

POLICE ETHICS

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Second Edition

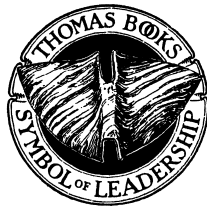
POLICE ETHICS

Crisis in Law Enforcement

By

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PREFACE

The objective of this second edition is the same as it was for the first edition: 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 created by the Metropolitan Police Act of 1829. 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 are going to have to ensure that the behavior of all law enforcement officers 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.

PREFACE TO FIRST EDITION

The objective of this book is to provide law enforcement officers and law enforcement supervisors with an understanding of ethical behavior as it relates to the police occupation. The author hopes that it will also serve as a training manual for new officers and as a refresher for experienced officers. If nothing else, the book should stimulate discussion of the ethical problems of the law enforcement community as we seek solutions for the current ethical crisis in law enforcement.

The book will examine four questions that are critical to the understanding of the ethical problems of the American law enforcement community. Those questions are: (1) Is law enforcement a profession? (2) Can law enforcement officers be professional? (3) What forms of behavior are the major law enforcement ethical violations? and (4) Can we control police ethical violations?

At times, the answer to these questions will be disturbing to some readers, particularly those who believe that rhetoric, denial, and blaming others are the solutions to the ethical crisis. Some will even deny that a crisis exists. However, the author believes one exists; many members of the public also believe a crisis exists and are expressing their displeasure in jury votes and calls for investigations. A substantial number of the professional law enforcement community believes there is an ethical crisis. The last group believes, as I do, that law enforcement is not going to become a profession just because we say it is. If American law enforcement is going to be recognized as a profession, we are going to have to ensure that the behavior of all law enforcement officers conforms to recognized ethical standards.

American law enforcement has standards of ethical behavior. We can use the *Law Enforcement Code of Ethics* as a model as we move to resolve the current crisis and seek to ensure that another one does not occur. The time for talk is over. Action, and action now, is needed.

T.B.

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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 police officers have continued. It does appear that the nature of corrupt practices has changed, particularly in some large urban departments with histories of systematic corruption. In these departments, the corrupt acts appear to be the result of “rotten apples” and “rotten groups” engaging primarily in drug-related crimes (Barker, 2002). Some of these “badge packing” criminals are very dangerous men and women who will kill (and have killed) fellow cops and civilians. There are others also. A recent content analysis of *The New York Times Index* from 1998 to June 2002 revealed forty-nine (49) separate incidents of corrupt acts involving 141 officers in thirty different U.S. police departments (Barker et al., 2002).

The instances of Noble Cause Injustice (using unlawful means to control crime) are, unfortunately, all too common; particularly in the real or perceived war on drugs. Some officers who see themselves as “good” cops will conduct illegal searches and seizures, falsely swear to obtain warrants, plant evidence, and lie in court to put away the “dirt bags.” Fellow officers, knowing that these practices occur remain silent out of a false sense of loyalty. However, as I have repeatedly said in training sessions, there is never an ethical officer observing the unethical, corrupt, or brutal behavior of a fellow officer without taking some action.

Prior to the publication of the first edition, all of us in the police community were appalled by the actions of LAPD officers (the participants and observers) during the videotaped beating of Rodney King. Numerous videotapes of other officers engaging in questionable and obvious acts of brutality/misconduct have appeared since then, e.g., the tape of a police officer slamming a teenager on the hood of a police car and punching him was shown over and over again. As I write this, a videotape of the Los Angeles sheriff's department members firing over 100 times into a vehicle with an unarmed man is being shown on news broadcasts nationally and internationally. Whenever these tapes are shown, as happened with the Rodney King incident, some police officers, police executives, representatives of police associations and other "talking head" police "experts" say that the actions of the officer/s involved was justified. Civil rights groups point to the videotapes and cry racism and some say that they show that all police are brutal. It is hard for the officers involved in these incidents to convince a skeptical public and police community that the level of force used is justified. Why would multiple police officers fire over 100 times at an unarmed suspect? On the other hand, it is hard to support the allegation that all or a majority of the police are brutal. The evidence is not there. Nevertheless, it is disturbing that many believe it is.

All of the above serves to point out that we still have an ethical crisis in law enforcement. There is reason to believe that we have always had an ethical crisis in law enforcement and may always have one. The reason lies in the nature of the occupation.

A MORALLY DANGEROUS OCCUPATION

In 1829 with the Metropolitan Police Act, the publicly paid watchman, voluntary watches and paid police in the London area were centralized under the national government and became members of a new occupation that would spread throughout England and Wales, and reach the shores of the Colonies that were to become America. It was immediately recognized that the members of the new police occupation should be held to a higher standard of integrity than the average citizen. However, the original London Metropolitan Police were not of high moral caliber. Many were often accused of being drunk on duty and associating in public houses with prostitutes and suspicious

persons. In the first two years, more than 3,200 constables had left the new police, more than two-thirds being dismissed for drunkenness (Ascoli, 1979: 89). There is evidence that some of the Metro officers accepted payoffs from illegal gambling dens and brothels (Reynolds, 1998: 153; Miller, 1997: 28–29).

The nature of the duties: close contact with the public, control of vice activities, discretion, and low visibility decision making; combined with the power inherent in the office made this new occupation a morally dangerous occupation for its members. This became painfully clear when the new model of policing was transported to America where local control of police agencies was constitutionally mandated (Miller, 1997; Lane, 1971). The early American experience demonstrated that the police can become not only corrupt but the instruments and servants of local politicians. Community control run amok is an apt description of the American police at the time (Walker, 1977). The early American police in their crime-fighting duties became a greater threat to a free society than corrupt police officers and led to a series of reform movements that continues today (Fogelson, 1977).

BLESSING OR CURSE

The early framers of the new occupation and what was to become the modern-day police organizations in Great Britain and the United States recognized that a paid public police agency could become a blessing or a curse in a democracy (Lee, 1971: xxxi). That is, the police could be the defenders of liberty or the oppressors of a free people. The early framers recognized the possibility of Noble Cause Injustice (discussed later). Prevention of crime and the maintenance of order (noble end) by oppressive and undemocratic means could become more intolerable than the effects of crime or disorder. Whatever justice is applied in a free society begins and sometimes ends with the first decision makers—the police. Lee stated that the ideal police force is one which grants the maximum protection with the minimum interference in the lives of the people:

Government cannot be exercised without coercion, but the coercion employed ought to be reduced to the lowest possible limit consistent with safety, the ideal police force being one which affords the maximum of protection at the cost of a minimum of interference with the lawful liberty of the subject. (Lee, 1971: xxx)

The constitutional and legal restraints on American police officers exist to limit the coercive intrusions of the police into the personal lives of American citizens. The Common Law, court decisions and acts of Parliament exist to limit the coercive intrusions of police into the personal lives of British citizens (Robilliard and McEwan, 1986). However, modern-day police forces in Great Britain and the United States are expanding their coercive “interference” into the lives of their citizens under the evangelistic rhetoric of Community Policing. Ultimately, the complex questions involved in police discretionary decisions, particularly extra-legal practices, as the police deal with “quality of life” crimes/problems of disorder will be decided in the courts of both countries (Livingstone, 1997). Brogdon (1999: 181) states that “community policing is only possible when the constitutional rights of citizens are vague rather than distinct, and especially where the police mandate is permissive rather than restrictive—conditions that do not exist in Great Britain or the United States.” Whether or not this “expansion of coercive interference” will be a revolutionary new police reform or another politically motivated (and federally financed) police management fad that passes into history remains to be seen.

NEED FOR ETHICAL BEHAVIOR

The American police as individuals, groups, and organizations have been both a blessing and a curse. Admittedly, the list of blessings is voluminous. However, the litany and horrors and abuse in the 1990s include Rodney King, Malice Green, Abner Louima, Amadou Diallo, Michael Dowd, Waco, Ruby Ridge, Ramparts, Mark Furman, Antoinette Frank and Len Davis. One hears terms associated with the police like racial profiling, positional asphyxia deaths, choke-holds, whoops raids, “testilying.” In recent years, in addition to corruption scandals in New York City, Philadelphia, Chicago, Cleveland, Los Angeles, New Orleans, Miami, Detroit and Atlanta; cases and convictions have been dismissed because police officers planted evidence or lied in reports, warrants, and in court. The unethical behavior of those working in this *morally dangerous occupation* receives more attention and is easier to measure than the good, or ethical behavior, or at least that is the way it appears from examining the media (*Adam 12* was never as

popular as *NYPD Blue*) and the literature, particularly the scholarly literature. This is inevitable because of the basic nature of policing.

The ethical behavior of police officers in any democracy (Great Britain, the United States, or any free state) is central to police work because of the nature of policing. Policing is forceful, or potentially forceful, social control no matter what label is attached to it (Professional Policing, Community Service Policing, Community Oriented Policing, Order Maintenance Policing, Zero Tolerance Policing, and whatever comes next). That is the way it has always been and will always be. The use of force, or potential use of force, has been used by every community in history as a means to secure the effective observance of laws (Reith, 1952). Given the inherent coercive nature of police work and moral risk it poses for its workers, a commitment to ethical conduct is a must. Ethical conduct is ultimately what protects the citizens of a free society from the police. Ethical behavior is also necessary if the occupation is to ever become a profession, even though some argue that it is now.

IS LAW ENFORCEMENT A PROFESSION?

If we are to accept the word of law enforcement spokespersons and read the “professional” law enforcement literature, the answer to this question would be an emphatic yes! The International Association of Chiefs of Police (IACP), the professional voice of law enforcement, unequivocally states that law enforcement is a profession that:

- Is dedicated to the service of others.
- Requires personal commitment to service beyond the normal 8-hour day.
- Requires of its practitioners specialized knowledge and skills.
- Governs itself in relation to standards of admission, training and performance.
- Has mechanisms to ensure conformance and a disciplinary system to punish deviations.
- Forms associations to improve their collective ability to enhance service to others.
- Is guided by a code of ethics. (IACP,1981)

I certainly agree with some of the IACP statements cited above,

such as, dedicated to the service of others, requires personal commitment beyond a 8-hour day, requires specialized skills and knowledge and forms associations. I could mount a strong argument against the statement that law enforcement “governs itself in relation to standards of admission, training and performance.” The standards for admission range from “minimum” [I have always hated the use of this term in relation to police admission standards] standards of 21, high school graduation or G.E.D., a driver’s license, and no serious criminal record in some states to a baccalaureate degree at the federal level for special agent position. The wide differences between training and performance standards among American Law Enforcement agencies are well known to all.

Does the law enforcement “profession” have “mechanisms to ensure conformance and a disciplinary system to punish deviations?” Some agencies do and some agencies don’t. The mechanisms and systems work in some agencies but not in others. Some states have a system to certify law enforcement officers but no system to decertify them. We certainly do not have a profession-wide system similar to the American Bar Association or the American Medical Association. The statement that the law enforcement “profession” “Is guided by a code of ethics” will be addressed later. Whether or not one agrees that law enforcement is a profession, one has to agree that law enforcement as a morally dangerous occupation has come a long way since the establishment of the London Metropolitan Police in 1829. Furthermore, law enforcement in the United States has made tremendous strides since its transplant to New York City in 1884. The changes in law enforcement since I first “policed” in Birmingham, Alabama in the 1960s have been just a bit short of remarkable.

Actually, the debate over whether or not law enforcement is a profession is best left to those who have the patience and time to argue theoretical and philosophical issues. I have neither. I thoroughly agree with FBI Special Agent Donald Witham, “reasonable and intelligent people could argue endlessly as to whether or not law enforcement meets all the characteristics of a profession” (Witham, 1985: 30). However, I also agree with Witham that as a practical matter no American occupational group has ever succeeded in having itself accepted as a profession without requiring the minimum educational standard of a baccalaureate degree (Witham, 1985: 34).

I do not advocate that we give up on the law enforcement profes-

sion goal. It has been the goal of many police reformers and reform movements since the early 1900s, but “saying it is so ain’t going to make it so.” The goal may not have been realized, but there has been progress and it is still worth striving for. This lead us to the really important question—Can law enforcement officers be professional?

CAN LAW ENFORCEMENT OFFICERS BE PROFESSIONAL?

If we can all agree that the term professional is an adjective and refers to *behavior*, the answer to this question is an emphatic and unequivocal—yes! That is, yes; if they know what they are doing, are proud of what they are doing, and if they prescribe to and follow a code of ethical behavior. At this time, we rely on the pre-service and in-service training curriculums of the various law enforcement agencies at the local, state and federal levels to ensure that law enforcement officers know what they are doing. To a degree these same training centers or academies create a sense of pride in their trainees. This sense of pride is also dependent on the manner in which individual officers, groups of officers and occupation, as a whole, prescribes to and follows a code of ethical behavior.

Chapter 2

PROFESSIONAL/OCCUPATIONAL ETHICS

INTRODUCTION

Morality refers to the standards of behavior that should be followed by everyone. Ethics is concerned with how individuals should conduct themselves (Heffernan, 1997: 25). Dan Carlson, associate director of the Southwestern Law Enforcement Institute, states that one way of defining ethics is “Doing the right thing, when nobody will know if you do the wrong thing” (<http://web2airmail.net/slf/summer95/tick.html>). Professional/occupational ethics deals with behavior that all members of a professional occupational group should adhere to because they are members of the group (Davis, 1997: 37). This is practical ethics concerned with how members of the effected group solve practical problems (Kamm, 1997: 123).

Professional/occupational ethical standards are contained in the Codes of Ethics adopted by the occupational group. Codes of Ethics are put forward as public evidence of a “determination, on the part of the providers themselves, to serve in ways that are predictable and acceptable” (Kleinig, 1997: 242). The purpose of a code of ethics is to establish formal guidelines for ethical behavior and eliminate the ambiguity that surrounds individual considerations of what is right and wrong behavior (U.S. Department of Justice, 1978: 18–22). Codes are no substitute for good character and wisdom; however, they can serve as a general guideline for the groups’ behavior (Delattre, 1989: 32). The ethical principles are in effect the occupation’s recognition of guidelines for action.

POLICE CODES OF ETHICS

There was a Code of Ethics embedded in the standards for the London Metropolitan Police in 1829. However, it wasn't until 1928 that a Code of Ethics was developed for the United States police (Kleinig, 1996: 235). The current version appears below and will be discussed in detail later:

*LAW ENFORCEMENT CODE OF ETHICS**

As a law enforcement officer, my fundamental duty is to serve the community; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation and the peaceful against violence or disorder; and to respect the Constitutional rights of all to liberty, equality and justice.

I will keep my private life unsullied as an example to all and will behave in a manner that does not bring discredit to me or my agency. I will maintain courageous calm in the face of danger, scorn or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed both in my personal and official life, I will be exemplary in obeying the law and the regulations of my department. Whatever I hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

I will never act officiously or permit personal feelings, prejudices, political beliefs, aspirations, animosities or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities.

I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of police service. I will never engage in acts of corruption or bribery, nor will I condone such acts by other police officers. I will cooperate with all legally authorized agencies and their representatives in the pursuit of justice.

I know that I alone am responsible for my own standard of profession-

*Source: www.theiacp.org/publinfo/Pubs/CodeofEthic.htm

al performance and will take every reasonable opportunity to enhance and improve my level of knowledge and competence.

I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession . . . law enforcement.

The International Association of Chiefs of Police

In addition, the IACP at its 107th Annual Conference in San Diego, California passed a resolution adopting the Law Enforcement Oath of Honor submitted by the association's Police Image and Ethics Committee.

LAW ENFORCEMENT OATH OF HONOR

*On my honor,
I will never betray my badge,
my integrity, my character,
or the public trust.
I will always have
the courage to hold myself
and others accountable for our actions.
I will always uphold the constitution
and community I serve.*

The IACP advocates that all officers take this short oath and that it be recited at "assembled public and internal gatherings of law enforcement officers (public ceremonies, promotional events, law enforcement conferences, etc.); placed on signs and conspicuously displayed throughout law enforcement facilities; printed on the back of business cards and other types of agency materials; incorporated at every opportunity in policies, procedures and training materials; referred to by administrators in conversation and correspondence; and referenced in both positive and negative personnel actions" (http://www.theiacp.org/proffassist/ethics/focus_on_ethics.htm). In other words, the Law Enforcement Oath of Honor should get the maximum exposure in all police organizations and functions. This will serve to heighten the awareness and visibility of ethical standards embodied in the Law Enforcement Code of Ethics.

There is also a Statement of Ethical Principles for police officers in England, Wales and Northern Ireland (Haggard, 1994: 2-3).

STATEMENT OF ETHICAL PRINCIPLES
(England, Wales, and Northern Ireland)

I will act with fairness, carrying out responsibilities with integrity and impartiality;
Perform duties with diligence and the proper use of discretion;
In dealings with all individuals, both outside and inside the police service, display self control, tolerance, understanding and courtesy appropriate to the circumstances;
Uphold fundamental human rights, treating every person as an individual and display respect and compassion towards them;
Support all colleagues in the performance of their lawful duties and in doing so, actively oppose and draw attention to any malpractice by any person;
Respect the fact that much of the information I receive is confidential and may only be divulged when my duty requires me to do so;
Exercise force when justified and use only the minimum amount of force to affect my lawful purpose and restore the peace;
Use resources entrusted to me to the maximum benefit of the public;
Act only within the law, in the understanding that I have no authority to depart from due legal process and that no one may place a requirement on me to do so;
Continually accept responsibility for self-development, continually seeking to improve the way in which I serve the community;
Accept personal responsibility for my own acts and omissions.

The interest in Codes of Ethics governing police behavior is growing worldwide. The second principle of democratic policing drafted for the United Nations Police Task Force in Sarajevo-Herzegovina stated that the police as recipients of public trust should be governed by a code of professional conduct (Travis, 1998: 3). Furthermore, this code should reflect the highest ethical values that could provide the basis for identifying acts of misconduct. On June 10 and 11, 1996, the Council of Europe, a thirty-nine member organization, met in Strausbourg, France. The topic of their meeting was police ethics and a code of conduct for European police officers (McDonald, Gaffigan & Greenberg, 1997: 81).

CONCLUSION

As stated earlier, morality refers to the standards of behavior all should follow; ethics is concerned with how individuals conduct themselves. A moral police officer just like any moral person would not steal, murder, or rape. But we expect more from police officers, they are to conduct themselves according to Professional/Occupational ethical standards. And, acting ethically or unethically is ultimately an individual choice. Therefore, we are left with the question—Do Codes of Conduct provide police officers with the guidance to make ethical choices? An examination of the IACP Law Enforcement Code of Ethics may provide an answer.

Chapter 3

LAW ENFORCEMENT CODE OF ETHICS—PARAGRAPH 1

AS A LAW ENFORCEMENT OFFICER, my fundamental duty is to serve mankind; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violation or disorder; and to respect the Constitutional rights of all men to liberty, equality and justice.

The **Law Enforcement Code of Ethics** begins with a series of ideal statements that may be hard for most mortals to live up to. They sound like something William Wallace, the Scottish hero of the movie **Brave Heart**, might have said. Should they be disregarded as guides for police ethical behavior? Do these ideal statements have any practical use for law enforcement? The answer to the first question is an emphatic *no* and the answer to the second question is an equally emphatic *yes*.

