
8 Ethics, Enforcement, and the Prospect of Professionalism

Aaron D. Conley and Bryon G. Gustafson

I have been impressed with the urgency of doing. Knowing is not enough; we must apply. Being willing is not enough; we must do.

Leonardo da Vinci (1452–1519)

The date of the test is approaching. The subject matter is difficult. Recruits get just two chances. If they fail twice, there are no more opportunities. Both recruits and instructors feel the pressure to succeed—to validate the efforts that have been expended to prepare the next generation of law enforcement officers for public service. This is the high-stakes context for many law enforcement academies and their tests. What will recruits do to succeed? What will instructors do to help recruits succeed? Where are the ethical boundaries? Once boundaries are identified, how are ethics taught/trained, assessed, verified, and maintained in recruits, officers, instructors, and law enforcement leaders? While most individuals in the law enforcement community will have answers to these questions, and some will assume that innate right answers should be clear, the evidence of experience might prove troubling.

Academy tests are kept under lock and key—access is restricted and test security agreements specify controls on the test content (California Commission on Peace Officer Standards and Training, 2007). Each academy has a designated staff person responsible for the tests, and instructors can review tests consistent with the security agreements and controls. After all, these tests are produced and validated by the state at significant expense and they are intended to verify requisite knowledge in future peace officers.

Academy personnel advise recruits that there is a “study guide” that they should use. Diligent recruits eager to do well heed this advice. The guide is maintained on a website provided for the recruits by the academy and each class passes on this resource. One earnest student brings the study guide to an instructor to ask about the content of a particular question and answer. The instructor sees the content of the study guide and alerts the academy administration. The study guide is real. The questions and answers—all of them—are from the actual state tests. An investigation ensues. The state gets involved. The academy is suspended. The recruits and instructional staff are questioned. In the end, however, nobody is able to say how it happened or who was responsible. It just was . . .

Readers may find this case unbelievable. A case of cheating involving nearly an entire law enforcement academy? No, many will say, it is a poorly constructed hypothetical. Law enforcement

recruits are of high moral character and would not be lured in by such a thinly-veiled study guide. Beyond that, instructors in the academy are law enforcement professionals who have been through background investigations. None of the instructors would compromise their ethical standards for the sake of ensuring the success of their trainees. Professionals would know the difference between a study guide and misappropriated test questions. While this case study may seem contrived and beyond the specter of reality, its facts comport to a 2010 case involving a California law enforcement academy, and there is little reason to assume that this example in California is an isolated incident (California Commission on Peace Officer Standards and Training, 2010; Winton, 2010). Interestingly, in the aftermath of this case and others like it, California Assembly Bill 2285 was introduced to criminalize cheating on academy tests.

This case illustrates individual and group failings and organizational and institutional responses to those failings. It highlights gray areas of culpability and illustrates a systemic response. It broaches questions about how standards of behavior come to be and what an organization does when its institutionalized standards are breached. These foundational questions are explored in the next section.

Social Foundations

Social norms allow humans to coexist—albeit in varying degrees of peace and harmony. They are the basis for society and are contextualized by time and place (Durkheim, 1938). At the most coarse level, modern people normatively acknowledge the right of others to live. This foundational norm allows people to travel the world, encounter strangers, and maintain the expectation that they will not be killed for doing so. In different times and places, this would not be the norm. At a finer level, nationality or religious creed might separate people on different strata while still maintaining more foundational norms (e.g., the right to live). These norms are created as groups of individuals who present themselves through the “enactment of rights and duties” come to form social relationships (Goffman, 1959, p. 16). And so societies are born from groups of normative social relationships.

In much the same manner, people come to develop and understand ethics and law. These normative understandings are at issue in this chapter. How are ethical expectations for American peace officers—those persons who enforce society’s norms—established, enculturated, and maintained? What does it mean when officers exhibit ethical failings? What should be done? Are these failures the result of individual problems with officers (e.g., inadequate selection standards or poor training) or systemic problems with law enforcement (e.g., inadequate oversight or deficient occupational norms), or are there other explanations?

