

POLICE ETHICS

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

Second Edition

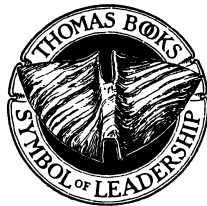
POLICE ETHICS

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)