Before we begin our discussion we should first define law enforcement officer, in order to identify those who we believe are subject to the standards and rules of conduct contained in the **Code**. A law enforcement officer is any **public official**, who has the **extraordinary powers of arrest**, and they or their agency performs at least one of the three **direct police services** of patrol, traffic control or criminal investigation (Barker, Hunter & Rush, 1994).

The term **public official** should not need any further definition. The **Code** applies only to public police who perform a service and not to private police who operate for the profit motive. The term **extraordinary powers of arrest** refers to those arrest powers granted by statute to public officials. We are referring to arrest powers that are

above and beyond those possessed by citizens in a democracy. Technically, all citizens in a democracy have citizen arrest powers. However, they are more limited and restricted than those granted to public officials who are paid to do full time what is essentially every citizen's responsibility.

The third element in our definition of law enforcement officer is that the agency or the officer performs one of the three **direct police services** of patrol, traffic control, and criminal investigation.

Patrol—is the organized surveillance of public places within a specified territory and response to reports of suspected criminal acts for the purpose of preventing crime, apprehending offenders, or maintaining public order. Officers on patrol also frequently respond to calls that are not crime related.

Traffic Control—includes monitoring vehicular traffic and investigation of traffic accidents.

Criminal Investigation—is activity undertaken to identify alleged criminals, to gather evidence for criminal proceedings or to recover stolen goods. (Ostrom, Parks, & Whitaker, 1978: 24)

The definition does not imply that the agency or the officers must perform all three direct police services. Very few agencies above the local/municipal level would perform all three. However, they or their agency must perform one of the three. State Highway Patrol officers might only perform traffic control with a separate state agency responsible for criminal investigation but they both would be law enforcement officers. The nonuniformed special agents for numerous criminal investigation agencies at all levels of government are all law enforcement officers. Some of the security officers for the Smithsonian Institution's Office of Protective Services perform patrol activities, often at fixed points in the museums. Others engage in only criminal investigation duties and still others perform traffic control duties. They are all by our definition law enforcement officers and subject to the **Code**.

Having defined those subject to the **Law Enforcement Code of Ethics**, we can now redirect our attention to the first paragraph. The three key concepts in this paragraph are *service*, *protect*, and *respect*. To serve and protect are familiar terms to the police. They are usually emblazoned on marked police vehicles. Countless number of police officers have sacrificed their lives in an effort to serve and protect the public.

As stated above, the law enforcement officer is first and foremost a public official. He or she works for some governmental entity whether

at the local, county, state or federal level. As a public official they have sworn an oath to serve and protect their clientele whether it be the visitors to the Smithsonian museums, the students on the campus of Eastern Kentucky University, the citizens of New York City or the citizens of the United States as in the case of the Federal Bureau of Investigation.

Walker (1983) has stated that the three dominate features of policing can be traced back to our English heritage. They are:

1. **Limited authority**—The powers of the police are closely circumscribed by law. As mentioned above, individual liberty is jealously protected at the expense of crime control.
2. **Local control**—The responsibility for providing police services rests primarily in local governments. While there are numerous variations within the United States regarding the organization of local, state, and federal law enforcement agencies, for the most part policing in the United States is highly decentralized and found in local agencies.
3. **Fragmented law enforcement**—The responsibility for providing police services, which is borne predominately by local agencies, is usually divided among several different agencies within an area. This often leads to problems with communication, cooperation and control among the agencies.

These features were incorporated into policing to protect citizens from the abuse of a strong state or federal government.

The law enforcement officer at any level of government is but one group of public officials that comprises our nation's formal means of social control—the Criminal Justice System. This system exists to accomplish four purposes (1) control and prevent crime, (2) punish offenders, (3) treat and reform those amenable to such treatment, and (4) incapacitate those not amenable for treatment.

Law enforcement officers are in a sense the “gatekeepers” of this criminal justice system or process, if you will. Their outputs are the inputs to the other subsystems of the criminal justice system. They learn about crime from citizens, by discovery from officers in the field or through investigation and intelligence efforts. Once they verify that a crime has occurred, they must identify a suspect and, if possible, apprehend him or her for the criminal justice process to proceed (Barker, Hunter & Rush, 1994: 22). However, if we examine the first paragraph of the **Code** we see that there is no specific mention of crime, crime prevention, making arrests, investigation, writing citations, running traffic or even the criminal justice system. That is because the police in a democracy while performing their crime relat-

ed duties have a higher calling or purpose.

The last sentence in the first paragraph of the **Code** “to respect the Constitutional rights of all men to liberty, equality and justice” is the essence of the law enforcement mission in a free society such as ours. The National Advisory Commission on Criminal Justice Standards and Goals in their report on the police stated “If the overall purpose of the police service in America were narrowed to a single objective, that objective would be **to preserve the peace in a manner consistent with the freedoms secured by the Constitution**” (National Advisory Commission on Criminal Justice Standards and Goals, 1973: 13).

Law enforcement officers in a democratic society represent the most important protectors of individual and group liberties. They are vested with a significant amount of authority to restrict the free movement of persons and to lawfully subject citizens to embarrassment or indignity in the course of the investigation, search and/or arrest process (Barker & Carter, 1994). They have the right to use coercive force up to and including deadly force to effect these duties. Therefore, the misuse of their authority can and often does represent the greatest threat to the individual and group liberties they are to protect.

The police in a free society such as ours have a hard task to perform. They must perform their duties and exercise their authority within the constraints of the law. No action that they take is not subject to review for its own legality. The familiar names of **Mapp**, **Miranda**, **Escobedo**, and **Schmerber** represent Supreme Court decisions which restricted police actions in dealing with citizens. Although recent Supreme Court decisions, such as *Terry v. Ohio*, *U.S. v. Leon*, *Chimel v. California*, *Hester v. U.S.* to name a few, may have relaxed some restrictions on law enforcement behavior; they were also decided on Constitutional and not crime control issues.

The fear of governmental abuse and zealous protection of civil liberties and individual rights embodied in our Constitution and the Bill of Rights will always interfere with the crime control efforts of law enforcement agencies. However, that is the way our forefathers and countless generations of Americans wanted it. We are willing to tolerate greater amounts of crime and criminality to protect our individual freedoms. We, as a free society, will not tolerate a law enforcement agency staffed by **Dirty Harry's**, who use illegal and unethical means to accomplish what they perceive as legitimate ends. We will always

closely examine the means to which the ends of law enforcement were accomplished. Furthermore, we will always depend on law enforcement officers who prescribe to the **Law Enforcement Code of Ethics** to “respect the Constitutional rights of all men to liberty, equality and justice.”

Chapter 4

LAW ENFORCEMENT CODE OF ETHICS—PARAGRAPH 2

I WILL keep my private life unsullied as an example to all and will behave in a manner that does not bring discredit to me or my agency. I will maintain courageous calm in the face of danger, scorn or ridicule; develop self restraint; and be constantly mindful of the welfare of others. Honest in thought and deed both in my personal and official life, I will be exemplary in obeying the law and the regulations of my department. Whatever I hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

In this paragraph there are two references to an officers private life; “I will keep my private life unsullied as an example to all, honest in thought and deed in both my personal and official life.” Should an officer’s private life be subject to review and scrutiny? Before we answer that question, we should consider that law enforcement officer or cop, if you will, is an example of what is known as a master status.

A status is the social position we occupy in a group. And, we all occupy several social positions in various groups. For example, I occupy the social positions of College Professor, police academy instructor, expert witness, husband, father, etc. A master status is one that cuts across all the statues that you may hold and comes to be the one that you are known by and, often, the standard that identifies your expected behavior. As you can imagine, the master status that most often is used to describe me is College Professor. A master status often literally takes over and controls one’s identity. It conjures up a mental image for most people and its “wearer” is always judged in relation to it.

Some master statuses once held are held for life. The bearer only becomes an “ex,” eg., ex-marine, ex-cop, ex-con, ex-pro in sports, ex-prizefighter, etc. Consider how many times Lee Harvey Oswald and Charles Whitman, the mass murderer in the bell tower at the University of Texas at Austin were referred to, and are still being referred to as Ex-Marines. Yet, neither of these two assassins spent more than a short tour in the Marine Corps. Tony Danza, the actor is still being referred to as an ex-prizefighter although he had a modest 13–3 record many years ago. If a person goes to the penitentiary, no matter how long they live they will be known as ex-cons. The same applies to cops. After you are no longer a cop, you will simply become an ex-cop for life.

Given that your cop master status defines your identity and is used as the standard to judge the appropriateness or inappropriateness of your behavior, we should return to our question concerning a law enforcement officer’s personal life. Should it be subject to review and scrutiny? Actually, the answer to that question is really academic. Whether or not it should or should not be, it is subject to review and scrutiny by the public because law enforcement is a master status. Therefore, the law enforcement officer should, I will not go as far to say “will,” strive to keep his or her private life unsullied as an example to all. The officer who is known to drink excessively, gamble, or not pay his debts will be judged more harshly by those who know him or her. If he or she is known to be a liar, his or her court testimony will be held in question. If the officer is known to be abusive to their family members, those who know them will always wonder how they can impartially handle domestic disturbances on the job. The officer who drinks and drives will be viewed as a hypocrite by those who know that he or she arrests nonpolice for the same offense. It just cannot be avoided, once the officer pins on the badge and takes the oath his or her private life comes under the microscope.

The **Code** says that a law enforcement officer should be honest in thought and deed. However, we must recognize that former president [how about that for a master status?] Jimmy Carter admitted to having “lust in his heart.” It is just a part of life that we as humans will not at times be honest or moral in thought. As long as these thoughts do not become an obsession or translate into action, it is probably normal. However, we should not budge an inch from demanding that all law enforcement officers are honest in deed both in their personal and

official life. Integrity is just too important to being a professional law enforcement officer that it cannot be compromised in either the officer's personal or official life.

Maintaining calm in the face of danger, scorn or ridicule; and developing self restraint are noble principles to ascribe to. The overwhelming majority of law enforcement officers in this country adhere to these principles. One only has to compare the police handling of anti-everything from abortion to gay rights demonstrations and protests in recent years to what was common during the "police riots" of the sixties.

Obviously, we would expect that law enforcement officers would obey the laws of the land and the regulation of his or her department. We would also expect that confidential information that comes to the officer by way of his or official position would be kept secret. Friends, acquaintances and even relatives sometimes ask law enforcement officers for information on cases or people who have been arrested. The majority of the time the officer being questioned will know nothing about the case or the person. Citizens do not seem to understand that they may have more information from media sources than the officer has. However, on occasion the officer is privy to the requested information. It should be kept confidential. Most people understand that those who tell secrets cannot be trusted to keep secrets. The officer who gossips or reveals confidential information will soon acquire the reputation of being untrustworthy.

Chapter 5

LAW ENFORCEMENT CODE OF ETHICS—PARAGRAPH 3

I WILL never act officiously or permit personal feelings, prejudices, political beliefs, aspirations, animosities or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities.

The first sentence of this paragraph makes clear that law enforcement officers who prescribe to the **Code** should always remember they are not the law; they are only paid full time to enforce the law. Their duties should never become personal. The “avenging angel syndrome” where officers exact their sense of street justice on individuals and groups they personally dislike is to be avoided at all costs. We expect law enforcement officers to be even-handed in the execution of their duties. However, all law enforcement officers are human beings and because of that they will have personal feelings. They will have buttons that if pushed will make them mad. It is often said that most people go to jail or get citations for “contempt of cop”—COC. Not showing the proper respect or challenging the officer’s authority will get you in jail or a ticket according to this concept. The professional law enforcement officer will rise above the need to ensure respect through his or her arrest powers. His or her discretionary powers should not be exercised for personal reasons no matter how strong.

The law enforcement officer can, and does, exercise a tremendous amount of discretion and; particularly for nonserious misdemeanors or traffic citations, there is no need to put everyone in jail who violates

the law or give a ticket to everyone who commits a traffic infraction. There are numerous situations where warnings, counseling or a word of advice are a better choice of action than arrest or citation. Chiefs and sheriffs are continually reminding me that police academies do a good job of telling “rookies” when to make an arrest. However; the academies often fail at telling police officers when not to make an arrest. Conversations with current academy instructors tell me that this is changing as current instruction moves to a more problem-solving orientation. Modern law enforcement professionals recognize that arrest is not always the best way to solve a problem.

The rigid personality who feels that he or she must enforce all criminal and traffic violations will never become a true professional law enforcement officer. Those officers who proudly announce that they would give their own wife or mother a ticket if they saw them break a traffic law are either liars or fools, maybe both. They are also not the officers we want answering domestic disturbance calls or handling protests or, for that matter any police action that requires tact and judgment. In this country selective enforcement of traffic laws is the norm. Selective enforcement is the only practical approach to traffic enforcement. Full enforcement of the law, particularly traffic laws, is neither logical, practical and not really wanted by the citizens. The officer must adhere to the principle of reasonableness in making his or her decisions. They must consider the total situation and what is the end they want to attain with their action. I remember years ago working a major college football game when my young partner asked if we were going to arrest all the drunks. I told him that I didn't know where we would put them all. The city jail would not hold them. I also told him I thought the city would have to call in the National Guard to handle the ensuing riot. We did make some arrests that day, but we certainly did not arrest all the drunks in the football stadium. I could recite other instances where I or the officers I worked with did not arrest or ticket someone who broke the law or a traffic regulation but that is not necessary. Every working law enforcement officer can recite numerous instances from his or her own experiences.

We will discuss the issue of unnecessary use of force fully later. However, we should all recognize at this time that the unnecessary use of force by police officers is certainly not consistent with our definition of a professional law enforcement officer.

The **Code** is very explicit on the acceptance of gratuities. It says

that law enforcement officers will never accept gratuities. It does not say those over a certain monetary amount. It does not indicate if there is a difference between systematic and incidental gratuities. The **Code** does not mention the intent of the giver or the effect on the officer's behavior. There is no mention of the acceptance of gratuities as a possible "grey area" of corruption. These questions will all be addressed more fully later. Two issues that I will raise at this time are the effect of police acceptance of gratuities, no matter how small, on those who observe officers in uniform receiving free cups of coffee or discount meals and how those who give these favors to the police may view it.

Those having to pay for their coffee and full price for their meals may not hold a very high opinion of their public servants receiving free coffee and discounted meals. They probably will not be sympathetic to police demands for pay raises and increased benefits. I have often heard the following comment from citizens and even council members who were in the position of voting on police pay raises: "Why should we give the police more money, they get everything they want free or discounted now?" It is hard to argue against this statement in an area where it is well known that the giving and accepting of small and large gratuities by law enforcement officers is common practice. Some are even more animate in their description of their public servants when they refer to them as "free loading sons of bitches."

Now to the issue of the perception of those who give these favors to the police. When discussing this issue in the Police Academy, I always relate the following personal experience. While I was working undercover, I stopped in a well-known fast food restaurant; the identity will remain anonymous, but I guarantee you there is one in every city I have been in and they are well-known for giving police free or discounted meals and drinks. It was closing time when I ordered my coke and cheeseburger. While waiting at the counter for my order I observed the following. There was a tray of unsold and unwrapped hamburgers and cheeseburgers lying on the table in the back. One of the young high school-aged workers picked up the tray and emptied it in the garbage. The manager on seeing her do this screamed, "Don't throw them away we always give them to the precinct." At this point, the manager and the young worker picked the hamburgers and cheeseburgers out of the garbage and wrapped them and put them in a large carry-out sack. A few seconds later a smiling uniformed officer came in and was given the sack. The manager smiled and told him,

“Tell the guys to enjoy.” I followed the police car to the precinct and was able to tell the hungry officers what had happened before they ate the filthy meal. It then took me about fifteen minutes to talk them out of going back there and putting the manager in jail. I told them that the publicity would make them look bad and probably give other restaurant owners some bad ideas. The last comment convinced them to cease and desist. However, I can only imagine what may have happened to the manager and the restaurant later.

Chapter 6

LAW ENFORCEMENT CODE OF ETHICS—PARAGRAPH 4 AND 5

I **RECOGNIZE** the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of police service. I will never engage in acts of bribery, nor will I condone such acts by other police officers. I will cooperate with all legally authorized agencies and their representatives in the pursuit of justice.

While it may be true that all social relationships are based on trust, there is a special trust embodied in the law enforcement badge. We in our interactions with others trust them to behave in appropriate and accepted fashion. Society is based on this principle. We “trust” others to be honest, truthful, and respectful of our feelings in their dealings with us. We “trust” that others will treat us as persons and not objects. We “trust” that parents will take care of their children. We “trust” that people will pay their debts.

In some people we place more “trust” than others. We “trust” that our husbands and wives will not violate their marriage vows. We “trust” that our children will obey our wishes. We “trust” our friends and relatives. We all know people who claim not to “trust” anyone and we in turn do not “trust” them. I put trust in quotes because we all know that not all persons act in appropriate and acceptable ways. That is why societies define some forms as deviant (or norm violating) behavior all the way from inappropriate social behavior (picking one’s nose at the table, not observing standards of personal hygiene, overuse of certain words of profanity, talking in church, etc.) to crime. Societies have formal and informal means of social control to control and discipline those who do not act appropriately. We rely on social groups to

enforce the informal means of social control. The criminal justice system exists to control and punish those who violate those behaviors considered serious enough to be enacted into law.

The law enforcement officer, as the most visible representative of the formal social control system and our representative of the democracy we live in, is given a special trust. He or she after taking their oath of office is given the badge as a symbol of that trust. Because of the authority we give them, we expect that they will always engage in lawful and ethical behavior. We also expect them to not condone unlawful and unethical behavior by other law enforcement officers. This special relationship we have with our law enforcement officers is what makes their unethical behavior so serious and disturbing. The professional law enforcement officer who adheres to the **Law Enforcement Code of Ethics** recognizes and understands this special relationship.

I KNOW that I alone am responsible for my own standard of professional performance and will take every opportunity to enhance and improve my level of knowledge and competence.

This paragraph reinforces the principle that professional performance and adherence to the **Code** is a personal commitment. The devil or the peer group (other law enforcement officers) cannot be blamed for violations of the **Code**. The law enforcement officer will have to accept personal responsibility for his or her unethical behavior. They will have to accept personal responsibility for condoning the unethical behavior of others that they are aware of.

This paragraph also makes clear that professional development in the field of law enforcement is also a personal commitment. The professional law enforcement officer will take advantage of every opportunity to enhance his or her knowledge and competence in the field of law enforcement. The department also shares in this responsibility. They have the duty to provide a continuous process of training throughout the officer's career.

I WILL constantly strive to achieve these objectives and ideals, dedicating myself before GOD to my chosen profession . . . LAW ENFORCEMENT.

Chapter 7

MAJOR LAW ENFORCEMENT ETHICAL VIOLATIONS

INTRODUCTION

In the first edition, the author divided the major ethical violations into police corruption and other forms of police misconduct. The distinction between the two categories was the presence or absence of a material reward or gain. After thirty years of researching the topic, discussions with numerous colleagues, and input from countless police officers in training sessions, I have come to the conclusion that the ethical violations can actually be better categorized as organizational/rule violations, corruption, and abuse of authority (Barker, 2002).