This chapter begins with a review of traditional approaches to ethics generally and the formation of American law enforcement ethics more specifically. Next, it problematizes the relationship between scholarly understandings of ethics and practical enactments in law enforcement training, practice, and oversight. A discussion of alternatives and implications for the pursuit of professionalism follows, and the chapter concludes with discussion questions for further reflection on this topic.

Ethics and Enforcement

At least two overarching problems appear in the case study above. First, and most overt, is the issue of cheating—the misappropriation of answers to test questions, the misrepresentation of independent work, and the general deception associated with this case. This falls into the first category of “root sins” (Souryal, 1992, p. 192) of criminal justice that Souryal labels “Lying and deception (the most

common),” “Prejudice and racial discrimination (the most infamous),” and “Egoism and the abuse of authority (the most critical)” (p. 193). Second—and the more challenging issue for this chapter and the whole of criminal justice—is the response and prescribed fix. There was an investigation to find the individual(s) responsible for the ethical breach, and, when that did not uncover a culprit, one could argue that a structural fix (i.e., the criminalization of cheating) was introduced to systematically gird against the possibility of future failings.

This second problem illustrates the commonly bifurcated view of structure versus agency. Theorists who favor structure view individual human actions as being constrained to available options within both socially constructed and lived realities. Agency theorists view individual human actions as self-directed matters of choice and will (Archer, 1995). This contrast is similar to the nurture versus nature debate, and it is not our goal to revisit what has already been done well. Many great scholars have deconstructed and reconceptualized this issue of structure versus agency. For example, Giddens’ (1979) structuration theory delves well beyond the basic this-or-that argument. We advocate looking beyond just the individual or the system. Both are important and necessary.

We argue that the realistic framework of life context in which law enforcement takes place must be a factor in training, doing, and ensuring ethics. It is out of these lived realities that decisions are being made, law enforcement officers are oriented toward their communities, and ethical norms are created. As Cohen and Feldberg (1991) observed,

Police are not recruited from the ranks of saints, and they are not identified in youth and groomed in the moral virtues, as Plato suggests they ought to be in *The Republic*. In general, American society does not channel people into future employment on the basis of temperament and moral character, and our society makes no effort to encourage any particular moral qualities in its police, though most of us would hope for honesty, courage and restraint. (p. 5)

Rather, “[p]olice are selected based on demonstrated conformity to dominant social norms and values.... In essence, police are selected, socialized, and placed into a working environment that instills within them an ideology and shared culture” (Kappeler, Sluder, & Alpert, 2005, p. 231). So by taking a realist approach (as opposed to an idealist approach), we avoid the downfall of thinking that structure (the system) and agency (the individual) are the key culprits. By reorienting our understanding of this ethical problem, we can stop assuming that virtuous officers/structures are binary opposites and come to realize they are two sides of the same coin. Yes, there is a tension, and in some cases one plays a larger role than another, but law enforcement ethics are still forged in the furnaces of the criminal justice system (the catchall for our social ills/dysfunctions).

With the rest of this chapter, we argue that the *solution* is not a direct application of any ethic or ethical approach or model. Rather, solutions will present themselves when we finally acknowledge the extent to which ethics is a byproduct of the heterogeneous conglomeration that is theory and practice, education and experience, wider societal structures and attempts at systemic/agency change, community buy-in to law enforcement authority and community resistance to law enforcement abuse of authority, and the realistically complex and differing conditions of life among diverse American communities. To support this argument, the authors revisit the long-term construction of ethics as they have developed in the West and law enforcement in particular and then explore social changes that we believe necessitate one or more alternatives to the bifurcated view of individual versus institutional ethics and prescriptive models and approaches.

Foundations of Western Ethics

Socrates (469–399 BCE) tells us that knowing the good is the same thing as doing the good (Plato, 1997a). This direct link between knowing and doing is the foundation on which he explores what it means to have a just society. Socrates converses with his friends about the question, “What is justice?” In answering this question, his first conversation partner, Glaucon (circa 445–4th century BCE), asserts that justice is the advantage of the stronger. And even though Socrates will reject this aphorism, reminiscent as it is of the dictum of Mao Tse-Tung about looking down the barrel of a gun, it better captures the chasm that exists between knowing the good and actually doing it. If justice depends on force, then force is the operative principle needed to leap the chasm. Without force as an external motivation for just actions, Glaucon believes that people will not do what is right.

