

POLICE ETHICS

ABOUT THE AUTHOR

Dr. Tom Barker is a Professor of Criminal Justice at Eastern Kentucky University. He is the former Dean of the College of Criminal Justice at Jacksonville State University in Jacksonville, Alabama. A former police officer and a certified police academy instructor, Dr. Barker has been conducting research on police corruption and police misconduct for over thirty years. He has written six books and over twenty articles on these topics. In addition, he has conducted numerous workshops and seminars for a variety of police agencies throughout the United States on ethical issues in law enforcement. Dr. Barker has served as an expert witness in both federal and state courts on police ethical behavior on numerous occasions.

Dr. Barker is a past president of the Academy of Criminal Justice Sciences (1987–1988) and the Southern Criminal Justice Association (1984–1985). He has received numerous awards, including the Founders Award from both the Academy of Criminal Justice Sciences and the Southern Criminal Justice Association.

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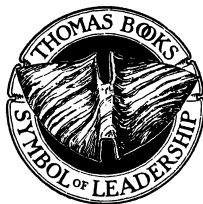
POLICE ETHICS

Crisis in Law Enforcement

By

TOM BARKER, PH.D.

*Professor of Criminal Justice
College of Justice and Safety
Department of Criminal Justice
Eastern Kentucky University
Richmond, Kentucky*



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PREFACE

The objective of this third edition is the same as it was for the first edition and the second: to provide law enforcement officers and law enforcement supervisors with an understanding of ethical behavior as it relates to the police occupation. The book is based on the premise that an ethical crisis has always existed in law enforcement and is the result of the nature of the police occupation; policing is and always has been a *morally dangerous occupation*.

The nature of police duties combined with the inherent power of the position insures that policing will always be morally dangerous for those who choose to join the occupation no matter how noble their intentions. Recognizing this fact is the key to understanding police ethical behavior.

Once we understand the moral dangers of the occupation, we can appreciate how important ethical standards are for police officers. If law enforcement is ever going to be recognized as a profession, we have to ensure that the behavior of all law enforcement officers (municipal, county, state, federal, and special district) conform to recognized ethical standards. The author hopes that this book will serve as a guide for new officers and a refresher for experienced officers as we move the occupation forward and make policing a profession that is real and not rhetoric.

T.B.

CONTENTS

	<i>Page</i>
<i>Preface</i>	v
<i>Chapter</i>	
1. POLICING – A MORALLY DANGEROUS OCCUPATION.....	3
2. PROFESSIONAL/OCCUPATIONAL ETHICS.....	15
3. LAW ENFORCEMENT CODE OF ETHICS – PARAGRAPH 1.....	20
4. LAW ENFORCEMENT CODE OF ETHICS – PARAGRAPH 2.....	25
5. LAW ENFORCEMENT CODE OF ETHICS – PARAGRAPH 3.....	31
6. LAW ENFORCEMENT CODE OF ETHICS – PARAGRAPH 4 AND 5.....	35
7. MAJOR LAW ENFORCEMENT ETHICAL VIOLATIONS.....	37
8. POLICE CORRUPTION.....	60
9. CORRUPT PRACTICES AND CORRUPTION CONTROL.....	74
10. ABUSE OF AUTHORITY.....	107
11. CONTROLLING POLICE UNETHICAL BEHAVIOR.....	126
12. CONCLUSION.....	143
<i>References</i>	147
<i>Index</i>	157

POLICE ETHICS

Chapter 1

POLICING – A MORALLY DANGEROUS OCCUPATION

INTRODUCTION

Since the publication of the first edition of this book in 1996, the reported instances of unethical behavior (criminal and noncriminal) by law enforcement officers at all levels of government have continued and become more visible. One of the traditional explanations for police unethical behavior has been that police-citizen confrontational encounters occur alone and unobserved – under a cloud of secrecy. For the most part, that is not true today. In the age of cell phones, surveillance cameras, dash cam recorders, and other video equipment, police abuse when it occurs has become more visible and disturbing. Videos showing instances of police use of excessive force are posted on the Internet and shown on the news before police supervisors are notified and can open an investigation. The cell-phone video of the shooting of an unarmed man on a train platform by a Bay Area Rapid Transit Police Officer in 2009 was widely circulated on the Internet and on news shows before the department started an investigation. Protests and riots quickly erupted in and around Oakland, California. The officer is currently on trial. YouTube has brought more attention to police unethical behavior than any government commission. The police officer of today must assume that any action he or she takes will be videotaped and posted on some website. It is amazing that police officers engage in egregious behavior when they know or should know that bystanders are taking pictures or videos. On March 3, 2010, after Maryland's basketball team defeated Duke, police were