ORGANIZATIONAL/RULE VIOLATIONS

Technically speaking, all ethical violations involve a violation of an organizational rule or accepted police standard. However, corruption and abuse of authority will be discussed separately because they are serious breeches of established police standards, laws, and often constitutional guarantees. They are usually acted on external to the organization—**external reaction**—often in addition to some departmental action. In most cases they cause some scandal for the department and draw a lot of media attention. The penalty for these acts (corruption and abuse of authority) can be either criminal or civil or both in some cases. For some acts of abuse of authority the agency and/or political

entity may be held liable as well as the individual/s involved. Most, but not all (see “Sexual Misconduct” and “Police Lying”) of the ethical violations included under the category of organizational/rule violations involve departmental discipline or termination—**internal reaction**. The most common organizational/rule violations that involve ethical issues are drinking on duty, use of drugs, police lying, accepting gratuities, and sexual misconduct.

Drinking on Duty

Obviously, drinking on duty is a serious ethical violation and contrary to organizational rules. The officer who drinks on the job presents a grave threat to citizens and his/her fellow officers. He or she is armed and usually in command of a powerful police vehicle. Mistakes made by an intoxicated police officer can cause death or serious injury to citizens and other police officers.

Drinking on duty like similar organizational/rule violations such as sleeping on duty may be a symptom of alienation from the job. It can also be the result of boredom, monotony, and opportunity combined with ineffectual supervision. Alcoholism among officers can be a serious problem because of the abundant opportunities they have to drink while on duty.

Use of Drugs

The use of drugs, other than alcohol on or off duty, by police officers has received a great deal of attention in recent years. Carter and Stephens (1991) in their seminal work on police drug use arrived at two conclusions: (1) a strong impression that incidents of police corruption associated with either drug trafficking by law enforcement officers or through the assistance of police is increasing. This conclusion has certainly been supported by recent events (more on this later) and (2) some police officers use drugs as a recreational activity. The recreational use, although in most cases illegal, is generally handled internally as an organizational rule violation.

Police officers often come from a population group where the use of drugs, particularly marijuana, is prevalent and have been exposed to their use as recreation. In fact, and recognized by many agencies, some officers have been occasional and recreational drug users prior

to joining the force. Some of these same officers might agree with the rationalizations offered for off-duty drug use, particularly if the drugs are in the “less dangerous” categories, i.e., not crack, cocaine, LSD, heroin or methamphetamine. However, one must face the fact that such use is against the law, unethical, and forbidden by police rules and regulations. One must also acknowledge that even in those population groups where occasional drug use does take place not all engage in this behavior. One must also face the troubling danger that recreational use leaves the officer subject to blackmail by his supplier or those using with him/her. Furthermore, recreational use can easily lead to instances of corruption and drug use on duty.

Police Lying

The **Law Enforcement Code of Ethics** paragraph 4 stated that law enforcement officers should be “honest in thought and deed in both my personal and official life.” That would imply that officers should never lie, a standard that is impossible to meet in police work. In fact, one can say that lying and other deceptive practices are an integral part of the police officer’s working environment (Barker and Carter, 1994). Police officers lie to citizens, each other, suspects, victims, the media, in court, and to other criminal justice officials. These lies and deceptive practices vary as to whether or not they should be considered as ethical violations—organizational rule violations, a means to commit corruption, abuse of authority—or are necessary for the police to accomplish their tasks. For that reason, we will discuss the patterns of police lying here and again in the sections on corruption and abuse of authority.

Accepted Lying

Lies in this category are those considered to be an accepted part of an officer’s working environment. The lies are told because they fulfill a defined law enforcement mission. The police organization and its members will freely admit that they are engaging in deceptive practices. The most obvious example of accepted lying is the lies and deceptive practices engaged in by undercover officers. Secret and consensual crime operations could probably not be carried out without some deceptive practices. Police officers engaged in these activities

must not only conceal their identity but they must talk, act, and dress out of character. They must fabricate all kinds of stories to perform these duties. One can hardly imagine that FBI Special Agent Joseph Pistone could have operated for six years in the Mafia without the numerous lies he had to tell (Pistone, 1987). He was so successful that he was asked to become a “made” member of the Mafia before he was withdrawn. In a more recent case, ATF Special Agent Billy Queen spent two years with the extremely violent *Mongols Motorcycle Club* (Queen, 2005). He had to lie every day to keep from being killed. Special Agent Queen also became his chapter’s secretary treasurer, a position that allowed for the successful prosecution of several members of this Outlaw Motorcycle Gang.

The overwhelming majority of undercover operations are neither as fascinating nor as dangerous as working with the Mafia or Outlaw Motorcycle Gangs or some other organized crime group. The most common operations occur in routine vice operations dealing with prostitution, gambling, or narcotics. However, this area is not without its problems. Marx (1985) pointed out that sometimes these practices can lead to a situation in which the police go beyond determining if a suspect is breaking the law and attempt to see if the person can be induced into breaking the law. This sort of activity raises the specter of entrapment. The author, although not a fan of the popular TV show *Cops* has seen several episodes where one could argue that this indeed happened. The “Dirty Harry” problem [discussed later under Noble Cause Injustice] where some officers believe that the end justifies the means, raises the question as to what extent supposedly “good police practices” warrant or justify ethically, politically, or legally suspect means to achieve law enforcement activities (Klockers, 1980).

Encouraging the commission of a crime may be a legally accepted police practice when the offender acts as a willing victim or his or her actions facilitate the commission of a crime which was going to be committed in the first place. However, it is possible for “encouragement” to lead the suspect to raise the defense of entrapment. According to *Black’s Law Dictionary*, entrapment is “the act of officers or agents of the government inducing a person to commit a crime not contemplated by him, for the purpose of instituting a criminal prosecution against him (277).” In order for the defense of entrapment to prevail, the defendant must show that the officer or his/her agent (informant in most cases) has gone beyond providing the encouragement and opportunity for the commission of a crime and through

trickery, fraud, or other deception has induced the suspect to commit a crime. This defense is raised far more times than it is successful because the current legal criteria to determine entrapment is what is known as the “subjective test.”

In the “subjective test” the predisposition of the offender, rather than the objective methods of the law enforcement officers is the key to determining entrapment (Skolnick, 1982; Marx, 1985; Stitt & James, 1985). This test makes it extremely difficult for a defendant with a criminal record to claim that he/she would not have committed the crime except for the action of the officer. Another test—the “objective test” raised by a minority of the Supreme Court has focused on the nature of the law enforcement officer’s conduct rather than the predisposition of the offender (Stitt & James, 1985). For example, the “objective test” probably would examine whether the production of crack cocaine by a police organization for use in undercover drug arrests is proper and legal. In 1989, according to an *Associated Press* story, the Broward County Florida Sheriff’s Department, not having enough crack to supply undercover officers, manufactured its own. The sheriff’s department chemist made at least \$20,000 worth of the illegal substance. Local defense attorneys raised the issue of entrapment. One public defender stated:

I think there’s something sick about this whole system where the police make the product, sell the product and arrest people for buying the product (*Birmingham Post Herald*, April 19, 1989: B 2).

What do you think? In my opinion, deceptive practices aside, having a law enforcement agent make an illegal drug and then sell it to others and then arrest those who buy it does raise a number of ethical and legal issues. The issue could arise today if an agent (informant) of the police manufactures methamphetamines with police knowledge and sells some or all of it to others under the officer’s direction and the officer then arrests those who buy it. At what point do we draw the line to make a police undercover operation convincing? Fortunately, the manufacture of crack by the Broward County Sheriff’s department was stopped as soon as the media got wind of it. The current “war on drugs” raises similar issues in this area. Black-clad “Ninja Police” have been accused of violating citizens’ civil rights as they stage “whoops raids” (wrong persons or wrong addresses), use unreliable and non-existent informers and overly destructive search techniques in the war. There have been several successful civil suits that have awarded dam-

ages to complainants for police overzealousness in this area. The police must be careful that the ends do not become more important than the means of accomplishing them (more on this later). “Dirty Harry” and Andy Sipowitz may be characters we applaud on the screen or the TV, but we shouldn’t want him working for our police department.

In addition to the accepted practices of lying, required for undercover operations, members of the police community often believe that it is proper to lie to the media, or the public when it is necessary to protect the innocent, protect the image of the department, or calm the public in a crisis situation. The department’s official policy may be one of openness and candor when dealing with the media. However, as a practical matter, members of the department may deny the existence of an investigation or “plant” erroneous information, i.e., disinformation, to protect an ongoing investigation. The untimely revelation of facts may alert the suspects and drive them underground or cause them to cease their illegal acts—often not a bad thing. Nevertheless, one could argue that public exposure of certain criminal activities—operation of a serial rapists or killer—or the possibility of them might decrease the risk of injury or death.

Tolerated Lying

Tolerated lies are those recognized as lies by the police organization but tolerated as “necessary evils.” They are situational or “white lies” told when it is not possible to explain the truth. For example, police officials will often claim to practice full enforcement of the laws at all times rather than try to explain the thorny issue of police discretionary decision making. At the scene of a crime, an officer may lie to a victim rather than admit that there is no chance to catch the perpetrator or recover stolen property.

As one can imagine, the interrogation stage of an arrest is an area filled with examples of tolerated lying. According to many police officers and textbooks on the subject, telling the suspect that there is evidence to link him/her to the crime or that fellow suspects have confessed are “good” interrogation techniques. One could say that the ends justify the means. However, lies told under these circumstances could and have led innocent persons to succumb to the powerful persuasion of a police officer and admit to crimes they did not commit.

Deviant Lying

The third form of police lying has two forms: (1) **Deviant Lies in Support of Perceived Legitimate Goals** and (2) **Deviant Lies in Support of Illegitimate Goals**.

The first, lies told for perceived legitimate goals, usually occur to put criminals in jail, prevent crime, and perform other policing responsibilities. They will be discussed in depth in the category Abuse of Authority as they are a means to affect Noble Cause Injustice.

Deviant lies in support of illegitimate goals are told to affect an act of corruption or to protect an officer from organizational discipline or civil and/or criminal liability. The officer who commits perjury in court may do so to “fix” a criminal prosecution for monetary reward. In fact, lying and/or perjury in court or before other criminal justice officials are an absolute necessity in departments where corrupt acts occur on a routine basis. Sooner or later every police officer who engages in corrupt acts or observes fellow officers engaging in corrupt acts will face the possibility of having to lie under oath to protect himself/herself or fellow officers.

There is always the distinct possibility that engaging in other forms of organizational rule violations will lead to deviant lying. To avoid the possibility of discipline and in some cases criminal and/or civil liability, the officer who engages in a rule violation may have to lie on an official report, to his/her supervisor, and possibly during testimony. For example, the officer who engages in a police action (pursuit, use of force, etc.) that is against the department’s policies, procedures or rules and the action results in death or serious injury may have to lie or commit perjure to protect himself/herself or fellow officers.

Accepting Gratuities

One can argue that accepting gratuities—free coffee, drinks, meals, liquor, services, free admission to entertainment etc.—should be included in corruption—as I did for years and in the first edition of this book—or considered as a nonthreatening fringe benefit as Kania (1988) does. One could also view accepting gratuities as an ethicist would define immoral acts: “immoral acts negatively affect the welfare of the person who commits the acts, either because they diminish moral character or because they form a ‘slippery slope’ that leads to even

worse actions” (Welfel, 1997: 135). Furthermore, if any services (more protection, faster response, etc.) are provided in return, it “takes time and unjustly deprives other members of the public of the attention they deserve” (Delattre, 1989: 10).

Kania (1988) argues that accepting gratuities does not lead officers into corrupt acts. This view is shared by numerous police officers and has been expressed over and over again in the training sessions I have conducted. There seems to be the idea among many law enforcement officers that there is some kind of “divine right” for the police when it comes to accepting gratuities, especially drinks—not alcoholic—and meals. They feel that it does not lead to any other violations which may be right for most officers. However, many officers have been “sucked” into the corruption habit through “freebies.” What became known as the Dowd Test after New York City Police Officer Michael Dowd (convicted of drug trafficking), involved getting officers to accept small gratuities and then move them into more serious acts. Kania says that the Dowd Test was successful “because the rules [departmental] define otherwise normally motivated behavior as corrupt. It is normal to accept *minor* gifts from people who wish to maintain good social relations with us (Kania, 1988: 37, Italics added).” Sounds like members of Congress justifying accepting gratuities from lobbyists. Kania ignores that many of those “normal” people wishing to maintain good relations with police officers have a great deal to gain by good relations with cops.

It is also true that some of these offers come from “respectable citizens” who may be “freely” giving minor gifts to their police officers. Some may not expect anything in return when the gift is offered. However, at a later time such “respectable citizens” or one of their employees, relatives, or friends may get a ticket, be arrested for a “nonserious” misdemeanor, need help with a licensing agency, or want a record check on a prospective employee, son-in-law, or the “dirt bag” going out with his daughter. Who are they going to call for help?

The officers who have been accepting their minor gifts are now in a difficult situation. They can wax indignantly, saying there is nothing they can do (which is probably true), promise to try to help in order to “cool” them out, or they may actually find a way to help their benefactor, even though they may have to “bend” a rule to do so. Article 9 of the **Canons of Police Ethics** specifically addresses this issue.

Article 9. Gifts and Favors. The law enforcement officer, representing government bears the heavy responsibility of maintaining, in his own conduct, the honor and integrity of all government institutions. He shall, therefore, guard against placing himself in a position where any person can expect special consideration or in which the public can reasonably assume that special consideration is being given. *Thus, he should be firm in refusing gifts, favors, or gratuities, large or small, which can in the public mind be interpreted as capable of influencing his judgment in the discharge of his duties.* (IACP, 1981. Italics added.)

Michael Josephenson of the Josephenson Institute for Ethics (<http://web2.airmail.net/slf/spring94/dowd.html>) poses two questions for officers concerning gratuities: (1) Why take it? And (2) If you were not a police officer, would that person still be offering you that freebie? Furthermore, one must consider the impropriety of uniformed police officers accepting free and discounted meals and other services. Citizens observing this behavior do not join in philosophical debates on this issue. To them, the officers are freeloaders. At least that is what numerous citizens have told this author.

One also wonders how, and who, will define “minor” gifts. Is a cup of coffee at \$1.00 a cup a minor gift, what is a minor meal, one under \$5.00 at a fast food restaurant or one under \$50.00 at an upscale restaurant. Should there be a sliding scale based on rank and assignment? Certain places are known as police hangouts, therefore should the definition take into account only minor gifts to the beat officer or all officers. Does it become more than minor when there is more than one officer? The questions could go on ad nauseam.

The confusing nature of making distinctions about the value and nature of these minor gifts was made clear to me over twenty years ago. In 1983, the State of Alabama’s Ethics Commission issued an advisory opinion on free meals given to police officers. Part of that opinion follows:

Any law enforcement agent or officer coming under the Ethics law who accepts a free meal or discounted meal with the understanding that he will devote more of his time to insuring protection for the restaurant or eating establishment to a greater degree than another restaurant which does not offer free or discounted meals violates Section 36-25-6 of the Alabama Ethics law . . .

At the time the advisory opinion was rendered, the argument was raised among some law enforcement groups that free meals or cut-rate meals were only unethical if there was an understanding that the offi-

cer would devote more time to protecting these eating establishments over those who do not. Therefore, no understanding or intention on the part of the officers to do this, then no ethical violation. Several years later an incident occurred which proved explicitly what I had maintained was always implied in such arrangements.

An irate citizen complained to the city council of one of the municipalities about city police officers receiving free and discounted meals from one of the fast food chains. Her complaint named a particular restaurant and its location. The complaint received wide media coverage. A police captain, identified by name in the newspaper, was quoted as saying, "you could not buy a police officer from his department with a free hamburger." According to the newspaper, he went on to say that the woman who complained was a troublemaker and there was nothing wrong with officers receiving free or discounted meals.

The last comment caused me to write a letter to the editor. In the letter, which was published, I stated that there was something wrong with police officers accepting free or discounted meals. I pointed out that the **Law Enforcement Code of Ethics**, as well as the captain's own department, prohibited such behavior. I raised other ethical issues in my letter and suggested that if law enforcement officers could not live by the **Code**, then it should be changed. I pointed out that his department had a rule against accepting *any* gratuities. I pointed out that should be changed also if he or his department thought there was nothing wrong with accepting free or discounted meals. I also stated that there were numerous professional police officers who did not agree with this captain. The matter was closed, I thought.

Several weeks after my letter was printed, this very same fast food restaurant and a number of customers were robbed by a group of "gang bangers" from a nearby metropolitan area. An unnamed police captain was quoted in the media as saying, "If they hadn't stopped the free meals, there would probably have been a cop in there when it happened." In my opinion, that statement is pure and simple extortion. No free meals, no protection.

Other officers in other cities have sanctioned businesses and others who have refused to give the "perks" of the job. They have excluded businesses from routine security checks, customers have been harassed, citations have been issued for obscure and seldom enforced violations.

The Alabama Ethics Commission in the same advisory opinion

cited above made another statement that I wholeheartedly agree with:

. . . The Commission would find no unethical implications if **all** public employees were given discounts on meals in order to increase business by establishments, but to single out only those individuals who happen to carry a badge is difficult to understand even when done under the guise of tradition (Alabama Ethics Commission, July 6, 1983).

This was the same feeling that was held by the founders of the modern day police and a morally dangerous occupation. All gifts to the 1829 London Metropolitan Police had to be reported and approved (Reynolds, 1998: 153). However, gratuities, still forbidden, are also common among the British police, where some shops are known to be “GTP” (good to the police) (Holdaway, 1984: 43).

Nevertheless, Delattre (1989) states that the prevailing view, myself included, is that all police gratuities should be prohibited. There is always the danger of creating an environment of tolerance. The IACP’s Model Policy: Standards of Conduct (Section 8: Abuse of Law Enforcement Powers or Position) states:

- a. Officers shall report any unsolicited gifts, gratuities, or other items of value that they are offered and shall provide a full report of the circumstances of their receipt (IACP, 1997).

Such mandatory reporting practices would make public the offering and accepting of gratuities and provide a check on any abuse of power or position by police officers. It would have a chilling effect on any person, business, or group who had an ulterior motive in the offer. Now, we will turn to more serious organizational/rule violations that involve no debate.

Sexual Misconduct

Police sexual misconduct while on duty has occurred ever since the creation of the London Metropolitan Police and before them in the Watch and Ward systems. Obviously, the male officer comes into contact with a number of females during his routine police duties. These contacts often occur under conditions that provide opportunities for illicit sex. The women and the officers are frequently alone and supervision of the officers on patrol is often minimal. Officers working the late night shifts have the added cover of darkness and little traffic on the road. The officer also has the opportunity to stop women coming from a night of drinking. An intoxicated woman may decide that her

sexual favors are a small price to pay in order to avoid an arrest for driving while intoxicated. Allan Sapp (1994) has identified seven categories of sexually motivated or sexual harassment behaviors by police officers.