While Glaucon’s belief that justice is the advantage of the stronger may not sit well with people with more democratic sensibilities, it can serve as a fruitful starting point for understanding some of the historical conversations about the ethics of justice and goodness. These conversations inform and enhance current trends in law enforcement ethics as practitioners wrestle with the many complex ethical issues of slippery slopes, misconduct, and full-scale corruption within policing. It is important to keep in mind that the players discussed in this section are responding to one another and do not formulate their ethics in a vacuum or without regard for their own unique historical conditions. Their responses to each other provide a rich resource from which to better understand current and future trajectories of law enforcement ethics. And yet their conclusions cannot be superimposed onto our unique ethical situations; we must determine for ourselves how to bridge the gap between knowing the good and doing the good.

The most ubiquitous approach to ethical training of law enforcement officers is character or virtue development. This approach cultivates in the law enforcement agent the ideals of “trustworthiness, respect, responsibility, fairness, caring, and good citizenship” that are necessary to serve and protect (California Commission on Peace Officer Standards and Training & Josephson, 2006, p. 16). Virtue approaches to ethics have their roots in ancient Greek philosophy as it related to questions of good citizens, guardians, and leaders. In these approaches, one can assume that justice and goodness are inextricably linked to the task of understanding ethical reasoning and action. Plato’s (circa 423–347 BCE) understanding of this is indicated in the above-mentioned dialogue between Socrates and Glaucon. Yet defining what goodness or justice is tends to be a rather difficult task. To address this difficulty, Plato likens the governance of the city to the governance of the soul. Once an individual understood how to govern her soul properly, which generally required the study of philosophy to properly orient her desires away from the ego and toward the good, she would become a virtuous person.

What is more, Plato describes the ruling order of the city according to a three-tiered scheme. The *Philosophers*, led by a philosopher-king, keep society directed toward the good, by which justice is a central means. The next, lower class of citizens is the *Guardians*. These are the protectors of the city from invaders from without and disharmony from within. They must be philosophically capable of understanding and acting according to the good, and the gifted Guardians may advance to become Philosophers. The third class of people Plato calls the *Artisans*, which is a general designation for everyone else of consequence to the doing of justice (Plato, 1997b). While this structure appears orderly and oriented to the good, Plato asserts in other works that the best societies are ruled by a wise tyrant and not any democratically idealized navel-gazer. Historically, Plato used his Academy, his training school for philosophers, to “train students secretly for transformative political action” (Gilbert, 2009, p. 108). Plato himself served as a political advisor to Dionysius II of Syracuse (circa 397–343 BCE), who came to be known as a tyrant. This historical background helps illuminate that even under the best of intentions and ideals, the task of remaining consistent with ethical standards is always fraught with compromise.

Aristotle (circa 384–322 BCE), a student of Plato’s Academy, provides ethicists with a fully

articulated response to the relationship between knowing the good and doing it. Aristotle acknowledges that there may be many goods, or ends, that we seek, but that we must agree that certain ends are better for maintaining harmony in the social order. He states, “For even if the good of the community coincides with that of the individual, it is clearly a greater and more perfect thing to achieve and preserve that of a community” (Aristotle, 1976, p. 64). Aristotle’s work on ethics—commonly known as *virtue theory*—was meant to be the precursor to his work on politics since the two are so closely related. Yet, despite these social demands, Aristotle looks to the individual to find the criteria needed to undergird a just society. Just societies are made up of virtuous individuals, and virtue is attained primarily through practice. If a person wants to be courageous, he must be put into real-life situations that require courage. As the person’s moral and intellectual virtues strengthen, they become more equipped to do the good and will not stray from the straight and narrow.

