction of pain or suffering and will never engage in cruel, degrading, or inhuman treatment of any person.

Confidentiality

Whatever a police officer sees, hears, or learns of, which is of a confidential nature, will be kept secret unless the performance of duty or legal provision requires otherwise.

Members of the public have a right to security and privacy, and information obtained about them must not be improperly divulged.

Integrity

A police officer will not engage in acts of corruption or bribery, nor will an officer condone such acts by other police officers.

The public demands that the integrity of police officers be above reproach. Police officers must, therefore, avoid any conduct that might compromise integrity and thus undercut the public confidence in a law enforcement agency. Officers will refuse to accept any gifts, presents, subscriptions,

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favors, gratuities, or promises that could be interpreted as seeking to cause the officer to refrain from performing official responsibilities honestly and within the law. Police officers must not receive private or special advantage from their official status. Respect from the public cannot be bought; it can only be earned and cultivated.

Cooperation with Other Officers and Agencies

Police officers will cooperate with all legally authorized agencies and their representatives in the pursuit of justice.

An officer or agency may be one among many organizations that may provide law enforcement services to a jurisdiction. It is imperative that a police officer assist colleagues fully and completely with respect and consideration at all times.

Personal/Professional Capabilities

Police officers will be responsible for their own standard of professional performance and will take every reasonable opportunity to enhance and improve their level of knowledge and competence.

Through study and experience, a police officer can acquire the high level of knowledge and competence that is essential for the efficient and effective performance of duty. The acquisition of knowledge is a never-ending process of personal and professional development that should be pursued constantly.

Private Life

Police officers will behave in a manner that does not bring discredit to their agencies or themselves.

A police officer's character and conduct while off duty must always be

exemplary, thus maintaining a position of respect in the community in which he or she lives and serves. The officer's personal behavior must be beyond reproach.

Note: Adopted by the Executive Committee of the International Association of Chiefs of Police on October 17, 1989, during its 96th Annual Conference in Louisville, Kentucky, to replace the 1957 code of ethics adopted at the 64th Annual IACP Conference.

**ISSUES AND CASES IN
LAW ENFORCEMENT**

Chapter 1

Case: *Alpha Case Study*

Location: **South Florida**

Issue: **Race Relations and Street Disturbance**

INTRODUCTION

In 1968, the Kerner Commission issued a report regarding their findings on police race relations. The report was abundantly clear that much of urban violence reflected the profound frustration of urban blacks and that racism was deeply embedded in American society. Contained in the report was an observation and warning that the United States was moving toward two societies, one black and one white, and that they were separate but not equal.

Entertaining and filling idle hours with constructive programs for young people during the summer continues to challenge city governments. Many innovative programs have been introduced over the years; however, the economic downturn has suspended many of them. In the urban areas of South Florida, free entertainment is limited, especially within minority communities. During schools' summer recess, many young people seek some type of entertainment and socialization. Many resident, amateur musicians fill this void by providing free live music. Without advertising or announcement, other than word of mouth, loosely formed musical groups set up on vacant lots in residential areas on Saturday or Sunday night and play music. They often obtain electric to power their instruments via an extension cord from a sympathetic or supporting adjoining property dweller. Frequently

the event will draw large crowds of young people eager to engage in dance, socialization, and interaction. Many bring alcoholic beverages, and some enterprising individuals have taken advantage of the gathering to sell illegal drugs.

ISSUE

One South Florida law enforcement agency encountered a continuing problem of loud street music in the African American community. This community is located in the northwest area of the city. Approximately 25,000 residents live in this area of the city comprising six public housing buildings, several privately owned apartment complexes, some private homes, and a small business zone that contains vacant sites mixed with small struggling business owners. The small run-down convenience store in the area has a limited selection, which requires residents to drive 6 miles to the nearest supermarket. The unemployment and crime rates are above the state and city average. On August 8, 2008, a group of five young residents decide to set up their musical instruments on a vacant lot two blocks from their apartment complex. The vacant lot is owned by an out-of-state elderly couple who have no plans to develop it and little interest in maintaining the land. Ricky Smith and four other high school about-to-be seniors have invested a substantial amount of money into musical instruments and time into practice. They trust their music and believe it is their route to success. They are more interested in producing good music than schoolwork; therefore, almost all of their effort is directed toward practice and listening to music. They are not good students and not sure if they will complete high school, and they have talked about dropping out of school to become full-time musicians. No one in the group has a criminal record, although they all use marijuana. They spend the day clearing some trash and a discarded washing machine from the lot, which they intend on using to perform. A school friend who lives directly to the rear of the lot agrees to provide the electricity in exchange for band association. Because the band is considered pretty good, it may be of some social value for the friend to have a recognizable part in the setup. In addition to providing the electricity, the friend strings several lines of white Christmas lights on the tree behind the location where the band will play. The group begins to assemble