Sapp's Categories of Police Sexual Misconduct

Nonsexual Contact. This category involves behaviors that are usually sexually motivated without direct sexual actions or inferences. The female citizen may not be aware of the underlying motivations of the officer. However, Sapp says that this behavior is a form of sexual harassment because the officer initiates the contact without legal basis or probable cause. The officer is motivated by a desire to get a closer look at the female or gain information about her. The invalid traffic stop is a good example of this category.

Officers may also stop a female on foot under one pretense or another to obtain information or initiate a conversation. Some of these stops may be followed up by more direct sexual contacts.

Voyeuristic Contacts. Some officers spend their time seeking opportunities to view unsuspecting women partially clad or nude. They are literally "Peeping Toms" in uniform. The most common form of this category is officers who seek out parked cars in "lover's lanes" hoping to observe sexual acts. They sometimes park their cars and "sneak" up on the occupants.

Contacts With Crime Victims. Sapp says that female victims of crime are particularly susceptible to sexual harassment by police officers. They are vulnerable because they are often emotionally upset and turn to the police for support and assistance. Unnecessary callbacks to the residence of the female are one of the most common forms of this behavior. The officer's frequent trips to female victim's residence are for the purpose of initiating some sexual contact.

Sex crimes victims are also susceptible to sexual harassment by police officers. Some of this is unintentional when it results from a lack of sensitivity and knowledge on the officer's part. However, when an officer questions the victims beyond the depth of details needed for investigations purposes, this is sexual harassment.

Contacts With Offenders. Female offenders are in a vulnerable position when it comes to being a victim of sexual harassment or sexual contact. They are aware of the authority of the officer and that

their complaints may be disregarded or played down. They are subject to sexual demands or body searches, frisks or pat downs that lead to fondling.

Contacts With Juvenile Offenders. On occasion, police officers have sexually harassed or had sexual contacts with runaways, truants, and delinquents. Sapp believes that this is the rarest form of sexual misconduct by police officers. I hope he is right.

Sexual Shakedowns. In this category, police officers demand sexual services from prostitutes or other citizens involved in illegal or illicit activities. These are sexual activities involving an unwilling victim who yields solely on the basis of the police authority to arrest and prosecute. Rape is the correct term for this behavior.

Citizen-Initiated Sexual Contacts. Some sexual contacts are initiated by the female citizen and not the officer. Most police departments have stories about “police groupies” who are attracted to uniforms, weapons, or the authority of the police. Police officers also get calls from lonely or mentally disturbed women who want attention or affection. On occasion, women will commit minor traffic violations as a ruse to see if the officer is interested in sexual contact. Women also seek sexual contact in return for favors, preferential treatment, or additional protection. Obviously, women working in certain illegal occupations such as prostitution or pornography have a great deal to gain from a good working relationship with the police.

Some of the behaviors that Sapp cited may involve criminal violation also. Those identified by Kraska and Kappeler (1995) in their study are definitely crimes. They identified 124 cases of police sexual violations, 37 of the cases were sexual assaults and rapes committed by on-duty police officers against female citizens.

Chapter 8

POLICE CORRUPTION

INTRODUCTION

Police corruption is defined as any proscribed act involving the misuse of the officer's official position for money or money's worth. Other than for a few minor word changes this is same definition developed by Julian Roebuck and I over thirty years ago (Barker & Roebuck, 1973). Three elements identify police corruption: (1) The behavior must be forbidden—law, rule, regulation, ethical standard. (2) The behavior must involve the misuse of the officer's official position, i.e., the officer must do something that he or she should not do, or fail to do something that he or she should do. Corrupt acts can occur off duty if that act is somehow related to the officer's employment as a sworn police officer. For example, the officer could learn of confidential information related to an individual and convey this information for money to that individual or another while off duty. The officer could also, during his or her normal patrol duties, "case" businesses for robberies or burglaries. (3) The reward—third element—for corrupt acts must be money or money's worth. I have previously identified the following types of police corruption.

Barker's Typology of Police Corruption

Kickbacks. This refers to money, goods and services accepted from such "legitimate" businesses and individuals such as towing companies, ambulances, garages, lawyers, doctors, undertakers, taxi cabs, service stations, moving companies, etc.

All of the businesses or individuals cited above have something to gain from a good working relationship with their local police. Many of the business people listed above freely distribute their cards to police officers and indicate their willingness to “take care of the officer” if they receive referrals from the officer. The “ambulance chasing” lawyer may pay a police officer for all referrals. Police officers, especially those who investigate traffic accidents, are in a good position to suggest an attorney for a possible liability suit. Towing companies and automobile repair and body shops are highly competitive businesses that can benefit from a good working relationship with one or more police officers. In fact, most police agencies have established a rotating list of wrecker services to avoid the possibility of corrupt arrangements.

Some police assignments have more potential for kickbacks than others. For example, accident investigation; especially those units that investigate serious injuries and fatalities, which almost always result in civil litigation (lawyer-police conspiracy); complaint desk assignments (lawyer, bondsmen-police conspiracy); bond details (bondsmen-police conspiracy).

Opportunistic Thefts. These occur when police officers steal money or other valuables from those they arrest or from crime victims. Also included in this pattern of corruption are thefts from crime scenes and unprotected property. These behaviors do not involve corruptors. That is why corruption definitions that only deal with bribery miss the mark when discussing corrupt police behavior. The “rolled” arrestees, traffic accident victims, and unconscious or dead citizens are unaware of the corrupt act; there is no corruptor per se.

Officers who engage in this behavior do not, in all likelihood, begin their shifts with the intention of stealing something; however, the opportunity presents itself under a low-risk situation and a theft occurs. I heard years ago that a good explanation of crime is “Crime occurs when the opportunity and the inclination come together under a low-risk situation.” Simple but true for most rational acts of criminal behavior. The officers committing these acts already have the inclination; all they need is the opportunity and what they perceive to be a low-risk situation.

Perhaps an officer is called to or discovers a business that has been burglarized and decides to take some of the merchandise or money left behind by the first thief. On occasion, police officers have taken

money or other valuables from unconscious or dead crime victims, particularly those involved in illegal activities, e.g., a drug dealer shot during a drug transaction. Innocent victims or natural death victims are sometimes targeted by thoroughly corrupt officers. Robert Leuci, best selling author, retired New York City cop and admitted corrupt officer, in his latest book, *All the Centurions* (2004), describes the practice he observed of soaping down the fingers of dead persons to remove their rings. According to other officers I have interviewed over the years, this practice is (or was) common in other departments. Police officers making routine business checks may find a door unlocked or some other unsecured property and decide to take something.

Sometimes individuals who have a propensity for these acts are also well known. I have always advocated that police officers always know who the bad actors are in their departments. That is the really sad part of corruption control and management. I was teaching a class on police ethics some years ago when an officer made the comment, "We have an officer in our department who you would not want investigating a traffic accident that you or a member of your family was involved in." The implication being that he would take something from the victims, especially if they were dead or unconscious. Several other members of the class joined in and one even mentioned him by name. When I asked why they did not do something about him, they all replied, "Damn, Doc, you know why we don't." I sure did. They felt some strange sense of loyalty to this officer because he was a cop. They also did not want to be known as snitches. I told them that there were no "honest cops" watching "dishonest cops" commit crimes. I also told them that I believed that law enforcement would never be a profession as long as "some cops had their hands in other people's pockets and other cops knew about it and did nothing." I will return to this point later.

Shakedowns. This involves police officers extorting money or other valuables from criminals, usually caught in the act, or traffic violators. These forms of behavior often arise opportunistically, i.e., the officer inadvertently witnesses or gains knowledge of a criminal violation and violator and accepts a bribe for not making an arrest. Shakedowns are usually engaged in with little fear of being caught because the victims are unlikely to complain since he or she is engaged in some illegal activity.

Officers will take bribes from transporters of contraband such as gambling paraphernalia or pornography, bootleg liquor or cigarettes, or traffic violators. Police officers have taken money or drugs from dealers caught in the act of transporting or dealing. The New York City's Police Department's "Buddy Boys" scandal is a good example of this pattern of corruption (McAlary, 1987).

Today's police officer, particularly in a large urban city may sooner or later be presented with a situation where he or she is exposed to temptations unheard of in the past. This has to be realized and discussed. All law enforcement officers must face the issues. We do not want them to face the temptations of huge sums of money without having some idea of what they might do or should do. Fortunately, most will make the right and ethical decision; however, some will yield to the temptation and a small number are waiting for the opportunity to arise. The latter group will seek out opportunities to shake down criminals and traffic violators.

In the area of traffic violators, virtually all uniformed police officers have numerous opportunities to shakedown those who they stop for traffic offenses. The serious consequences associated with DUI arrests and convictions have introduced a new potential for corrupt activities.

COSTS OF A DUI SHAKEDOWN

INTOXICATED DRIVER PAYS OFFICER \$100 TO FORGET VIOLATION

COST TO CITY	Loss of fine, loss of credibility in traffic enforcement. Damage to city's reputation.
COST TO DRIVER	Amount of future shakedowns, increased likelihood that he will be stopped in future, possibility of being prosecuted, increased risk of death and injury.
COST TO OTHER DRIVERS	Increased risk of death or injury from released offender, increased likelihood they will be stopped in hopes they can be shaken down for a bribe.
COSTS TO THE PUBLIC	Increased risks of death and injury, increased insurance rates, justice only for those who can pay.

**COSTS TO POLICE
AGENCY**

Damage to reputation, loss of confidence in agency, loss of individual officer's credibility.

Protection of Illegal Activities. This refers to those forms of behavior where law enforcement officers receive protection money or other valuables from vice operators or legitimate companies who operate illegally. Operators of so-called victimless crimes; including vice operations related to gambling, illegal drug sales, prostitution, liquor violations, pornography rings, and after-hours clubs; can increase their profits and decrease their risks through a good working relationship with the police. Unfortunately, there has been a long history of collusion between police and vice operations in many American cities.

Protection money or goods can also come from legitimate companies that operate illegally. Law enforcement officers have control over numerous businesses that are restricted by license and the law. For example, taxicabs, restaurants, trucking firms, bars, liquor stores, pharmacies, pawnshops, and gun dealers are among those regulated by law. These types of companies or businesses, some more than others, have paid tribute to the police to operate outside the range of their licenses or other restrictions; for example, a bar that stays open after hours or serves liquor or food for which it does not have a license or a taxicab that operates outside prescribed routes or picks up or discharges fares at unauthorized sites.

There has also been a long tradition in some urban cities of construction companies paying police officers to overlook violations of city regulations, e.g., trucks blocking traffic, violating pollution guidelines, and blocking sidewalks.

The increased specialization brought about by attempts to professionalize police departments has created a situation where it is not necessary to pay off all members of an entire police organization to insure protection. Only the detail that handles the relevant activity—cab detail, drug unit, vice detail, etc.—must be paid off.

Fixes. There are two behavior patterns included within the **fix**: the quashing of misdemeanor or felony prosecutions and the disposal of traffic tickets. This form of bribery involves the officer taking something of value to “fix” a case or a traffic ticket. Obviously, it would be easier for the uniformed officer to fix a misdemeanor case than a

felony case. He or she would have more control over misdemeanor cases or tickets. In a felony prosecution, the matter would be handled by a detective or someone from the prosecutor's office. The detective/s would be in a better position for a felony fix. Prior to or at the preliminary hearing is the optimum period to fix a criminal case. Should the case proceed to the grand jury or trial court stage, it becomes more difficult and more expensive to fix a case.

When the "fix is in," the investigating officer agrees to "sell the case," that is withdraw prosecution. He or she either fails to request prosecution, tampers with the existing evidence, or gives perjured testimony. He or she can also say that they failed to do something that they were required to do, such as giving the **Miranda Warning** or securing a search warrant.

I sadly recall when I had about two years on the job, two drunk young men stepped out of a "protected" whisky house and tried to shoot me off a three-wheeled police motorcycle. They fired at least five times as I frantically called for help. The area was saturated by police cars in a matter of minutes. The two suspects were found hiding under a house. While we were waiting for trial I was told that the detectives handling the case were going to "sell it." I went to my sergeant, who later became a "reform" chief renowned for his "honesty" and told him what I had heard. He told me "there is no way they would fix a case of attempted murder on a cop." The case went to trial and the suspects pled guilty to the charge of discharging a firearm in the city limits. The attempted murder charge was reduced for \$600.00. I went to my sergeant and complained and he said "There ain't nothing I can do, that the way things are around here." I have told this story at training sessions and have been told that nothing like that would happen again. I hope they are right.

It is becoming more and more difficult to fix traffic tickets as states move to serially numbered uniform traffic citations. There has to be some explanation given for a missing or rescinded ticket. Nevertheless, this has not stopped ticket fixing by some officers.

Direct Criminal Activities. All forms of police corruption are serious ethical violations and crimes; however, this pattern of behavior is particularly grave. Police officers actively engage in such crimes as robbery, burglary, and the sale and trafficking in narcotics in this pattern. These officers are crooks in uniform. When I first began conducting research on police corruption, I would never have believed

that law enforcement officers would become involved in drug-related corruption that some have today.

Drug-related corruption has changed the nature of police corruption. Police officers involved in drug-related corruption are more likely to operate on their own or in small groups and to be involved in a variety of crimes such as stealing drugs and money from drug dealers, selling drugs, and lying under oath during illegal searches (U.S. Government Accounting Office, 1998: 3). Rotten apples have come together in corrupt groups and are more likely to involve themselves in shakedowns of drug users or dealers, or robberies of dealers and crackhouses. They are real badge-packing criminals. New York City's former Police Commissioner William Bratton, commenting on the Mollen Commission's findings, stated "we have criminals in blue uniforms who are more vicious than some of the criminals they are supposedly policing (Bratton, 1995: 39)."

Carter (1990) reports that his subjects (involved in drug corruption) had an interesting rationalization for their acts. They would not take bribes; that was corruption. However, stealing from and robbing drug users and dealers did not "hurt anyone except the criminals" (p. 91). I have heard the same rationalization on several occasions, sometimes during ethics training sessions, "Its not corruption when you're taking it from the dirt bags."

Nevertheless, some police engage in direct criminal activities unrelated to drugs. During the almost twenty years of teaching in the police academy, I have had "rookie" officers who were later convicted of crimes ranging from murder to robbery. I quickly add that I have had "rookies" in these same classes who have and are still leading ethical and honest careers as professional law enforcement officers. Sadly to say, there were officers in those classes who gave their lives in service to their communities. The "damn" crooks who sat there in those classes with them dishonored them and the entire law enforcement occupation.

Internal Payoffs. This is a unique form of police corruption because the corruptors and the corruptees are both law enforcement officers. Police officers "sell" work assignments, off-days, holidays, evidence, and promotions to each other. An officer would approach his or her supervisor and request a change in work assignment and suggest a money figure, or the supervisor might tell the officer how much such a change would cost. Officers who work in departmental records

may sell confidential information to other officers.

Internal payoffs could involve department's selling positions. In 1995, a federal grand jury reviewed FBI reports concerning allegations that applicants to the Shelby County, Tennessee Sheriff's Office were asked to pay as much as \$7,000 to obtain jobs as deputies (*Law Enforcement News*, September 30, 1995: 51). Evidence or records would probably be sold for use in some other pattern of corruption, such as a **shakedown** or **protection of illegal activities**.

For such transactions as **internal payoffs** to occur, both parties would, in all probability, have to be already involved in some corrupt practices. In all likelihood, the work assignment sold would be one with a high corruption potential. I feel confident that **internal payoffs** are the rarest form of police corruption because police officers are the victims and **internal payoffs** would only occur in departments riddled with the other patterns of corruption.

Chapter 9

CORRUPT PRACTICES AND CORRUPTION CONTROL

If we are to understand and control corrupt behavior, we must recognize that corrupt practices will vary according to their organization and officer involvement. Patterns representing adventitious corruption are not organized since they occur opportunistically. Other patterns such as **protection of illegal activities** are highly organized (see Table 9-1).

Opportunistic events such as “scores” are most often one time events which are never repeated between the same officer and a citizen, victim, or criminal. Other corrupt activities feature a continuing relationship among parties to the corruption. There will be active cooperation between officers. There can also be passive cooperation among officers when “honest” officers do not report their colleagues. There will also be citizen-police cooperation, particularly in vice operations. The length of time that this cooperation takes place will also vary. Obviously, the longer the length of cooperation the more serious the problem.

Corrupt Officers and Corrupt Groups: “Rotten Apples”

The traditional view and the one most often expressed by police executives in the past was that police corruption was the result of a few **rotten apples** in an otherwise honest police department. These rotten apples were either weak individuals who had slipped through the screening process and succumbed to the temptations inherent in police work, or deviant individuals who continue their deviant prac-

Table 9-1. PATTERNS OF POLICE CORRUPTION

<i>Pattern</i>	<i>Acts</i>	<i>Organization</i>
Kickbacks	Money or money's worth from those who service the clients of the police.	High, collusion between corruptors and the police.
Opportunistic Thefts	Thefts from arrestees, victims, crime scenes and unprotected property.	None
Shakedown	Money, goods or other valuables from criminals or traffic offenders.	None
Protection of Illegal Activities	Protection money from vice operators or companies operating illegally.	High: often highly organized.
Fixes	Quashing of prosecution proceedings or companies operating illegally.	Medium; fixers could be on the payroll.
Direct Criminal Activities	Officers engaged in such crimes as burglary, robbery, sale and trafficking in drugs.	Low for some crimes—burglary, robberies—small groups. Medium to High organization in drugs.
Internal Payoffs	Sale of work assignments, off-days, evidence, and promotions.	Low to high; depending on other forms of corruption present.

tices in an environment of ample opportunity.

As we have stated, the very nature of this morally dangerous occupation provides its members with more than ample opportunity to engage in a wide variety of deviant behaviors, including corruption. The police come into contact with a variety of deviant actors during their normal work routine, often under conditions of little or no supervision.

The temptations, coupled with the discretion that the officer can and does exercise, makes police work much more “morally dangerous” than any other occupation.

The Knapp Commission, which investigated the New York City corruption scandal in the early 1970s, was the first to identify two types of officers who could qualify as rotten apples: grass eaters and meat eaters (Knapp Commission, 1973). **Grass Eaters** are officers who engage in relatively minor types of corruption as the opportunity presents itself. **Meat Eaters**, on the other hand, are police officers who

actively seek out corruption opportunities and engage in both minor and major patterns of corruption. Typically patterns engaged in by the **meat eaters** are kickbacks, opportunistic thefts, shakedowns, fixes, and direct criminal activities.

The police corruption scandals of the 1970s and 1980s, including the Knapp Commission, provided little support for the “rotten apple” theory, as systematic corruption was found in department after department (Barker & Carter, 1994). The problem was the barrel and not the apples. The term “rotten apple” came to be seen as a management technique or rationalization used by police executives to explain corrupt behavior in their departments. They were trying to use this label to normalize or distance the police department from one or more publicly identified corrupt police officers.