called out to control the jubilant crowd. Students can be seen holding up their cell-phones, taking pictures or videos of the police and the celebration. Several officers were caught on video beating a University of Maryland student with nightsticks (Hayes, 2010). The video clearly repudiates the officers' original account of the incident. The student beaten by the officers was arrested and charged with assaulting mounted officers. The tape contradicts this "cover-up" attempt and the charges were dropped. The police spokesman is quoted as saying "Not only is the conduct of the officers on tape excessive – and it's clearly excessive –" there are other issues to address. The chief was quoted as saying he was outraged. One officer has been suspended and the prosecutor is investigating the incident. The FBI is also investigating the incident for civil rights violations. The Civil Rights Division of the Department of Justice is becoming more aggressive in the investigation and prosecution of law enforcement officers at all levels of government, as can be gauged by the numerous Department of Justice Press Releases cited in this edition.

Videos and surveillance cameras have demonstrated that on occasion law enforcement officers have lied and falsely arrested subjects. Two Detroit officers received three years probation after a gas station's security video showed they falsely accused a man of the possession of marijuana and carrying a concealed weapon (Swickard, 2010). The family of the victim, believing his protestations of innocence, found the video. Prosecutors in Columbia, South Carolina dropped the charge of resisting arrest against an attorney because the three officers involved refused to testify, fearing their testimony would incriminate them (Smith, 2010). State police are investigating the incident and surveillance videotape does not support the officers' story.

The police misuse of "nonlethal" weapons such as the TASER and chemical sprays is open to public scrutiny. The TASER is marketed as a low-level use of force, but the public does not see it that way. Continued misuse – horseplay on each other and relatives; use/misuse on children, some younger than ten; use/misuse on dead, unconscious, deaf, non-English-speaking subjects; use/misuse on handcuffed prisoners as punishment or retaliation; overuse (on any level of non-compliance), etc. – of what can be useful nonlethal weapons will result in severe restrictions or prohibition. A Naples, Florida officer was caught on tape zapping a female colleague with a TASER. Three Gwinnett County Police officers resigned, two in lieu of termination

and the third before his arrest, after a TASER incident involving a Waffle House Employee (Simmons, 2009). All three officers were regular customers where they received free food, in violation of department rules. One officer tasered the employee as a prank while the other two, both sergeants, watched. The officer that tasered the employee has been indicted for aggravated assault and violation of oath of office (Estep, 2010). In an effort to reduce public criticism, many departments are using the TASER as a defensive tool and not an offensive weapon and allowing it to be used only when the non-compliant subject poses a threat to the officers, citizens, or suspect.

Videos often do not tell the whole story surrounding questionable police actions. And, there is no doubt that any force, especially the use of weapons is never pretty whether it is necessary or unnecessary. The 2006 videotape of a Bernardino County Sheriff's Deputy shooting an unarmed Air Force military police officer was touted as an obvious instance of police brutality on the Internet and police misconduct websites, but a jury took barely two hours to acquit the former deputy of all charges (Brooks & Gang, 2007). In 2008, a group of Philadelphia police officers were caught on camera from a news helicopter kicking and punching three suspects after a long police chase. After the tape became national news, the chief fired four officers. Subsequently a grand jury cleared the officers of any crimes and an arbitrator ruled that the officer should get their jobs back (Masterson, 2010). The Philadelphia chief of police is often accused of having a "no nonsense" policy on police misconduct and firing officers when a lesser punishment is indicated.

There is no doubt that videotapes put the police on the defensive, create a skeptical public damaging police community relations, and increase the likelihood of successful civil actions. Police spokespersons do not help the occupation or their department by "stonewalling" or responding with "no comments" to valid inquiries into these incidents. There is nothing to gain from a police community relations standpoint to arrest those videotaping the police or asking for laws to make the taping illegal. After all, the police in a free society have been and always will be accountable for their actions.

There should be renewed efforts by law enforcement executives and professional associations to ensure that the *Law Enforcement Code of Ethics* is a valid standard for ethical police conduct. The Code must be more than rhetoric and if it is no longer valuable as standard of con-