about 9:00 p.m. and starts playing by 9:30 p.m. Despite the warm temperature of an August summer night, by 11:00 p.m., the amplified music draws about 200 young people. The music is loud and there appears to be substantial alcohol use and some drug use, but for the most part the crowd is orderly. At approximately 11:40 p.m., the first call to the police is received. It is from a woman with a young child to complain that the loud music is preventing her child from sleeping. The second call to the police is received about 5 minutes later at 11:45 p.m. from an elderly couple complaining about loud music and the failure of police action.

At 11:46 p.m., Unit 2343 from the central district is dispatched as a loud music complaint to the vacant lot address. The unit is a two-officer marked patrol vehicle. Officer Richard Market is a seasoned 10-year white male officer, and the other is Officer Rebecca Miles, a white female and 5 months out of the police academy. The officers are told that an elderly couple living in the adjacent apartment building called the police about the loud music. Additionally, a family called the police complaining that their child could not sleep.

Upon their arrival at the site at 11:49 p.m., the officers observe that the call is to an urban setting in a vacant lot, which is among a row of mid-rise public housing units. A group of aspiring young musicians is set up near the back of the lot about 150 feet from the street, and a 100-foot extension cord is run from a nearby apartment to power the amplifier. More than 200 young people are in the lot, in the street, and sitting on cars. Some alcohol drinking can be observed, several cars are parked along the street, and groups of young people are talking and dancing. The music is loud, and the bass seems to permeate the neighborhood. It is a typical hot South Florida summer Sunday night, nearing midnight. The officers notify dispatch that in fact there is a large crowd and loud music and they will be out at the scene. Another unit is automatically dispatched but is about 10 minutes away.

Before exiting the patrol vehicle, Officer Market tells his partner that the police are in charge of this neighborhood and police have the authority to keep the peace. Officer Miles makes a comment that while in training they told her about the danger of alcohol and crowds. He tells her to forget whatever they told her in the academy, these people are disturbing the peace of others. He continues to focus his conversation on the fact that other people in the community have the

right to sleep and seems angered by several of the young people dancing and ignoring the presence of a marked police vehicle. Both officers exit the vehicle and begin to work their way through the crowd toward the band. About 25 feet from the police vehicle, the crowd becomes vocal and negative regarding the police. Officer Market tells Miles to return to the police vehicle while he continues. Several people in the crowd, anticipating that the police will stop the music, fail to move out of the path of Officer Market. His serpentine route provides more exposure to the crowd that the police are present. Once Officer Market reaches the band, without warning, he locates and pulls the electrical plug from the extension cord, instantly stopping the loud music, extinguishing the few strings of lights, and getting full and immediate attention from the crowd. He shouts to the band that amateur night is over and they should be ashamed to call this music. The band leader, Ricky Smith, reacts with profanities toward the officer, and Officer Market adds that they are nothing more than a street gang and belong in jail. After a few verbal exchanges, Officer Market decides to arrest Smith without comment or notice. When he attempts to grab Smith, his guitar strap breaks and the guitar falls to the ground. The crowd that has been focused on Officer Market and Ricky Smith sees this event as an assault on Smith and begins to throw rocks and bottles. Officer Market calls for backup. When Officer Miles hears the back-up call, she leaves the unlocked police vehicle to help her partner. While working through the crowd, she is hit with a bottle. For self-protection she uses her police-issued chemical spray on the crowd and calls for "officer down needs assistance." Officer Miles is surrounded by what she perceives as a threatening group; she decides to draw her weapon and points it at several people. The crowd around her reacts with panic, and they begin to run into and over each other, creating additional injuries. As people attempt to escape the area, they tell other people that the police are shooting at them, and this only panics more people. The unattended police vehicle becomes a symbol of police oppression and is ransacked and set on fire. The band equipment, amplifier, and extension cord are stolen, and several private vehicles are damaged. Twenty additional police units are called from several districts to quell the disturbance, creating a backlog of unanswered calls for service in several areas of the city for several hours.

At the end of the night, Officer Miles receives 16 stitches on her