It now appears that changes in departmental control systems in the last fifteen to twenty years has had an effect on the nature of police corrupt practices in many police departments. Hugo Masini, former chief and the first director of the Institute for Criminal Justice Ethics states that, before the administration of New York City Police Commissioner Patrick Murphy, there had never been a “clear-cut” message in the department that corruption would not be tolerated and that officers and supervisors would be held accountable for it (Masini, 1985: iv). This was to take place in other departments. The systematic corruption scandals of the 1970s and 1980s led to administrative changes in most major police departments. There is now reason to revisit the rotten apple explanation.

Rotten Apples Revisted. Many writers and researchers on this topic, myself included, may have gone too far in dismissing rotten apples as an explanation of some corrupt police behavior. It is now apparent that rotten apples do occur in many police departments. A true rotten apple is a corrupt officer in a police department where systematic corruption is truly rare (Barker, 1996: 39). The rotten apple argument has been confirmed in many police departments (Delattre, 1989). For example, Delattre is correct in pointing out that the River Cops involved in the drug corruption scandal in Miami, Florida in the late 1980s were rotten apples in a department without evidence of systematic corruption. The River Cops were hired during a period of accelerated hiring and relaxed standards for employment (more on this issue later).

The Mollen Commission’s investigation—the sixth commission to

investigate corruption in New York since 1890—of drug corruption in the New York City Police Department arrived at the same conclusion: “The corrupt acts were the result of small groups of rotten apples and not systematic corruption within the department” (Mollen Commission, 1994.) I am not aware of any evidence to discredit this conclusion. However, as in Miami, management and supervisory deficiencies, including the failure to support a sergeant who reported the corrupt acts in New York, contributed to the problem (McAlary, 1994).

The investigation into the Los Angeles Rampart Area corruption incident appears to be the result of rotten apples and not corruption throughout the department (Los Angeles Police Department, 2000). There does not appear to be any evidence to dispute this finding. Although numerous management and supervisory deficiencies contributed to corrupt acts and the abuses of authority, it appears that the corruption was limited to the corrupt acts of a Rampart CRASH (specialized gang) unit. The unit had a “gunfighter attitude” and a siege mentality. One could also argue that the unit’s name, CRASH, is confrontational.

LAPD Board of Inquiry

After careful consideration of the information developed during the Board of Inquiry’s work, it is the Board’s view that the Rampart corruption incident occurred because a few individuals decided to engage in blatant misconduct and, in some cases, criminal behavior. Published assertions by former Rampart CRASH officer Rafael Perez that the pressure to produce arrests caused him to become corrupt, simply ignores the fact that he was convicted of stealing narcotics so he could sell them and live the life style of a “high roller.” Even the finest corruption prevention system will not stop an individual from committing a crime if he or she has the will to do so. However, had the Department and the Rampart management exercised more vigorous and coordinated oversight of Area operations, and its CRASH unit in particular, the crimes and misconduct that occurred may have been prevented, discouraged or discovered much earlier (Los Angeles Police Department, 2000: 311).

The recent Chicago drug corruption scandal also was confined to specialized units. The ten Chicago officers indicted were tactical unit officers whose primary function was narcotics enforcement. They were assigned to the two districts with the highest incidents of narcotics arrests (Commission on Police Integrity, 1997).

From all accounts, the 1999 charge of police corruption in the

Seattle Police Department was limited to one police detective accused of stealing \$10,000 from the home of a man who died in a police shootout (SPD Citizens Review Panel, 1999: 1). Significantly, a Seattle Homicide Detective reported the incident to a county deputy prosecutor, even though the original detective returned the money at the urging of his colleagues on the scene. The single allegation in a department with a national reputation for being corruption free led the mayor to convene a citizen's panel to investigate the incident.

There is no denying that the evidence does suggest that "rotten apples" do exist. However, some police executives still use the term "rotten apples" to deny or mask problems in their departments. They want the public to believe that a publicly identified "corrupt," or for that matter a "racist" or "brutal" cop is an aberration not a department problem. When they are gone, the problem will go away. Generally speaking, rotten apples are uncovered internally by fellow police officers. In a truly honest police organization, especially one that has a proactive internal affairs division, corrupt officers—or racist and brutal officers—will soon be identified. However, in those departments with rotten apples, if they are left attended to they will soon come together and practice their deviant activities in groups. If individual police officers engage in corrupt practices for any length of time without the department discovering it or taking action if they know of it, it is almost inevitable that they will become known to each other and begin to act in collusion. These officers will begin to organize for corrupt activities. In time, corrupt practices can become widespread and lead to corrupt police departments. But first we need to examine relaxed hiring standards and its effects on hiring potential "rotten apples."

Relaxed Hiring Standards. Particularly troubling about the Los Angeles Police Department's Rampart Investigation is that four of the 14 officers (12 men and 2 women) involved were hired during periods of accelerated hiring and were disqualified by the police department only to be hired by the personnel department (LAPD, 2000: 332). During the background checks, the police department learned that the four police officer applicants had a combination of criminal records, inability to manage personal finances, histories of violent behavior, or narcotics involvement. One had sold narcotics as a juvenile. Nevertheless, the personnel department, which had the final say on employment, overruled the police department. This is not the first

time that a link has been found between relaxed hiring practices and police corruption and misconduct.

In 1980, Miami, Florida, under pressure to recruit minority candidates, adopted a policy that 200 new police officers be hired immediately. Eight percent of these new recruits were to come from the minority community. Little, if any background checks were conducted on these new applicants. In addition, these new recruits were badly trained and negligently supervised. The background checks that were done and the police academy instructor's reports revealed that many were unsuited for police work. The end result was that by 1988, a third were fired and twelve members of the group known as the "River Cops" were convicted of crimes ranging from drug trafficking to murder. Many had joined the department to engage in drug trafficking.

During the 1989-90 hiring drive in Washington, D.C. numerous officers who were to become problem officers were hired under relaxed standards and background checks. Congress threatened to withhold \$430 million unless 1,800 new officers were hired. The Metropolitan Police Department hired 1,471 officers in 1989 and 1990. In order to accomplish this, the department suspended the normal procedures for applications and lowered the passing grade on the entrance exam to 50 percent. Background checks were done over the phone and FBI criminal records were ignored. Dellatre (1995) reports that some of the applicants were incarcerated at the time and they received their parole denial letters at the same time that they received notices that they were admitted to the police academy.

In 1997, one hundred of the officers hired under the relaxed standards had been charged with criminal offenses ranging from shoplifting to rape and murder. One hundred of these officers are included in the 185 Metro officers who cannot be used as credible witnesses because of their bad records. One quarter of the total number had been charged with crimes involving domestic abuse (Human Rights Watch, 1998). The special committee appointed to examine the allegations of misconduct recommended that the Metropolitan Police Department be prohibited from hiring an applicant without a full background check, including a review of juvenile records (www.dcwatches.com/police/981006a.htm#introduction: 6 & 7).

A most disturbing example of the consequences of hiring the wrong person occurred in New Orleans in 1995. On-duty Officer Antoinette Frank and an accomplice entered a Vietnamese restaurant,

killed an off-duty police officer moonlighting as a security guard, and then executed a brother and sister who worked in the family business. Frank later answered the call to the restaurant as if nothing had happened. Officer Frank received the death penalty for the murders. In 1993, Frank had failed the civil service psychiatric evaluation and hired her own psychiatrist, who found her fit. A second civil service psychiatrist evaluated the contradictory evaluations and declared her suitable for employment as a New Orleans police officer (Human Rights Watch, 1998).

The failure of the internal discipline system may result in identified rotten apples staying in a police department. Carter (1990) reports the case of a police officer who was confiscating drugs for his own use. To avoid bad press, the department charged the officer with a departmental rule violation instead of a crime. The department hoped to fire the officer. The officer's due process rights were violated during the process, and a later arbitrator put the officer back to work with most of his back pay. This same officer was later promoted to sergeant. It is not uncommon for arbitrators to overturn department disciplinary decisions (Coulson, 1993).

The combined effect of these practices—relaxed hiring practices, hiring the wrong person when evidence of their unsuitability is available, failure of the internal discipline system or no such system—can lead to employing or retaining rotten apples. Rotten apples can form corrupt groups and over time lead to corrupt departments.

Corrupt Police Departments

In this case a sizable number, if not the majority, of the police officers in some police departments engage in corrupt activities. The most extreme example of a corrupt police department would be a department that adopts corrupt goals. This occurs when the department is “captured” by the political environment or the “dominant coalition” adopts personal gain as a goal (Sherman, 1978: 32). The author had the unfortunate experience of working in such a department.

All the patterns of corruption would be found in a corrupt police organization, as they were in the author's department. Those patterns involving vice operations will predominate. Even though a sizable number of the officers will engage in corrupt activities, not all will do so. There are actually five categories of officers who can possibly exist

in a corrupt department (Barker, 1986). The five categories are ideal types that exist along a continuum of behaviors, so that gradations of officers will fit in between.

Types of Officers in Corrupt Police Organizations

1. White Knights. These officers are honest to a fault or at least they say they are. They often take an extreme position of ethical issues. Although police officers are expected to be ethical and moral in their behavior, white knights can create problems in an organization by being too rigid and judgmental in an occupation that requires discretionary decision making. I was always told to be wary of anyone who takes an extreme position on any issue. Often, those who take extreme positions, and they are usually vocal about it, are trying to convince themselves. Honest and ethical persons do not have to go around beating on their chests and publicly announcing their virtue. When they do exist in a police departments they are in a minority and on a continuum of officers would appear on the extreme left (see below).

Continuum of Officers in Corrupt Departments

I	I	I	I	I
White Knights	Straight Shooter	Grass Eaters	Meat Eaters	Rogues

2. Straight Shooters. These are “honest” officers who will overlook the indiscretions of other officers. They do so for pragmatic reasons (don’t make waves, there is nothing one person can do, I’m not going to be a snitch, etc.) or for reasons of comradeship (we have to protect each other, cops don’t turn in other cops). Not being comfortable with turning in a fellow officer, these officers will accept the fact that other officers engage in some patterns of corruption and misconduct, but not others. As one officer related to me, “I never took a bribe and I always refuse gratuities, except for free coffee, for which I always leave a big tip. However, if someone gets their head thumped, not ‘LA style,’ but a police rap to get their attention, I didn’t see it.” Officers in this category in a corrupt police department generally suffer in silence or seek out corruption-free assignments.

3. Grass Eaters. As stated previously, these officers engage in some corrupt activities as the occasion and opportunity arises.

However, most will have their limits and engage primarily in accepting gratuities, occasional kickbacks, and opportunistic thefts.

4. Meat Eaters. These officers actively seek out opportunities for corruption. They come to work with the idea of making money. They will develop the corruption potential of their beats and assignments.

5. Rogues. The rogue police officer is one who is thoroughly corrupt and considered an aberration even by the **meat eaters**. The rogue will often commit highly visible shakedowns of citizens, felony fixes, and even direct criminal activities. Fortunately, they are a minority even in the most corrupt police organizations. On the continuum of officers they are on the extreme right and in small numbers.

Generally speaking, corruption in corrupt police organizations is uncovered through a scandal. Actions on the part of both **white knights** and **rogue officers** have led to scandals. A **white knight** blowing the whistle to the media or an external agency, or the outrageous behavior of a rogue cop cannot be covered up. The investigation and prosecution of police officers in corrupt police departments is usually handled by an outside agency.

CORRUPTION CONTROL

Obviously the first step in corruption control is to recognize the possible patterns (Chapter 8) and the corrupt practices that can take place in the organization. The administrator must also recognize that police corruption can never be entirely eliminated from any police organization. That is an unrealistic expectation. Just as a society without crime will never exist a police organization where no corruption occurs will never exist. As we have explained the police occupation is a Morally Dangerous Occupation and will always be so. Some members of the occupation will succumb to the temptations. However, corruption can be controlled and managed by a three-pronged effort directed toward (1) decreasing the opportunity; (2) undermining group support for corruption; and (3) increasing the risk.

Decreasing the Opportunity

Stance of the Administrator

The police chief executive must convey his posture on corruption to the department and the public. This is especially true for those administrators who have been hired as change agents after a public scandal. If corruption has been a problem in the past, the new CEO must recognize that it has and inform the officers that the practices will end. Of course, the new chief is not in the position to grant general amnesty for past events, especially those which involved serious criminal violations. However, the new law enforcement executive officer can set the tone for the agency by developing an anticorruption policy with its attendant rules and procedures. The department's policy will set the limits for all members of the organization.

A Note on Policy Development

Policy is defined as the principles and values which guide the performance of a departmental activity. These principles and values are "attitude forming" in the sense that they tell departmental personnel how to think about performing their duties (Hoy, 1982: 301). A policy is *not* a statement of what must be done in a particular situation. It is a statement of guiding principles which should be followed in order to attain some departmental goal or objective. Policy should always be thought of as the frame work for drafting procedures and rules and regulations.

EXAMPLE CORRUPTION IACP

1. PURPOSE

The purpose of this policy is to prevent corruption from occurring in this law enforcement agency and to prescribe actions to be taken in the event that corruption is alleged and/or identified.

2. POLICY

It is the policy of this law enforcement agency to establish proactive procedures to prevent corruption and to investigate and prosecute corruption to the full extent of the law, and administrative authority, when reported or identified (IACP Model Policy, 1989).

As one can see from the example, policy can be very broad and allow some flexibility and is subject to varying interpretations. Therefore, the agency must define the terms and limit the flexibility and discretion through procedures, rules and regulations.

Procedures are the methods of performing an operation or the manner in which the task is to be performed. Procedures are different from policy in that they direct the action to be taken within policy guidelines. Policy and procedures are both objective oriented; however, policy establishes limits of action while procedures direct responses within these limits (Carter & Dearth, 1984). Procedures allow for some flexibility within limits and they are usually found in instructional materials and manuals as well as in policy statements. Accompanying procedures are rules and regulations.

EXAMPLE (IACP)

CORRUPTION PREVENTION

IV. PROCEDURES

2. Code of Ethics

This department will maintain, periodically review and update a Code of Ethics. Each new employee will be required to read and place his/her signature at the bottom of a copy of the Code of Ethics as an indicator that he/she has read and understands the standards of conduct set forth in the Code of Ethics.

3. Rules of Conduct (R.O.C.)

The Rules of Conduct shall appear in front of the policy manual to emphasize their significance. New employees will be instructed in the R.O.C. The R.O.C. will be reviewed annually for relevance, timeliness, adequacy and completeness.

Rules and regulations are actually synonymous and refer to specific requirements or prohibitions which prevent deviations from policies or procedures. A violation of a rule/regulation usually invites disciplinary action. If policies are “attitude forming” and guide judgments, rules are “behavior forming” and govern behavior. Rules are restrictive and allow for no flexibility or discretionary behavior. They should only be used when absolutely necessary to insure compliance with some desired behavior or action. Unfortunately, some police administrators confuse rules with policy and procedures and believe the only way to control behavior is through a proliferation of rules and regulations. This is self defeating because the proliferation of rules and

regulations creates an illusion of control yet not genuine control. This simple solution ignores the purpose of policy development and the effects of training, education and good supervision. Even though too many rules may be counterproductive, there are instances where police behavior or misbehavior must be prevented. For example: **Rule**—All confidential informants and drug buys will conform to control, bookkeeping and accountability procedures.

EXAMPLE (IACP)

CORRUPTION PREVENTION

Narcotics and/or Drug Enforcement:

- a) Two or more officers must be present to effect any arrests resulting from a planned drug operation.
- b) All confidential informants and drug buys will conform to control, bookkeeping, and accountability procedures.
- c) All evidence will be processed strictly according to the policies and procedures governing the property and evidence functions.

In addition to writing realistic and meaningful policies, procedures and rules, the law enforcement executive must also ensure that his or her public statements on the subject of corruption are not unrealistic and pompous. Telling the press and the troops that “Police officers in my department arrest everyone who breaks the law. There will be no opportunities for corruption,” “Corruption starts with a free cup of coffee,” “There will be no fat cops eating apples in this department,” will be viewed with skepticism and disgust. Police behavior should be guided and directed by realistic expectations. If you don’t mean it don’t say it.

It should go without saying that the law enforcement executive’s behavior should conform to his/her public pronouncements and the department’s policies, procedures and rules. However, this is not always the case. There have been several recent well-publicized examples where the attitude has been “do as I say not as I do.” A chief accepting free rooms and meals, even though out of his home city, because of his/her position raises ethical issues and invites criticism.

Educating the Public

As part of his/her efforts to decrease the opportunities for corruption, the chief executive officer must educate the public concerning their efforts in corruption control. He/she may have to make public

appearances before civic and professional groups where restaurant owners, barkeepers, construction firms, etc., are present and explain the department's policy on gifts and other gratuities. At first he/she may face some opposition and the "comment that it is my business and I will do what I want." However, once they understand that it is department policy for its officers not to accept the offered gifts and gratuities things should straighten themselves out. They should be informed of the risk they are creating for the officer should he/she accept the gift or gratuity. They should also be encouraged to report any solicitations by police officers.

Increased Supervision

In today's world, police officers often totally alone and unobserved may be placed in a position where the money from a bribe or drug shakedown opportunity may be more than an entire year's salary. Corruption thrives best in poorly-run organizations where lines of authority are vague and supervision is minimal (Goldstein, 1975: 42). Increased supervision can somewhat eliminate the opportunity for this to happen. Increased supervision means more than putting more sergeants or lieutenants on the shifts or in the precincts.

Additional supervision means giving police managers the authority and responsibility for anti-corruption efforts. Supervisors must understand that they have the primary responsibility for identifying, eliminating, and controlling corruption. They should be trained in the techniques, investigative approaches and procedures to carry out their responsibilities. Top and middle managers must be held strictly accountable for corruption that occurs in their areas of responsibility.

Sustained Action and Monitoring of Legal and Illegal Corruption Hazards

The story is often told of sociologists spending enormous amounts of money researching for vice activities where \$100.00 to an experienced cab driver would get the same information. Sometimes we wonder why police administrators at the top and middle management could not identify corrupt activities in their commands. There are certain activities and businesses that are natural corruption hazards and indicators of possible police citizen collusion. These must be closely

monitored to decrease the opportunity for corruption. In 1979, Ward and McCormack in *An Anti-Corruption Manual for Administrators in Law Enforcement* listed numerous corruption hazards and indicators. Their list is still valuable today. A partial listing follows:

BARS, GRILLS, CABARETS AND BOTTLE CLUBS

Hazard:

The acceptance of money gifts, free food and drinks by members of the department from owners and operators of bars and grills, cabarets and bottle clubs to overlook violations of the Alcoholic Beverage Control Law, the Health Code, Traffic Regulations and Administrative Code.

Indicators of the Problem

Unexplained visits by department members to bars, grills, cabarets, and other licensed and unlicensed premises, indicated by:

- failure to notify the radio dispatcher of visit
- failure to notify supervisor on patrol
- no arrests, summonses, or other police action taken when necessary, and failure to make proper reports.
- improper or incomplete investigations of crimes occurring on or near premises.
- a specific pattern of visits to the premises members on and off duty.
- the presence of illegal parking in the vicinity without proper police action being taken.