While these are certainly not the only ethicists writing over the next 2,000 years, our conversation skips ahead to the industrializing and colonizing era of Europe. This historical leap is justified because it was during this period that Aristotelian virtue theory (as described above) came under great scrutiny. What is more, it was during this time period that ethics came to be approached as a rational exercise and that one could arrive at a universal standard of conduct prior to one’s experience in the world. English philosopher and successor to his father as one of the executive officers of the East India Company, John Stuart Mill (1806–1873) championed a form of ethics during the 19th century where the good was defined as the greatest amount of happiness for the greatest number of people (Mill, 2001). Like Plato, Mill believed that the average person knew nothing about what was really good and therefore needed sophisticated and highly educated leaders to tell the rest of society what was in the best interest of everyone. While there may be an element of truth to his observation, we benefit by locating Mill’s theory within the larger context of European colonialism. The East India Company was the largest company in the British Empire, established its own military power to protect its interests, and, with its powerful parliamentary lobby, gained extensive political and economic monopolies in both India and Britain. As the company extended its influence in India, the colonized nation, it seems that British leaders such as Mill and his father assumed the role of the highly educated leaders more capable of telling the Indian masses what their true needs were than they themselves. And the company maintained its own army to ensure that its interests could proceed uninhibited.

Mill’s utilitarian ethic provided ways for ends to justify any means, so long as the two remained commensurate. It provided an alternative to the rationally derived universal ethic of Immanuel Kant (1724–1804) who wrote a few generations before Mill. Kant designed his ethic to be universally applied to any situation regardless of consequences. In its two basic formulations, he calls on every rational being to act as if he would will for that action to become a universal law and to never treat people as means but always as ends (Kant, 1998). In the first idea, we can know whether an act is ethical if we can envision everyone else doing this act without the world spinning wildly out of control. For instance, it would be an ethical act for us to help an elderly gentleman across the street because we can picture a world where everyone would do the same thing. In contrast, it would not be ethical for a medical doctor to harvest the organs of a healthy adult without his consent just because five other people would be saved as a result. If every doctor did this, our world would be gripped by a culture of fear, and nobody would trust medical practitioners. The second ethical idea of Kant is relatively self-explanatory, with the caveat that ethical actions are only directed at other humans; missing from this formulation of ethics is any mention of ethics with respect to nonhuman beings and the environment. In a large sense, both of Kant’s ethical maxims assert that something is right, ethical, or moral simply because it is.

Just like with the other ethical philosophers discussed in this section, evaluation of Kant’s ethic must be placed within its wider socio-political context. Like other European Enlightenment philosophers, Kant spoke eloquently about the virtues of human equality and freedom as attested by the universal

nature of his ethical maxims. However, Kant's understanding of who in society is actually categorized as a rational being extends only as far as other European (predominantly White) males. Women and racial minorities, particularly Black slaves, do not fall under the universal umbrella of Kant's ethical imperatives (Mills, 2001). To restate his ethic with respect to these omissions, all rational beings (read: White and male) should act as if their own actions should become universal laws of nature, and these rational beings should always treat anyone (i.e., other rational beings) as an end and never as a means. If this assumption is correct, and indeed there is mounting evidence to support it, we might come to a better understanding as to why Kant's ethic was never used to support the abolition of slavery or challenge prevailing gender stereotypes. His ethic works wonderfully provided you fit the 18th-century criteria of a *fully rational human being*.

Each of the ethical figures discussed in this section occupies an important position in the trajectory of the Western ethical tradition. Their ideas are taught in universities as well as in many police training academies, yet on closer examination, rarely are their ideas placed adjacent to the wider social and political ideologies of their times. Telling their stories without regard for their wider historical contexts propitiates the idea that theory can operate in isolation from practice. But it is precisely in the act of telling a larger story that we begin to recognize the interconnectedness of theory and practice. A chasm will always remain between ethical training and ethical practice so long as law enforcement ethics embodies this tradition of disconnected storytelling. In the next section, the authors turn from ethical theory to practice and revisit some of the important milestones that illustrate how social and law enforcement leaders viewed and responded to ethical challenges.

