

**CRITICAL ISSUES  
IN POLICE DISCIPLINE**



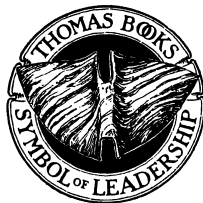
A Project of the Illinois Law Enforcement  
Executive Institute at Western Illinois University

# CRITICAL ISSUES IN POLICE DISCIPLINE

## Case Studies

*Edited by*

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

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

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## PREFACE

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

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

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

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

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

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

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

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

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

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

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**CRITICAL ISSUES  
IN POLICE DISCIPLINE**





## Chapter 1

### INTRODUCTION: CRITICAL ISSUES IN POLICE DISCIPLINE

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

#### THE SCOPE AND NATURE OF THE PROBLEM

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

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

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

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

### ***Lawsuits***

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

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

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

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

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

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

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

in every police officer the capacity for intelligent self-control. The primary short-range goal is to maintain conditions in the department that make effective policing possible.

### ***Disciplinary Policies and Practices: Two Conflicting Philosophies***

The nature of law enforcement agencies has significantly changed over the past several decades. The roles that law enforcement play in society have expanded and made the job much more complicated. As noted previously, the legal environment has significantly changed. The people who are recruited and attracted to the profession have also changed. The movement, beginning in the sixties, to create a more educated and professional police officer led to significant changes in hiring practices. The job and life expectations of law enforcement officers and their relationship with their chiefs are very different from a generation ago.

While some police departments have modified their disciplinary practices to reflect these changes, many departments continue to operate using paramilitary concepts of organization and discipline. In part, the problem is that new generations of law enforcement officers have no experience in a paramilitary environment. The new breed of police officer has some college education and views law enforcement as a job as opposed to a career. Many officers now question supervisors' decisions, department procedures, and department rules. As a result, many police officers believe that their law enforcement executive's disciplinary practices are unfair and arbitrary. These and other changes in society and law enforcement have intensified a debate in the law enforcement community over the roles of discipline.

Criminal justice researchers describe two types of police employee discipline; the first is referred to as the "traditional" system of discipline. Frequently, this type of discipline has used punitive actions as a means of adjusting or controlling the behavior of the officer. In a traditional system of discipline initial "offenses" are responded to with punitive actions by the supervisor. In effect, the officer is "punished" for his/her incorrect behavior. Frequently, the problem with using discipline solely as punishment is that it is both negative and relatively ineffective. The second form of discipline is usually identified as positive or affirmative discipline (Iannone, 2001). Affirmative discipline approaches usually involve a series of progressive learning steps that