Numerous complaints from the public alleging:

- disorderly premises
- overcharging for meals, drinks and services
- adulterated liquor and wine
- credit cards lost or stolen from clothing checked in cloak rooms or from individuals on the premises.
- police cashing personal checks that subsequently are returned to the bank due to insufficient funds.
- assaults on patrons by employees or persons on the premises.
- improper or no police action taken when police are summoned with complaint to premises for cause.
- taxicab drivers, hotel employees, and others bringing people to pre-arranged specific locations like bars, clubs and hotels for a fee.
- unlicensed premises (bottle clubs) selling alcoholic beverages.
- premises frequented by persons who are obviously narcotic addicts or prostitutes.

- without appropriate police action subsequently taken, individuals being injured in the vicinity of licensed premises under circumstances that might indicate that the injury occurred within the premises.
- receipt of written or verbal communications alleging an improper presence of police in the premises or alleging some police corruption.
- business being conducted during prohibited hours.
- through personal observations, premises are frequented by known gamblers or racketeers without intelligence reports having been received from patrol service units.

Follow-up inspections reveal that complaints, referred to other commands for action, are not being acted upon effectively.

Inspection of records reveals that cases resulting in arrests or summonses have an inordinately low conviction rate for some premises.

Procedures for Control

“Routine” visits prohibited. Inspections should be conducted on a directed basis by the precinct commanding officer.

Commanding officer or executive officer should direct superior officers to make frequent observations of suspected premises and persons suspected of corrupt practices.

Information received from within the department and the public should be verified.

Conduct personal interview of complainants, when deemed necessary.

Personally inspect and analyze department records to detect possible trends or patterns of police action in connection with premises under suspicion.

Carefully observe members of the department suspected of having a drinking problem that would cause them to become amenable to corruptive efforts by others.

CONSTRUCTION SITES

Hazard

The acceptance or solicitation of money, gifts and building materials by police to overlook violations of the law pertaining to the regulation of construction.

Indicators of Problem

- unexplained visits to construction sites by police while on and off duty.
- police observed placing building materials into department vehicles or into their private vehicles.
- identifiable violations which create safety hazards for pedestrians or which impede traffic flow at construction sites apparently being overlooked by police.
- written or verbal complaints received from the public alleging violations at construction sites without proper police action being taken.
- complaints received from construction workers or site managers alleging excessive enforcement.
- unusual summons activity by a member of the department, followed by sudden inactivity.

Procedures for Control

Direct written or verbal communications to site managers informing them of departmental policy and requesting their cooperation in enforcement. Advise them that the offer of a gratuity to a public officer is a crime and that the person making the offer is subject to arrest. Superior officers should make frequent observations of sites to insure adequate enforcement of pertinent laws and to observe the conduct of police observed at construction sites without sufficient reason for their presence.

Carefully examine summons and other records to detect signs of pressuring site managers by department managers.

Inspect construction sites immediately upon receipt of complaints.

HOTELS AND RESTAURANTS**Hazards**

The acceptance of free meals, free rooms, and Christmas gratuities from owners and operators of hotels and restaurants to overlook parking, health codes, administrative code violations and laws pertaining to public morals.

Police unofficially assisting owners and operators of these premises in maintaining order.

Indicators of Problem

- unexplained visits to the premises by police on duty and off duty.
- receipt of written or oral complaints alleging members are obtaining free meals and rooms.

- observations of violations of laws inside and in the vicinity of the hotels and restaurants without adequate enforcement activity for correction.
- complaints from the public alleging violations of the liquor laws and the laws pertaining to gambling and prostitution that should have been discovered and reported by members of the department.
- complaints, especially those alleging improper police action, of assaults on the public by employees of hotels and restaurants.
- hotels and restaurants having a known policy of free meals, rooms, etc., for “man on post.”

Procedures for Control

Make independent observations of premises for an evaluation of any crime problems that may exist.

Direct observations to detect the furnishing of unwarranted police service.

Carefully examine reports on injured individuals and complaint reports, the origins of which may have been in a hotel or restaurant instead of the location where actually reported taking place.

Compare the findings revealed by observations of suspected premises with arrest reports and with the results of other completed investigations.

Disseminate current departmental policy to members and to the owners, managers, and employees of hotels and restaurants and request their cooperation. They should be advised that an offer of a gratuity is a crime and that the person making the offer is subject to arrest.

Provide adequate sleeping facilities in the station house for police who need these facilities.

PARKING LOTS

Hazard

The acceptance by police of money, gifts, free parking privileges, and Christmas gratuities from the owners and operators of parking lots to overlook violations pertaining to their businesses.

Indicators of Problem

- violations of traffic regulations and congested, vehicular traffic in the vicinity of the entrances to parking lots.
- parking of customers' automobiles on streets in violation of departmental regulations.
- deliberate inattention to violations by members on patrol.

- unexplained visits to the parking lots by police while on and off duty.
- written or verbal communications received alleging that police frequently observed overlooking violations.
- complaints from parking lot owners and employees that they are unnecessarily receiving summonses for borderline violations.

Procedures for Control

Observe and inspect patrol supervisors to observe that laws concerning parking lots are being enforced fairly.

Inspect daily activity reports to detect unusual and suspicious trends of activity.

Frequent observations of persons and places susceptible to corruption efforts.

REPAIR SHOPS, GARAGES, TRUCKING COMPANIES

Hazard

The acceptance by police of money, gifts, and free services from owners and operators of repair shops, garages, trucking companies, and vehicle rental companies to overlook violations of the law pertaining to traffic regulations and to general business laws.

Indicators of Problem

- double parking and parking on sidewalks in the vicinity of said businesses, without proper police action being taken.
- loading or unloading in nonloading zones resulting in the obstruction of sidewalks.
- streets or sidewalks being used as storage areas.
- major repairs, other than emergency repairs being performed in the streets.
- receipt of numerous complaints about noise of trucks and cars, without any corrective action taken by patrol service units.
- written and oral communications received from the public alleging collusion between members of the command and the business.
- unexplained visits by members of the command on or off duty to the businesses.
- an inordinate number of rented automobiles recovered through arrests or recovered as abandoned, by specific members of the command. Arrest records could indicate a desire for rewards from the companies.
- complaints received from operators and owners of the businesses, alleging excessive harassment by members of the command.

Procedures for Control

Direct superior officers to observe and inspect businesses frequently to ascertain that traffic regulations and general business laws are being properly enforced. Inspect departmental records to discern possible trends like a lack of summons activity.

GYPSY OR UNLICENSED CABS

Hazard

The acceptance or solicitation by police of money and gifts from gypsy cab drivers and operators of livery car services to overlook violations of traffic regulations.

Indicators of Problem

- stopping an inordinate number of gypsy cabs without arrests being made, summonses being served, or adequate reporting made by members of the command.
- the receipt of a number of written or verbal communications from gypsy cab operators alleging harassment by members of the command.
- rumors circulating within the command concerning the acceptance of bribes from gypsy cab operators, especially if they are related to specific members of the command.
- unexplained visits by police on and off duty to gypsy cab offices or garages.
- failure by patrol services to take corrective action concerning traffic conditions and unnecessary noise in the vicinity of gypsy cab offices and garages.

Procedures for Control

Direct superior officers to observe and to supervise closely members of the command in the enforcement of regulations governing gypsy cabs.

TRAFFIC VIOLATIONS

Hazards

The acceptance or solicitation by police of money and gifts to overlook traffic violations.

Indicators of Problem

- excessive stopping of motorists by police without comparable summons or arrest activity.
- serious traffic and safety conditions-illegal parking, street repairing of automobiles, sidewalk parking, and low enforcement activity—left

uncorrected by department members.

- written and verbal complaints received from the public alleging nonenforcement of traffic regulations or alleging payment to police for special treatment.
- receipt of complaints alleging police officers attempted to extort money to overlook violations.

Procedures for Control

Direct superior officers to observe places and persons in areas of traffic to insure adequate enforcement and to prevent corruptive practices.

Closely supervise members assigned to traffic control or parking enforcement duties.

Frequently inspect activity reports to discover possible corruptive practices.

TOW TRUCKS

Hazard

The acceptance or solicitation of money, gifts, and free services by members of the department to overlook violations of the laws governing tow trucks and to compensate police for referring operators of vehicles in accidents to specific companies.

Indicators of Problem

- an inordinate percentage of towing business being handled by a very few towing companies.
- tow truck operators violating traffic regulations without corrective action being taken by patrol officers.
- verbal or written complaints, received from the public alleging collusion between members of the command and tow truck operators.
- members of the command observed in possession of business cards of towing or body-and-fender repair companies.
- the receipt of a substantial number of written and verbal communications from tow truck operators alleging harassment by members of command.

Procedures for Control

Superior officers on patrol should respond to the scene of all accidents requiring tow service.

Direct superior officers to frequently observe suspicious towing operations and suspected department members.

Initiate follow-up investigations of selected collisions involving a tow to

determine any possible police corruption.

Distribute to motorists at accident scenes handout sheets describing laws pertaining to tows.

PROSTITUTION

Hazard

The acceptance and solicitation of money and favors by police from prostitutes to overlook violations of the laws relating to prostitution and prostitution-related offenses.

Indicators of Problem

- unnecessary familiarity with known prostitutes while on and off duty.
- failure of the uniformed patrol service to adequately control public nuisance conditions when prostitutes or pimps congregate on streets to actively solicit patrons or when hotels, massage parlors, bars, and apartments are apparently being used by prostitutes.
- the presence, on or off duty, of a member of the command not on police business, at locations frequented by known prostitutes.
- recurring arrests of the same prostitutes as a harassment technique by individual officers for reasons other than impartial law enforcement.
- written and verbal complaints from the public alleging collusion between members of the command and prostitutes.

Procedures for Control

Observe frequently suspicious areas of prostitution, pimps, prostitutes, and police to determine if any corruption patterns exist.

Initiate follow-up inspections to determine what action has been taken by plainclothes units regarding information supplied to them by patrol officers.

GAMBLING

Hazard

The acceptance of solicitation of money and gifts by members of the department from individuals involved in illegal gambling activities to overlook violations of laws regulating gambling.

Indicators of Problem

- known gambling locations operating within the confines of the precinct without proper intelligence reports being submitted by members of the command.
- crowded parking conditions in the vicinity of suspected premises,

especially during evening hours, that indicate possible organized card or dice games.

- large numbers of people entering a business establishment like a candy store, shoe shine parlor, or grocery store and leaving without having made a purchase.
- numerous observations of known gamblers at specific locations.
- members of the command, while on or off duty, in the company of known gamblers or frequenting locations suspected of gambling activity.
- failure by patrol officers to correct public nuisance relating to gambling.
- the receipt of written and oral communications alleging that members of the command are permitting gambling to take place.

Procedures for Control

Initiate frequent observations of individuals, locations, and members of the command suspected of being involved in corruption relating to gambling.

Direct superior officers to observe suspicious gambling locations frequently. Initiate follow-up inspections by the commanding officer to determine whether intelligence reports are being submitted for all suspected locations and persons within the command.

NARCOTICS

Hazard

- prior to booking, the unlawful release of prisoners in exchange for money, narcotics, or other gifts.
- unwarranted dismissal of court cases after police conspiracy with offenders.
- the withholding of contraband by police for private use, future sale, or the practice commonly known as “flaking” or placing evidence of a crime on a person who does not actually possess it.

Indicators of Problem

- an arrest pattern by specific officers which indicates a concentration of arrests for loitering and narcotics trafficking by people waiting to buy or sell.
- repeated observations of police at locations frequented by narcotics users, especially when no other police business is occurring at those locations.
- despite the receipt of complaints, narcotic locations flourishing without proper police action being taken.

- a pattern of complaints by prisoners alleging that money, other valuables, and narcotics are missing after the suspects have been searched by police.
- a pattern of complaints that charge improper search and seizure.
- a pattern of allegations of evidence being placed on a supposedly innocent person to justify an arrest.
- an unusual number of court cases being dismissed because of incomplete or faulty court affidavits, poor testimony, or non-appearance of specific members of the department.
- members of the department spending money presumably in excess of their income.
- possible narcotics use by members indicated, in addition to the usual physical signs, by excessive requests for emergency leave; excessive sick report time (noting type of illness), neglect of personal appearance; constant fatigue; inadequate attention to duty; allegations or rumors of an individual's involvement with usage; unexplained disappearance from station house of property from personal lockers, vouchered property, and office equipment; and observation of a department member's associates.

Procedures for Control

Closely supervise subordinates in the field to insure the proper handling of arrests and searches.

Establish strict procedures for searches and the recording of evidence. Immediate search in presence of station house supervisor and recording of evidence should be made. Supervisor should issue a receipt for evidence that the arresting officer can place in his memo book.

Hold frequent conferences with superior officers and community groups to obtain information related to suspected practices in narcotics enforcement.

Initiate frequent independent or parallel observations of narcotic locations and of suspected officers.

Frequently review individual records to determine suspicious trends in arrests, dispositions, and investigative results.

Train members in current departmental procedures and policies.

Hold periodic, unannounced locker inspections to discover the unlawful withholding of evidence or contraband.

Superior officer review all narcotic arrests, especially those that are dismissed in court.

As stated above, the examples used were from a draft of a manual developed by the New York City Police Department (McCormack & Ward, 1979: 27). This does not mean that they cannot be used by smaller departments. They give an idea of what to look for and how to possibly control the incidence of these behaviors. Obviously, the larger the department and the community where the department is located will influence the opportunities for corruption and misconduct.

Undermining Group Support

Every occupational group socializes new members into the group. These occupational groups can create informal rules concerning deviant (rule breaking) behavior. The social isolation of the American law enforcement community and their withdrawal into their own group for support—group solidarity—creates a situation whereby the law enforcement officer becomes subject to intense peer group pressure. This peer group can supply the rationalizations for corrupt acts. Some of the more common rationalizations are: law enforcement is a low paying job, these are just fringe benefits or perks of the job, it is covered by insurance, these people like the police, they are respectable people, it is “clean money,” everybody does it, if you don’t do it nobody will trust you, he is a criminal and it is illegal money, etc. The end result can be that the new officer is provided with a list of “safe” or tolerated patterns of corruption and misconduct.

What we can have in a law enforcement agency is a situation whereby the deviant officer (engaging in corruption or misconduct) is encouraged by the protection of his peers and the group’s deviant set of values. The group can also isolate and ostracize those who do not support the deviant values. Fortunately, the same group which can support deviant values can be channeled to support nondeviant values (more on this later).

Increasing the Risk

If the peer group can be enlisted in the control of corruption this will increase the risk for the “deviant” officer. If the officer contemplating an act of corruption or misconduct understands that he or she will not receive support or tolerance from his/her peers, this is often

enough to deter the act. This is a positive approach. Unfortunately, some negative actions must be taken even when the peer group supports nondeviant values.

Internal Policing

Obviously, not every agency is large enough to have a separate unit for internal affairs. However, someone must be responsible for internal policing in every police department regardless of size. The Internal Policing policy must be based on two concepts. The first is that all complaints against officers, especially those involving serious misconduct or corruption, should be handled and investigated with the same tenacity and techniques as would be used against any suspected violator. The agency does not want to be criticized as having one set of rules for officers accused of misconduct and crimes and another when “citizens” are involved. The second basic concept is that the investigation should not stop even if the officer resigns. The matter must be resolved. The officer who chooses to resign may be guilty of a crime and may need prosecution. This will also prevent the practice common in some states whereby officers who resign under investigation are hired by other agencies.

Proactive or Reactive Internal Policing

A decision must be made whether or not the agency is to pursue a proactive or reactive policy of corruption control or even a combination of both approaches. Reactive control is confined to the investigation of complaints from citizens, victims, officers, other outside sources, etc. Obviously, complaints would also be investigated in a proactive approach. However, in a proactive approach the internal policing unit would seek out corrupt officers and check on corruption-producing conditions.

There are disadvantages to both approaches. In a strictly reactive policy the actual likelihood of risk of discovery is very low. The police bureaucracy often presents a significant obstacle for anyone wishing to register a complaint against an officer. A strictly reactive policy usually leads to the conclusion that any corrupt officers identified are “rotten apples.”

There are also several disadvantages to a proactive policy. For one,

the “headhunters” charged with investigating fellow officers may one day be their partners or superiors. Several agencies in an attempt to deal with this make a tour in Internal Affairs mandatory for all mid-level managers. This may be a good solution because officers assigned to investigating other officers for long periods of time sometimes cease to be fair and objective investigators. Others have dealt with this problem by making it a mandatory assignment for promotion from sergeant to lieutenant.

Another disadvantage of the proactive approach is that it does not take long to create a sense of paranoia in the agency. Police organizations because of the myriad number of rules and regulations are often punishment-oriented bureaucracies. If a very active proactive Internal Affairs unit is added to this punishment-oriented atmosphere, paranoia runs rampant. Most of the studies on police stress have found that the majority of the police stress comes from the agency. It may be just as bad on the individual officer to work in a corrupt organization as to work in an organization whose goal is 100 percent corruption and misconduct free and works hard at accomplishing that goal, primarily through proactive Internal Affairs. Nevertheless, unless an outside agency is used to investigate corruption and misconduct, the agency must use some proactive strategies to increase the risk of corruption.

Proactive Strategies

Early Warning System. The IACP in a 1989 publication produced for the Department of Justice, **Building Integrity and Reducing Drug Corruption in Police Departments**, suggested an Early Warning System to identify potential problem officers, integrity breakdowns, and management weaknesses. They recommend that data be gathered in at least four categories: officer complaints, assignment, shift or tour, and report types. Although complaints on officers will be collected, the system is not unduly focused on the individual officer because it examines the assignment and shift for a possible explanation of the complaint. For example, some assignments, regardless of the officer may receive certain types of complaints. Officers working vice may receive numerous entrapment complaints as well as officers working drug units may receive an inordinate number of excessive force complaints. That certainly does not mean if the same officers working these assignments keep receiving complaints that

there is not a problem.

The Early Warning System would routinely gather data from the following reports, (1) any discharge of a firearm whether accidental or duty-related; (2) excessive use of force reports; (3) any motor vehicle damage; (4) any loss of equipment; (5) injured on duty reports; (6) use of sick leave in excess of five days, or a regular pattern of using one or two sick leave days over long periods; and (7) all complaints, including supervisory reprimands and other disciplinary actions. I would also add all reports on resisting arrests and assaulting an officer. These are very good reports to identify “violent men” or officers needing additional training.

The authors of the report were quick to point out that any of the seven reports by themselves do not imply corruption or misconduct but they could point out a trend or indication of a problem. For example, extended sick leaves and injuries are not incidents of misconduct but they may point out an officer in need of medical, psychological, or social intervention. We will return again to Early Warning systems again in Chapter 11 when we discuss ways to control all unethical police behavior.

Undercover Police Officers. Officers known for their “honesty” or rookie officers can be recruited to act as the “eyes and ears” of the internal policing unit. Obviously, when this practice becomes known it is going to raise the paranoia level of the organization. I would suggest that it only be used in those departments with a history of corruption and an entrenched “Code of Silence.”