Waypoints for Law Enforcement Ethics

Modern American policing began to take form late in the 19th century in the context of the ethical norms described in the previous section and amid many ethical quandaries for society as a whole (Perez & Moore, 2012). Even though the Civil War had concluded, issues of racial equality were beginning to be unveiled in new ways. Similarly, the women's suffrage movement was developing. Women who had always been more or less free found themselves lesser than Black men who, although just recently freed, already had the right to vote. In this time of development, change, and population growth, expanding police forces were fraught with problems such as theft, bribery, and general corruption among others (Harring, 1983).

Before becoming president, Woodrow Wilson (1887) decried the spoils system common throughout government and advocated a professional civil service as a systemic solution. He further proffered the politics-administration dichotomy and insisted that it was cronyism and political influence that led to graft and unethical conduct among public servants. His solution for this problem was a separation of politics from administration and the professionalization of public employees. And so began the basis for many of the systems of government in place today. Most relevant to this discourse are the effects on public employees as they relate specifically to police. Because President Wilson believed that the political and the professional aspects of government should be insulated from each other—to prevent inappropriate influence—one could argue that his efforts increased autonomy for law enforcement officers and leaders.

Before he himself became president, Teddy Roosevelt was appointed to the newly formed Civil Service Commission (advocated by Wilson) by then President Harrison in 1888 (Bishop, 1920). By all accounts, Roosevelt was a formidable reformer and was soon thereafter appointed Commissioner of the New York Police Department by Mayor Strong, where he moved to implement civil service standards (Bishop, 1920). The reforms advanced by Wilson and Roosevelt (among others) were embraced broadly

throughout the nation, and their merits were well-documented.

President Hoover's Wickersham Commission in its 1931 report further decried the influence of political forces on the police and recommended professionalism as the panacea. The prevailing logic indicated that independence from political influence would lead to right behavior (Ruchelman, 1973). Somehow police were expected to reference an internal locus of control that would appropriately guide their actions. In his 1933 article "Police Progress in the Past Twenty-Five Years," August Vollmer listed first among law enforcement achievements the creation of civil service systems and the development of police professionalization. In this way, a significant shift occurred. Unethical or corrupt policing was decided to be an outgrowth of political influence, and professionalization became the solution championed by Wilson, Roosevelt, Vollmer, and most scholars and law enforcement leaders. Interestingly, what Wilson (1887) critiqued as part of the problem may well be realized even now in the lasting nature of his solution: "Institutions which one generation regards as only a makeshift approximation to the realization of a principle, the next generation honors as the nearest possible approximation to that principle, and the next worships as the principle itself" (p. 209). To avoid unethical influences, Wilson and those who followed pushed for the professionalization of law enforcement, which necessarily led to greater autonomy for law enforcement officers and leaders.

Reform Efforts

Interestingly, today, large sectors of society fear that the increased autonomy of law enforcement leaders that was granted by this move to professionalization is now the main culprit of unethical behaviors. For example, the American Civil Liberties Union (ACLU, 1997) has repeatedly advocated the need to police the police by creating external law enforcement review boards that enhance, and in some instances create, public accountability. The ACLU claims that such measures are essential because they can help unite a city's politically organized racial minorities and the historical track records of its policing agencies. The concept of the external review board has appealed to many concerned with police conduct for decades. An early example began in Philadelphia in 1958 after a proposal and advocacy work by the ALCU (Lohman & Mismar, 1973). In practice, nominally, independent citizens are appointed by the mayor or political body (e.g., city council, county board, etc.) to consider citizen complaints against the police. The idea holds that the members of the review board are once removed from politics and separate from the police; therefore, they are independent arbiters of justice when considering (i.e., reviewing) police actions.