Solicitation of Anonymous Complaints from Officers. Anonymous complaints from citizens or officers can be very useful in a proactive strategy against corruption. However, they should be treated with objectivity and fairness to the officer identified in the complaint. They are not to be assumed to be true. Nevertheless, anonymous complaints from officers provide a vehicle whereby an officer can identify a deviant co-worker without suffering any ill effects from the peer group.

Corruption Patrols. A substantial part of the proactive Internal Affairs unit should be spent in patrolling and monitoring possible corruption locations. Known “shot” houses, gambling locations, areas where prostitution are known to occur, bars, and the other potential indicators of a problem identified earlier must be monitored.

Interviews of Arrestees and Individual Who Work in Corruption Assignments

The Internal Affairs unit should conduct random interview with arrestees and individuals who work in high corruption assignments such as vice and narcotics.

“Turnarounds.” A tactic that is usually abhorrent to most police officers is the use of “turnarounds.” That is, granting immunity to corrupt officers for testimony against other officers or using them as undercover agents. The department using “turnarounds” can expect damaging publicity as soon as their use is made public. This tactic should only be used as a last ditch effort against entrenched corruption where the “Code Of Silence” is pronounced. However, “turnarounds” and undercover officers can greatly reduce the incidence of corruption if judiciously used. We will return to this topic in Chapter 11.

Integrity Tests. Another tactic that brings on adverse publicity from both within and without the police organization is the use of integrity tests. This means creating artificial situations to give police officers the opportunity to commit crimes. Obviously, this tactic should also be used judiciously and sparingly.

Examples of integrity tests that have been used are:

1. Students or officers posing as drunks to see if money could be stolen by police officers or jail officials.
2. Wallets containing money or other valuables turned over to officers for safekeeping and return to owners.
3. Planting money or other valuables in illegally parked or abandoned vehicles.
4. Routing packages of supposed narcotics to officers who were led to believe the narcotics are real.
5. Sting Operations. Setting up businesses as fronts; pornographic shops, illegal gambling and drinking establishments, legal establishments operating illegally, to see if police officers will accept payoffs.

Chapter 10

ABUSE OF AUTHORITY

INTRODUCTION

Police abuse of authority is “any action by a police officer without regard to motive, intent or malice that tends to injure, insult, trespass upon human dignity, manifest feelings of inferiority, and/or violates an inherent legal right of a member of the police constituency in the course of performing ‘police work’” (Barker & Carter, 1994: 7). There are three forms of abuse of authority. First is physical abuse, which incorporates brutality and police violence: that is, the officer’s use of more than necessary force to effect an arrest or search and/or the wanton use of any force under the color of the officer’s authority. Second is psychological abuse, which occurs when an officer verbally assaults, harasses, or ridicules a citizen. The third type of abuse, legal abuse, occurs when police officers violate a citizen’s constitutional, federal, or state’s rights. The latter will be discussed under Noble Cause Injustice.

The first two forms of abuse of authority, physical and psychological abuse can occur in any police-citizen encounter. However, they are most likely to occur in proactive police-citizen encounters because of aggressive police tactics. The effect of the professional model (reform model) of policing to control corruption and inefficiency resulted in the crime-fighter image, which increased the abuse of authority (Brown, 1981: 288). The professional model’s primary objective was crime fighting. The principle method of crime fighting was/is aggressive patrol. The primary tactic of aggressive proactive patrol was/is the field stop. The result of field stops often was, and is, abuse

of power and citizen resentment. A field stop is an exercise in pure power, and nobody likes to feel powerless (Rubinstein, 1973: 233). In most criminal cases, the result comes about within judicial control. In most citizen-police encounters, there is no review or control by the judiciary, supervisors, or the department. This in itself increases the likelihood of physical and psychological control.

USE OF FORCE

As stated earlier, the use, or potential use of force is at the core of the police role. The police have it within their power to use any number of instruments/techniques that can lead to injury or death: handcuffs, batons and nightsticks, flashlights, knives, stun and Taser guns, physical techniques (choke-holds, hog-tying), tear gases and pepper sprays, dogs, vehicles, etc. Any of these instruments/techniques can, and have been used excessively and when not warranted. The unreasonable and unnecessary use of force is our focus.

During an arrest, force may occur in four situations. The officer/s may have to use force to effect or complete the arrest. The subject may not actually resist, but he or she may not willingly cooperate either. In the event that the subject resists the arrest, the officer or officers may have to use force to overcome that resistance. On occasion, the officer/s may have to use physical force to maintain the subject in custody or to regain custody should the subject attempt to or escape. Lastly, officers may legally use force up to and including deadly force to defend themselves or others.

Unreasonable and unnecessary use of force includes wanton or intentional use of physical force by a police officer. Any wanton or intentional use of force used during an arrest situation or while the subject is in custody for the purpose of punishment is unreasonable and unnecessary and therefore, by definition, an act of police brutality.

There are several possible reasons why an officer might engage in an act of brutality. He or she may be the pathological personality who enjoys physically abusing or hurting others. Many experienced police officers have probably come into contact with such individuals in their careers. These violent individuals are a small minority of the police occupation. Police departments are well advised to keep good records

on resisting and assaulting arrests along with records of shooting incidents. Violent individuals are soon identified through proactive efforts and should be dealt with as soon as possible. A good psychological evaluation at the initial screening process can usually eliminate most of these individuals.

Some instances of unnecessary force are the result of fear, with the officer overreacting to what are, or what the officer perceives to be a dangerous situation. Some officers reacting to cultures or individuals whom they do not understand may believe that physical force is an absolute necessity in the “street jungle.” This will be compounded in those departments that hire from the majority and place them in minority settings.

Verbal abuse and provocation often lead to unnecessary use of force. Demonstrators have often tried and successfully provoked officers into using force. In the “age of the camcorder” officers have to be aware that film footage of police using unnecessary and unreasonable force can help any cause or group. Dealing with dissent is extremely difficult in free societies, and presents challenges to the police. Nevertheless, a police officer does not have the legal right to strike an individual who has insulted them or called him/her a profane name, but sometimes the officer may be pushed beyond endurance. Actually, an officer who reacts to such abuse and provocation has compounded his or her problems because now they will have to lie to a supervisor, on a report, or even in court to escape disciplinary action.

Unnecessary force is also used against certain groups and individuals as punishment. Many officers believe that physical force is acceptable under certain circumstance: for Contempt of Cop, to command respect, to obtain information, or to punish certain classes of offenders (sex offenders, child molesters, hardened criminals). Often classes of individuals, such as “gang bangers,” bikers, radicals, hillbillies, “assholes,” “skels,” dirt bags, etc., are likely to become victims of brutality.

Those who resist arrest or run from the police in a vehicle pursuit are particularly vulnerable targets of police use of force. My research—and experience—into police pursuits has led to the conclusion that most injuries to the fleeing driver, and sometimes the occupants, occurs when the pursuit has ended and the parties are in custody. Every police officer who has been on the job for over a year knows this, even though police executives are still reacting with surprise

when these “tune ups” and “thumpings” are caught on tape. These injuries occur, for the most part, because the officer/s are still pumped up with adrenaline and mad. They take their revenge. Resisting arrest incidents are particularly likely to end up with the excessive use of force. The author has been told by numerous officers through the years that any force short of killing the suspect is acceptable whenever an individual resists an arrest.

When someone resists arrest you have to teach them a lesson. He may kill the next cop who tries to arrest him. My sergeant says there is no resisting unless the man goes to the hospital. So we send them [resisters] to the hospital.

Exact information on the police use of force is not known; however, there have been efforts to obtain the data. Section 210402 of the 1994 Violent Crime Control and Law Enforcement Act requires the US Attorney General to gather data and make an annual report to Congress on the use of excessive force by police. The second annual report estimated that 0.2 percent of the population over the age of 12 had been “hit, held, pushed, choked, threatened with a flashlight, restrained by a police dog, threatened or actually sprayed with chemical or pepper spray, threatened with a gun, or experienced some other form of force” in 1996 (Greenfield et al., 1997: iv). The report concluded that the use of force is rare in police-citizen contacts and is usually provoked. However, police use of force against certain minority groups in some U.S. cities may be a problem.

One author, writing just after the Rodney King incident, stated that African Americans, Latinos, and other minority males in Los Angeles are singled out by the Los Angeles Police Department and the Los Angeles Sheriffs Department for “special attention, physical abuse, brutality, and sometimes death (Hoffman, 1993: 1471).” Hoffman attributes this abuse to the patterns and practices of the two department’s use of military tactics in the War on Drugs, gangs and crime. Both departments are well known for their hardnose, aggressive crime-fighter style of policing.

Many civil rights groups, such as the American Civil Liberties Union (ACLU), the National Association for the Advancement of Colored People, and Amnesty International, have complained that the present aggressive police strategies and zero-tolerance policing have led to increased use of force. Whether or not such complaints are true is a matter of controversy. However, the ACLU has reports that since

police departments have instituted restrictive policies on the use of deadly force, the number of incidents has dropped—as much as 35–40 percent in the fifty largest cities (ACLU, 1997: 15). This drop has been accompanied by a drop in the racial disparity in the use of deadly force. However, most of this drop might be a direct result of the 1985 U.S. Supreme Court’s decision in *Tennessee v. Garner*. This landmark decision limited the use of deadly force to only those instances where the suspect posed a threat of serious injury or death to the public or the police officer. Prior to this decision in some states, deadly force could be used to prevent the escape of all felony suspects.

The crime-fighter model with its aggressive police tactics is alive and well in American policing, particularly in the War on Drugs, specialized paramilitary units, zero tolerance and quality of life policing (see below). According to some, the war mentality, with its emphasis on crime fighting and preoccupation with the coercive use of force, has licensed the use of force in many police organizations (Kleing, 1996: 96).

The crime-fighter image also predominates among the police in Great Britain, even though crime fighting is a minor part of their work duties (Holdaway, 1984). The use of force against citizens occurs in Great Britain for the same reasons as in America: when police authority is challenged, when officers are assaulted, when danger is present, and as punishment, such as the end of police chases (Holdaway, 1984). The constables’ working rules allow for force under these circumstances. It is summary justice. “Just dessert” are adjudicated and administered by Hilton’s [English city] officer (Holdaway, 1984: 130).”

NOBLE CAUSE INJUSTICE

We have made frequent references to Noble Cause Injustice throughout the book so far, now we will provide a more thorough discussion of this perennial problem of policing—the Morally Dangerous Occupation. The first presidential commission to examine the American Criminal Justice System, the 1931 Wickersham Commission, devoted two of its fourteen volumes to the unlawful enforcement of the law by American police officers. The reformer, Ernest Jerome Hopkins, in one of those volumes, said that American police operated under what he called the “War Theory of Crime Control” and used

unlawful means, primarily third-degree interrogation techniques to control crime (Hopkins, 1972: 314–47). Hopkins pointed out that the police, after using the third-degree techniques, had to perjure themselves to conceal their unlawful acts and sway the court. The police frequently perjured themselves to obtain convictions. All the police actions were justified by the phrase “This is War.” Hopkins summed up the philosophy:

This criminal is the enemy: he is to be defeated by being quelled. Being the enemy, he has no rights worthy of the name. He is to be met by the weapons of war. Individual rights, including those of noncombatants in wartime, are subject to evasion like the rights of noncombatants in wartime. The policeman is a peacetime soldier. If the bullets go astray, if civil rights are suspended, those are accidents in warfare that is waged in crowded cities (Hopkins, 1972: 319).

Nevertheless, the Wickersham Commission declared “The fight against lawless men, if waged by forbidden means, is degraded almost to the level of a struggle between two lawbreaking gangs (Hopkins, 1972: 13).” Hopkins and the Wickersham Commission were railing against Noble Cause Injustice.

Noble Cause Injustice involves the idea “yes, I did something wrong, but justice demanded it, not tolerated it but demanded it, because I could put the guy away who otherwise wouldn’t be successfully prosecuted (Moore, 1997: 63).” Heffernan, in his *Typology of Disinterested Rules Violations*, identifies two types related to what he calls noble cause misconduct: (1) meting out justice via violations of the constitution and (2) promotion of social order via violations of the constitution (Heffernan, 1985: 7–8). Heffernan opines that the first type occurs because officers, through illegal searches and arrests, seek to punish those systematically involved in crime who are believed to be relatively immune from prosecution. Known criminals are getting their due. The second type occurs because officers believe that the courts do not understand the value of preventive police actions. According to many officers, restrictive concepts such as probable cause and articulable suspicion unfairly “handcuff” the police in maintaining public order.

Feeling that one is right to do what one does is not always the right thing to do. Nevertheless, Brown (1985: 285) stated that a good pinch even at the expense of legality was an occupational norm for the police he studied. Herbert (1997: 52) reports that the “creative use of probable cause” in the Los Angeles police in their “pooping and

snooping” activities (field stops) was encouraged and praised by the department.

If the officer’s behavior is discovered, the state will suffer via the exclusionary rule; however, in most instances, nothing happens to the officer administratively or in the courts. There is the possibility of discovery, but the probability is low. Nevertheless, if it is discovered or raised, the officer will have to lie. Once engaged in lying, perjury under oath is a possibility. Whatever the rationale, lying by police officers under these circumstances is an especially egregious violation in a free society with the traditions of liberty and openness, governmental accountability, and fear of central authority (Marx, 1958: 94). Heffernan states that if an officer feels that the aims of criminal justice are being subverted by the current rules of his office, the officer has two choices: (1) resign or (2) protest the rules while still honoring them (Heffernan, 1985: 14). Nevertheless, documented incidents have occurred.

In an incident reported to the Florida Criminal Justice Standards and Training Commission (certifies and decertifies Florida police officers) in 1995, a Metro-Dade police officer lied on a police report and again in sworn testimony (www.sun-sentinel.com/news/copd2b.htm). The officer said she saw the suspect drop a bag of cocaine. Another police officer and witnesses contradicted this. She said that she arrested the suspect in his car, also contradicted, and found a pistol under the driver’s seat. Testimony revealed that another police officer found the pistol in the trunk. The officer, instead of being terminated, received a twenty-day suspension. Decertification is automatic for felony convictions or misdemeanor involving perjury. In addition, for forty-five crimes ranging from stalking to engaging in sex on duty, officers can receive penalties ranging from probation to revocation.

According to Holdaway (1984), British police officers sometimes “construct or adjust the evidence” in court to ensure a conviction. They adjust, refine, and correct evidence to render the suspects guilt more obvious. However, not all British officers—as with American officers—engage in this behavior.

Two of Hilton’s officers had arrested subjects for attempting to take a motor vehicle. Their colleagues discussed the arresting officers’ unwillingness to construct the evidence in order to gain a conviction: “And it is a foreign [another police subdivision] court anyway, so there we are. You see, he doesn’t believe in that sort of thing (Holdaway, 1984: 74).

Holdaway reports that procedural rules are often considered irrelevant by the British police as they go about their daily duties. The occupational culture of the British police condones the use of “verbals” or “working the oracle.” A verbal is an oral statement of admission or incrimination invented by the arresting officer or interviewing officer and attributed to the suspect (Holdaway, 1984: 109). They, like their American counterparts, feel that they have privileged information knowing that the suspect is guilty and that the officer only helps the evidence along.

[Police Constable] When you have a legal system that allows people to get off and makes you break the law to get convictions, then you have to be slightly bent (Holdaway, 1984: 113).

[Police Constable] . . . It's part [verbals] of being a policemen. If you know their guilty, there's nothing wrong, and if you're not willing to do it, you shouldn't be in the job (Holdaway, 1984: 113).

Noble Cause Injustice in the War on Drugs

The result of the thirty-year War on Drugs has been an unwinnable war by police officers wearing black masks, dressed in fatigues with buzz haircuts, and trained in the use of submachine guns, explosives, and chemical weapons. These police “ninjas” are the street warriors in the ultimate “us against them” mentality (see Kraska, 1996).

The current War on Drugs is not this country's first drug war. August Vollmer, writing in 1936, stated:

The deteriorating effects of drugs upon the victims, and the intimate associations of the drug habit with the commission of crimes, are so inescapably evident that the police are encouraged to employ every means known to them to eliminate the supply agent and the peddler (Vollmer, 1971: 108).

Vollmer said that drug addiction is not a police problem and not to be solved by policemen. He said it was first and last a medical problem that could only be solved by “scientific and trained medical experts (Vollmer, 1971: 118).”

The police historian James Richardson (1974: 103) also pointed out that the police cannot serve the dual purposes of enforcing the drug laws and observing the constitutional protections of individual rights. He states that full enforcement of the drug laws would be possible only in a police state “where the police would be allowed to stop and search at will and where there could be no question of police infringement of

constitutional guarantees since there would be no guarantees (Richardson, 1974: 103).” Richardson stated that if society asks the police to serve both purposes, they will be tempted to bypass the legal structure. They have done this, resulting in many instances of Noble Cause Injustice.

The popular anticrime-punish-the criminal rhetoric leads many citizens to agree with the police that the guilty, particularly drug offenders, deserve less than strict constitutional protection. There is public support for the officers who violate civil rights and lie to make a case stick against the “dirt bags.” Witness the popularity of the television show *NYPD Blue*, where constitutional violations of the guilty—as determined by the detectives—especially Andy Sipowicz, is an art form. However, the police in a democracy are the guardians of our civil liberties. The “avenging angel syndrome” to which some officers fall prey can be very dangerous to the officers and the citizens.

Carter states that the officers he studied rationalized their actions as “perhaps a form of ‘winning’ or ‘revenge’” (1990: 90). Examples of this winning or revenge behavior included:

- False statements to obtain arrest or search warrants against “known” drug dealers/traffickers
- Perjury during hearings and trials of drug dealers.
- “Planting” or creating evidence against “known” drug dealers.
- Overt and intentional entrapment.
- Falsely spreading rumors that a dealer is a police informant, thus placing that person’s safety in jeopardy.

Lies in Support of Perceived Legitimate Goals

The lies told to effect an act of Noble Cause Injustice are told to achieve some perceived legitimate goal usually to put criminals in jail, prevent crimes, and perform other policing responsibilities. They are told because the law enforcement officer feels that his/her unique experiences in dealing with criminals and the public allows them to intuitively know the guilt or innocence of those they arrest or come into contact with. They feel this way independently of any legal standard. The officer/s convinced that the suspect is factually guilty of the offense may believe that the necessary elements of legal guilt may be missing, e.g., no probable cause for a stop, no **Miranda** warning, not enough narcotics for a felony offense, etc. Therefore, the officer feels

that he or she must supply the missing elements to prevent a guilty person from walking. One officer told me that it was often necessary to “fluff up the evidence” to get a search warrant or insure a conviction. The officer will attest to facts, statements, or evidence which never occurred or occurred in a different fashion. Obviously, when he/she does this under oath, perjury has been committed.

Once, a matter of record, the perjury must continue for the officer to avoid facing disciplinary action or even criminal prosecution. Whether or not this occurred in the O. J. Simpson trial is still a matter of debate. However, the evidence is overwhelming that at least one officer lied in that case. The Simpson trial introduced a new term into the discussion of police testimony—**testilying**.

Evidence of **testilying** did not first appear in the Simpson trial. In 1989, charges were dropped in a case against a cop killer and three Boston police officers were suspended with pay pending a perjury investigation. The perjury involved a Boston detective who “invented” an informant. The detective maintained that the informant gave the critical information which was cited in the affidavit for a search warrant (*New York Times*, 1989: K9). The “no knock” search warrant’s execution led to the death of a Boston detective. In 1991, the Boston detective who “invented” the informant was sentenced to five years probation for perjury (*Law Enforcement News*, June 15/30, 1991: 2).

Similarly, the officer who lies in these instances must employ creative writing skills on official reports to ensure that the written chronology of events is consistent with criminal proceedings, regardless of what actually happened. As I have often stated in police training sessions, the problem with lies is that the truth has instant recall; lies don’t. If an officer tells a lie in a criminal case, he/she is going to have to constantly recall what was written on the official report, what was told to the sergeant, to Internal Affairs, on the stand. Sooner or latter it may all come unraveled.

Chapter 11

CONTROLLING POLICE UNETHICAL BEHAVIOR

In Chapter 9 we discussed specific ways to control police corruption. In this chapter we examine several general mechanisms for controlling all forms of police unethical behavior—organizational rule violations, corruption and abuse of authority. We begin with the ideal control system—self-control.

Self-Control

The ideal control system of ethical control is inner; however, the real-world control is external (Kleing, 1996: 217). Individuals have, or should have internal “moral compasses” that distinguish between right and wrong. This “moral compass” is the result of the socialization process that begins at birth. This socialization process continues on to the workplace where occupational socialization has an important impact on police ethical behavior.

The police occupation in an attempt to select individuals with good “moral compasses” and the necessary qualities for police work has traditionally tried to *screen out* candidates who possess evidence of bad qualities: arrest records, history of bad debts, drug use, violent behavior, untrustworthiness, and so on. At times, this has worked, only to be defeated by other police occupational practices (Barker, 1977).

The police occupation has not tried to *screen in* candidates who possess the good qualities for police work (Gaines & Kappeler, 1992). Part of the reason for this is that there is no general consensus outside the possession of commonsense (whatever that is and it often does not

seem to be common) of the good qualities for police work outside the absence of bad qualities. Research in the area could possibly lead to reliable predictors for ethical behavior. Experienced police officers can often recognize the differences between officers. Every police officer with at least five years experience in the same department can usually name officers known for their unethical behavior. British officers studied by Holdaway (himself a police sergeant) were well aware of their colleagues who used verbals, adjusted the evidence, or used excessive force.

However we might wish for inner-directed officers, it must be recognized that ethical conduct is assisted or made more difficult by situational factors that include the organizational structure and peer group culture.

Peer Group Control

Within the police organization, there are three patterns of social interaction, two internal to the organization and one external: police to police, police to supervisors, and police to the public. The first pattern of social interaction, police to police, has been described as a subculture with dominant values, one of which—loyalty—breeds a code of silence protecting miscreant officers. The socialization process of the police (academy, FTO and peer group) also emphasizes danger, mutual assistance, and loyalty as core values (Crank, 1998). The peer group can, and will, reinforce ethical behavior or provide rationalizations for unethical behavior (Barker, 1977; Barker & Carter, 1994). The occupational culture of police organizations is where officers learn their working behavior and good and bad habits. The occupational culture also creates the Blue Wall of Silence.

However, there are indications that the Blue Wall of Silence may not be as solid as once thought. Joan Barker's (1999) twenty-year ethnographic study of the occupational subculture of the LAPD led her to conclude that traditional solidarity is breaking down with the influx of new officers, particularly minorities and women. This is evidenced by a proliferation of complaints against their colleagues. Coulson (1993) cites five cases (Claremont, Massachusetts; Cochella, California; Fort Lauderdale, Florida; Erie, Pennsylvania; and Denton, Texas) of officers filing complaints against their colleagues. Three of the complaints involved the use of excessive force. Whistleblowers

among the police, although rare, do exist.

The Board of Inquiry into the LAPD scandal reports that in 1996, 1997, and 1998 there were thirty cases where LAPD personnel were the primary witnesses in charges of misconduct against other officers (LAPD, 2000). The charges ranged from excessive force to neglect of duty.

Traditionally, the Blue Wall of Silence breaks down when careers and pension benefits are mentioned. The wall literally crumbles when prison time is mentioned. Police officers, like most offenders, will blow the whistle under these circumstances. However, one must distinguish between police whistleblowers. There are two types of police whistleblowers: the informer (traitor among the participants) and the informant (in possession of knowledge). The New York City Police Department informers, such as Bob Leuci, William Phillips, and Michael Dowd, betrayed those who were involved in corrupt practices. They are Blue Rats, cooperating in their best interests. The NYPD informants, such as Frank Serpico and Joe Tromboli, provided information on corrupt activities, not their accomplices. These officers were essentially “good guys” reporting corrupt practices.

Shame attaches, as it should, to the status of informers, a participant who has “flipped” out of self-interest. Shame should not attach to the informant who has reported misconduct because of a sense of duty. There is a huge difference between the individuals who blow the whistle because of the interests of the organization and the occupation and the cop who flips because he is trying to save himself. Often, the deals made with the police informer are like the deal made with the Mafia hitman Sammy “The Bull” Gravano—“shaking hands with the devil.” Patrolman William Phillips (Knapp Commission) was a rogue cop engaged in far more serious behaviors than those he flipped on (Schechter & Phillips, 1973).

The current *Law Enforcement Code of Ethics* makes no mention of what a police officer should do if he/she discovers the corrupt behavior of another officer (Wren, 1985: 26). It should be clear that the discovering officer is the good cop betrayed by a bad cop and not the other way around. Wren (1985: 40) suggests the following addition to the code:

The [police department] should safeguard the public and itself against [police officers] deficient in moral character or professional competence. [Police officers] should observe all laws, uphold the dignity and honor of the

profession and accept its self-imposed disciplines. They should expose without hesitation illegal or unethical conduct of a fellow member of the profession.

The Washington, D.C. Metropolitan Police Department has a general order (MPD General Order 201.260) requiring police officers to promptly report misconduct or any violation of MPD rules to a supervisor. However, testimony to the special committee investigating corruption revealed that this rarely happened, and if it did, the whistleblowers were retaliated against ([www.dccwatch.com/police/981006b.htm#Chapter 3:4](http://www.dccwatch.com/police/981006b.htm#Chapter%203:4)). The committee stated that there was a culture of retaliation in the MPD. Following the report of the special committee, the Council of the District of Columbia enacted the Whistleblower Reinforcement Act of 1998, D.C. Act 12-239, to strengthen already existing legislation protecting whistleblowers.

The problems faced by a police officer discovering the unethical behavior of a fellow officer are virtually the same for all occupational groups. Welfel (1997) aptly describes the difficulties encountered by her fellow psychologists under the same circumstances. Both groups (police and psychologists) face competing values (ethical conduct and peer group culture) in moral decision making. Loyalty to colleagues is a desirable characteristic in both groups. The police occupation, however, clearly is more dangerous and often requires less time to reflect and deliberate about ethical decisions (Welfel, 1997). One can easily examine the literature on the difficulty that certain occupations (lawyers, physicians, clergy) have with members not disclosing or shielding fellow members.

Supervisory Control

Supervisory control, combined with quality leadership and training, is the manner in which the police occupation provides the external “moral compass” for officers to make ethical judgments in line with the police occupation and the organization. Proactive management oversight, particularly at the mid-level (sergeants and lieutenants), is the organization’s first line of defense against unethical police behavior.

Ineffective field supervision and the fear of disclosing corruption because of its adverse effect on the supervisors were cited by the Mollen Commission as contributing factors to the scandal (Baer,

1995). Nevertheless, there is little chance that field supervision can keep all bad cops from doing bad things.

The nature of police work—individual or pairs of officers working alone under little supervision—works against close field supervision. There are too many police officers and too few supervisors (Vicchio, 1997). The nature of police actions also works against close supervision. Reactive police work (calls for service) occurs primarily in private settings (homes) and proactive police work (officer initiated) occurs primarily in public places (usually public streets), unobserved by anyone but the citizens and the officers. At times, the supervisors can contribute to abuse. If the supervisor urges or demands that officers make arrests, “some of them will ignore the law and the truth to improve their performance” (Rubinstein, 1973: 58).

Field supervision is only one part of supervisory control: auditing the officer’s behavior is also part of the supervisor’s responsibility. Included within these audits is closely monitoring the charges that are most often used in “cover-up” charges (resisting arrest, assaulting an officer, disorderly conduct, obstructing and interfering with an officer). Repeated findings of a small minority of officers being involved in multiple incidents of alleged ethical violations and civil actions has made Early Warning Audit Systems necessary.

Early Warning Audit Systems

Two hundred and thirty Chicago police officers with repeated complaints against them accounted for over 46 percent of the \$16 million in judgments against the city from 1991 to 1994 (Nelson, 1995). The Chicago Commission on Police Integrity, appointed after the latest corruption scandal in two precincts, recommended an Early Warning System to alert command when an officer may be involved in a pattern of misconduct (Commission on Police Integrity, 1997).

The Christopher Commission, convened after the King incident, found that 183 Los Angeles officers had four or more allegations of excessive force or improper tactics, 44 had 6 or more, and 16 had 8 or more (Christopher, 1991). One officer had 16 allegations. The New Orleans police officer convicted in 1996 of having a woman killed for filing a complaint against him had been the recipient of 20 complaints between 1987 and 1992 (ACLU, 1997: 18). Most of the allegations involved brutality. The officer had previously been suspended for 51

days for hitting a woman in the head with a flashlight. The ACLU has advocated Early Warning systems to identify officers who have an inordinate number of physical force incidents.

The U.S. GAO in its report to Congressman Rangel recommended an Early Warning system to identify potential problem officers (U.S. Government Accounting Office, 1998: 5). The consent decree entered into by the Pittsburg Police Department with the U.S. Department of Justice includes an Early Warning System to identify problem officers (Vera, 1998: 16). Amnesty International reports that, in an April 16, 1999 speech, before a national summit on police brutality, Attorney General Janet Reno endorsed Early Warning Systems to identify officers who engage in misconduct (Amnesty International, 1999: 4).

In mid-1995, following the murder convictions of the officer mentioned above, New Orleans instituted an Early Warning System called the Professional Performance Enhancement Program (PPEP). Officers are picked for this program based on complaints, use of force, and shooting incidents. The officers receive additional training, supervision, or counseling (Human Rights Watch, 1998). Portland, Oregon, has a "command review" that acts as an Early Warning System. The system reviews officers who receive 5 complaints within a year, 3 in 6 months, or 2 of the same type in 6 months (Human Rights Watch, 1998).

The institution of these Early Warning audit systems should act as a problem-solving approach to ethical violations. However, the administration's handling of the data generated is important.

Administrative Reaction

An indifferent attitude toward officer misconduct can quickly erode the confidence of the public and the police officers (Delattre, 1989). The organization must create an atmosphere that reinforces the good character and motivations of a carefully selected and trained work force. The atmosphere must, to some extent, be punishment-oriented for those who commit unethical acts and be supportive of those who do not and who report the unethical behavior of others. A purely punishment-oriented approach is counterproductive but quite common in police organizations, especially those that are solely reactive in nature.

Videotaping high-risk encounters (pursuits, booking, protests and disturbances, raids, warrant servings) can serve as an administrative check on use-of-force incidents; failing this, it could provide evidence for disciplinary actions. The new NYPD management tool Compstats is being used as an administrative weapon against police misconduct (Silverman, 1999: 187). Compstats involves the diagnosing, analyzing of crime and quality of life problems to discover their commonalities and patterns. The technique is also used to monitor and address civilian complaints of misconduct. Included within the analysis are FADO (force, abuse, discourtesy, and obscene language) citizen complaints citywide—by borough, precinct, and hour and time of day.

Often, the police organization does a poor job of investigating corruption/misconduct complaints when they come to its attention. This conclusion was reached by the Mollen Commission investigating corruption in the NYPD:

The shock is not that there are corrupt officers but that too often police departments are incompetent when it comes to investigating corruption.

JUDGE MILTON MOLLEN

Judge Mollen said on a number of occasions that the NYPD was incompetent and inept in their dealing with corruption. Therefore, an administrative reaction must include a fair, timely, and competent investigation of all complaints.

External Accountability

All democratic police forces are subject to monitoring and accountability by outsiders (Bayley, 1997: 5). These outsiders include elected politicians; civil, criminal, and administrative courts, the media and civilian complaint-review boards.

The Department of Justice's Civil Rights Division was created by Congress in 1957 and has had criminal enforcement powers over civil rights violations by police officers since its inception. Police officers, acting under color of law, can, and have been prosecuted for civil rights violations, particularly for violations of excessive force and unwarranted seizures and false arrests. A new weapon has been added to their arsenal.

Since 1994, Congress has authorized the Civil Rights Division of the Department of Justice to bring pattern-or-practice civil suits for the

declarative or injunctive relief against entire police departments instead of individual police officers. The pattern or practice of behavior has to be conduct by police officers that deprives persons of rights, privileges, or immunities secured or protected by the Constitution of the United States (42 U.S.C. 1414). These pattern-or-practice suits can include excessive force, discriminatory stops, harassment, false arrests, coercive sexual conduct; and unlawful stops, searches, seizures, and arrests (Vera, 1998: 15). The violations include supervisory failures related to these behaviors. The Pittsburg, Pennsylvania Police Department was the first to be sued under the pattern-or-practice concept. As mentioned, the Pittsburg Police Department entered into a consent decree that established comprehensive and specific measures to end systematic police misconduct.

Soon after the Pittsburg case, the Civil Rights Division entered into a consent decree with the City of Steubenville, Ohio. Its police department was accused of engaging in a pattern or practice of excessive use force, false arrests, charges and reports, and improper stops, searches, and seizures. Steubenville police officers were alleged to have beaten witnesses of misconduct, falsified reports, and tampered with official police records in order to cover up misconduct (Vera, 1998: 16).

In April 1999, a report from the New Jersey Attorney General's Office concluded that New Jersey State Troopers were engaging in racial profiling when stopping motorists for possible drug arrests. Amnesty International reports that the U.S. Department of Justice announced the same month that they had enough evidence of discriminatory treatment by the New Jersey State Troopers to bring a pattern-or-practice suit (Amnesty International, 1999: 3). Now, the Civil Rights Division can bring criminal prosecutions against officers, as in the Rodney King incident, or civil rights actions against entire police departments in pattern-or-practice suits.

External Review Boards

Civilian review boards have been a contentious issue for the American police since first brought up in the 1950s. However, civilian review of police organizations in some form may be becoming the norm. According to the ACLU (1997), civilian review boards are the norm in 75 percent of the nation's largest cities. Eighty cities have them.

External review boards need not be confined to the traditionally understood civilian review boards. However, some outside entity should audit the police department's control of corruption and Early Warning Systems. The external board does not, and probably should not, control the investigation.

Chapter 12

CONCLUSION

The ethical violations discussed (rule violations, corruption, and abuse of authority) have existed in the police occupation since its inception in England. The various forms have continually surfaced in British and American police forces/departments throughout the short history of policing. Police reformers have always recognized that their work was a morally dangerous occupation. They recognized this in Codes of Conduct and numerous reform efforts. Nevertheless, the police occupational culture in many forces/departments has traditionally provided its members with ready-made rationalizations for many of these ethical violations (Ahern, 1972; Banton, 1977; Barker & Carter, 1994; Chevigny, 1969; Crank, 1998; Kappeler et al.; Manning, 1977; Skolnick, 1966; Rubinstein, 1973; Westley, 1970). Nevertheless, peer pressure, weakness in others, impulses, opportunity, and personal rationalizations (blaming the system, noble cause injustice) do not excuse lapses of character by the police (Klenig, 1996). Democratic societies have the right to expect ethical behavior among their police forces. Therefore, the occupation and the citizens of a free society must continue their efforts to control the ethical violations.

There must be a two-pronged approach to controlling ethical violations: avoiding rotten apples and avoiding rotten structures (Delattre, 1989: 88). Avoiding rotten apples involves establishing higher standards for recruitment and selection and good educational programs for newcomers and experienced personnel. Rotten structures should be dealt with through a nontoleration policy by police leadership, institutional audit procedures to ensure accountability, systematic investigations of complaints and suspicious circumstances, and external review.

Any efforts to control the ethical violations of the American police are constrained by a lack of data on several issues. There is a need to know the nature and extent of ethics training in American police agencies. The IACP, the world's oldest and largest police professional association, in their first and only attempt to learn this information from its members received a dismal 18 percent return on their survey (www.theiacp.org/pubinfo/Pubs/ethic.Train.htm). If the police establishment is not serious about the *Law Enforcement Code of Ethics* and ethical training for all officers (academy and in-service), then the code could be perceived as a compilation of useless homilies put forward by an occupational work group calling itself a profession (Barker, 1996).

A 1993 Texas survey of training academies conducted under the auspices of the Law Enforcement Ethics Center of the Southwestern Law Enforcement Institute (response rate of 32.7 percent) revealed that an average of 6.73 hours of ethics training comprised only 1.6 percent of the total recruits' time (<http://web2.airmail.net/slf/oct93/training.html>). The study also found that ethics training was less than one percent of the total in-class time. The center has been training police ethics trainers since May of 1994.

Anecdotal evidence suggests that some departments that have experienced scandals are improving their ethics training. The Chicago Police Department's Education and Training Center instituted an ethics training concept, Ethics Across the Curriculum, based on the ethics training used by the U. S. Naval Academy. Integrity issues will be part of the entire curriculum of the center (Commission on Police Integrity, 1997).

Following the Rampart Scandal, the LAPD began distributing the *Law Enforcement Code of Ethics* to every recruit class, directing officers to abide by the standards (Los Angeles Police Department, 2000: 304). Recruit officers are now required to sign for the code. All six of the existing LAPD's recruit and in-service courses (Recruit 0, Detective Supervisors, Sergeant/Civilian Supervisors, Captains, and West Point Leadership) have a section on the *Law Enforcement Code of Ethics* (Los Angeles Police Department, 2000: 306). The Board of Inquiry also recommended that every police officer receive from two to four hours of ethics and integrity every two hours.

Ethics training is important; however, there is a need to know what effect, if any, the training (ethics, academy, in-service) has on officers. Longitudinal studies are needed on the existing training programs and

any created in response to scandals. Baer (1995: 8) states that it was at the New York Police Academy that “some recruits first learned about being corrupt.” It was also at the academy that the recruits were introduced into the “we against them” mentality and the Blue Wall of Silence value for officers.

Finally, research is needed into the circumstances under which some officers report their fellow officers’ misconduct. Researchers, myself included, have said for too long that police officers will not report fellow officers. The anecdotal evidence cited earlier seems to contradict that in some departments and for some officers. Why? If we knew the answer to that question, the police occupation would be in a better position to ensure ethical police behavior.

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