As the pendulum has now swung to the opposite end—from the spoils system of politically controlled police to the professional system of autonomous and potentially unaccountable police—we are faced with a conundrum. Must we jettison the prospect of professionalization and its emphasis on agency change to compensate for the widely publicized unethical behaviors of individual officers and departments? Will the solution to law enforcement ethics be found in new efforts to reform the virtues of those few bad apples who seem to lack a baseline moral compass? Or have the centers of moral authority in our society shifted in such a way that either pendulum extreme is now proving insufficient for addressing the role of ethics in law enforcement? Turning briefly to some of the literature in law enforcement ethics provides a better sense of the current states of ethical discourses in law enforcement that will help navigate toward new solutions in the following section.

Theory, Practice, and Lived Reality

Scholarly and professional responses to law enforcement ethics—of which only a small sampling are explored here—appear to have increased notably in the past half century. Whether these responses highlight various approaches to training and education, explore possible sources of moral authority, or pick apart the elements of police environments, they all acknowledge the need for increased ethical awareness and behavior. This section highlights a few different representational responses to law enforcement ethics in an attempt to better understand the tensions that exist between the structure and the agent, or between the approaches of systemic cultures of unethical behavior and professionalism’s attempt to deal with the few bad apples. Through this brief review, we get a better sense of current merits of ethical discourses as well as their shortcomings for thinking about ethics in a postmodern society.

Newburn (1999) discusses organizational structures as the leading cause of corruption that results from inadequately defined boundaries between corrupt and noncorrupt behavior. Basing his evidence on 20 years of literature on the subject from the United Kingdom, Australia, and the United States, Newburn denounces recent reform attempts that are aimed at new recruits since they assume, as did Plato, that knowing the good will lead to doing the good. Such an assumption is largely naïve and does little to change systems of corruption already in play in any given police department. Newburn’s position is shared by many including Fitch (2011), Ruchelman (1973), and Kleinig (1996). Newburn follows Kleinig’s careful note that corruption does not always increase along a slippery slope from minor compromise to lawlessness. He advocates instead for increasing ethical training for leadership and a more thorough integration of ethics training into every facet of police training.

Chilton (1998), Crank and Caldero (2010), and Barker (2002) stand as representatives of the human agency side of police ethics. Chilton (1998) calls for a tightening of ethical standards through a modified professionalism approach. Recognizing that traditional professional paradigms treat police as classic professionals, he seeks to integrate the larger police role as a public agent into the professional model. He argues that this integration takes root when the guiding social and moral compass is properly oriented toward the Constitution. Individual law enforcement officers must be trained to understand the moralities set by the Constitution—that is, they must develop a *constitutional conscience*. Presumably, ethical conduct will result from a better alignment or shared normativity of public interests and those of law enforcement agencies. Crank and Caldero (2010) and Barker (2002) make similar assumptions about the promotion of individual ethical conduct, albeit without the same level of nuanced analysis. Crank and Caldero advocate for what they call the *noble cause*, which

is a moral commitment to make the world a safer place to live. Put simply, it is getting bad guys off the street.... It is not simply a verbal commitment ... Nor is it something police have to learn. It’s something to which they are morally committed. (p. 31)

It is not clear what factors contribute to an individual officer’s ability to recognize (or know) the noble cause (or good), or even to understand whence it comes, but once he or she accesses it, ethical behavior will follow. Barker too adopts an individualist approach to ethics by calling for self-control as a primary “mechanism for controlling police unethical behavior” (p. 15). While he allows for situational variants, self-control on the part of peers and supervisors, with the help of external controls such as review boards, is the missing element of ethical policing.

Both structural and agent approaches offer important contributions to our ethical discourse. Newburn (1999) realistically recognizes that focusing on leadership will help control unethical behavior and organizational corruption rather than totally eliminate it. His emphasis on transforming departments into ethical cultures addresses an important aspect of the historical roots of corruption within policing organizations. Yet his approach falls short in at least two significant ways. First, it favors a Kantian deontological approach to ethics whereby some objective or universally recognized ethical standard is

assumed and that leadership ethics must ascribe to it. But precisely where this standard comes from or how it is understood is neglected. Chilton (1998) understands that ethical standards must come from somewhere and posits the Constitution as the primary source (even though he fails to address differing interpretations of this shared social authority). Newburn's second shortfall rests in his general approach to ethical reform. By and large, he looks to solutions from within policing agencies. In other words, the burden of corruption and its solutions rest on the shoulders of law enforcement agencies. The potential shortfall of this position is that by only dealing with corruption internally, these agencies are more prone to overlook their complicity, with wider social structures of inequality and misconduct. It often takes an outside perspective for us to see our faults more clearly.

The agency examples to stemming unethical behavior explored here also have their strengths and weaknesses. Already mentioned as a strength is Chilton's (1998) attempt to posit a common source for normative moral authority within the case-law parameters of the Constitution. He also adequately tries to reconcile public interests with the professional ethics paradigm, which more effectively accounts for situational conditions. However, Chilton's vision for more ethical policing can only work well in places where, for example, minority communities are already well integrated with wider political and economic structures of their communities. Well-integrated communities already are more adept at ironing out new interpretations of the Constitution that better account for racial, gender, and other inequalities and their ethical norms reflect this (ACLU, 1997). But in communities where minority integration remains disparate, normative bases for authority will follow the well-worn patterns that contribute to police corruption. Furthermore, Chilton's agent-oriented solution and those of Crank and Caldero (2010) and Barker (2002) leaves untouched issues of how a twentysomething recruit with a General Equivalency Diploma (GED) is to behave ethically when granted autonomy to align personal ethical choices with the Constitution. Certainly, larger leadership and structural factors must be accounted for in ways that an agent-based ethic alone cannot fully capture.

Shifts in Normative Sources of Morality and Authority

Tensions in law enforcement ethics continue unabated between enacting structural reform and cultivating individual moral agents. Postmodernism has proven successful in highlighting the inefficiencies of any ethical approach to apply universally to all situations at all times. As noted in the work of Lyotard (1984), the dispersal of previous centers of authority—be they external or internal/structural or moral—has created marked shifts in societal attitudes toward the sorts of centralized authorities that law enforcement agencies represent. The solutions posed by Hoover, Wilson, Roosevelt, and others spoke to a country with firmly established moral norms. Common ethical standards in the previous century were already more or less rooted in society as a whole. One could argue that public demand for police transparency and virtue stemmed from a shared Euro-American and White moral sensibility found within socially dominant centers of authority. With a common moral authority, pushing law enforcement toward professionalism may have been an appropriate solution for addressing ethical breeches in police conduct.

The common police motto *to serve and to protect* directly applied to those who shared, supported, and drew from the wells of this normative moral authority. Those who did not were neither served nor protected in the same ways. The women's suffrage movement in the early 1900s and the civil rights movement in the 1960s provide two examples of larger challenges to Euro-American normativity that have effectively driven a wedge between what is legal from what is ethical. Chilton (1998) and the ethics curriculum of the National Institute of Ethics (n.d.) both blur the distinction between legal and ethical by calling for the Constitution, or what is "legal," to determine the boundaries of ethical

behavior. In 1920, women in the United States won their rights to equal citizenship by securing the 19th Amendment, which granted them the right to vote in public elections. Prior to this, White men legally determined women's public interests. Similarly, Blacks in the United States were legally freed from institutionalized slavery in 1865 by the 13th Amendment, but in 1896, *Plessy vs. Ferguson* established legal precedent for segregating Black from White American privileges. Thus, until *Brown v. the Board of Education* in 1954 initiated the reversal of prevailing Jim Crow laws, law enforcement agencies were more or less bound to uphold the segregation of Blacks from Whites. And since this unjust obligation was legitimated as its duty, it also became its ethical norm (Lyotard, 1984).

While these two examples are etched deeply in the collective memory of the United States, they are too often neglected from discussions on ethical formations. Postmodernism provides the tools necessary for decoding and deconstructing normative sources of moral authority. All historical attempts at returning law enforcement structures and agents to a common moral source in this country must now be interpreted against the parallel stories of sexism and Jim Crow segregation, for example. These stories disrupt the dominant and prevailing Euro-American stories where White males stand as the primary benefactors of social and legal privilege. When these stories and countless others like them speak, they proclaim their own sources of authority from which they are able to distinguish properly between *legal* and *ethical*.

As a matter of fact, rather than one of judgment, the old centers of normative ethics that were rooted in common (to White males) moral values have become decentralized. For example, neighborhood rights campaigns such as the Racial Justice and Civil Rights Campaign of the Denver-based Colorado Progressive Coalition (CPC) are moving to challenge unchecked law enforcement authority. These are the conditions, especially in urban centers, in which law enforcement practices are now being tested and reviewed. The previous discussions on traditional approaches to cultivating ethical environments raise some interesting questions in light of these shifts in loci of morality and authority. Are current efforts to teach ethics to new recruits sufficiently exploring complex contexts in which ethical decisions are made or do these efforts assume that ethics is a simple matter of applying blanket universal prescriptions to every field situation? Are current structural reforms properly distinguishing between what is lawful from what is ethical in such a way that larger socio-political ideologies can be carefully considered and accounted for?

By addressing these questions and the many more that will come by interrogating historical precedent for ethical legitimation, law enforcement leaders can come to realize that ethics is an interdependent enterprise. The authors argue that on an individual level, personal lives, networks of support, and other political and economic circumstances have an equal if not greater pull on police conduct at work than does any ethical training in an academy or weekend leadership seminar like those offered by the National Institute of Ethics and the National Law Enforcement Policy Center. Police do not leave their ethics at the door when they return home after their shifts. On a structural level, law enforcement personnel generally are only as ethical as the laws they are bound by oath to uphold. In this sense, we contend that our legal system represents the baseline for justice and ethical standards rather than its zenith. Adopting a technological analogy, our legal system is like an open-source document that is continually being revised and reformatted to better suit our ever-expanding understanding of human decency and justice. The more authority and moral norms shift and decentralize, the more law enforcement must reevaluate its own loci of authority and moral foundations. If policing in a postmodern age requires the continual reassessment of its methods, policies, and practices, so too must ethical standards be continually reassessed.

Solutions

Ethics can be taught in an academy classroom, but primarily theoretically and not in such a way that will automatically translate to ethical conduct day-in and day-out in the field as is evidenced by the prevalence of the Aristotelian notion that knowing the good leads directly to doing the good (Aristotle, 1976). Ethical codes of conduct, complete with mission and vision statements, can be adopted by departments in an attempt to lift the structural cultures of unethical behavior. Similarly, leaders may receive training in fostering more ethical work places, oversight boards may be instituted to monitor misconduct, and communities can be brought in to better align their interests with police roles and expectations. Likewise, universally applying the standards of professionalism to law enforcement agencies is not the magical solution for curtailing unethical behavior. Just as Glaucon observed to Socrates, knowing the good is not the same as doing the good. How then do we cross the divide between knowing and doing the good especially as it relates to the structure/agency binary?

Available to us are a number of creative solutions that approach ethical reform from a variety of vantages. Fitch (2011), for example, calls attention to situation and psychological factors affecting ethical behavior that go largely unaddressed in traditional Aristotelian-virtue approaches. Fitch understands that peers influence one another as much if not more than superiors, which is why he advocates for the cultivation of a culture of ethics complete with mission statements, training in critical thinking, and effective systems of rewards and punishments. This focus on rewards and punishments is also emphasized by the National Institute of Ethics (n.d.), which is the nation's self-proclaimed largest resource for ethics training. The National Institute of Ethics provides extensive ethics training courses that cater to strengthening leadership skills essential for cultivating ethical department cultures. Built into their seminars is a decisive nod to psychological behaviorist B. F. Skinner, whose ideas on human motivation were based entirely on factors external to the individual's free will (Skinner, 2001). As such, the National Institute of Ethics focuses their seminars on teaching various techniques needed to prevent unethical behavior and to promote ethical behavior. While Fitch's solution deals only with the culture of a police department to the exclusion of wider social environments that press on police conduct, other training institutions such as the National Institute of Ethics deal only with external sources of motivation to the exclusion of interior standards of truth and justice.

In the end, law enforcement agencies will continue to struggle for solutions to ethical misconduct if any one or all of these measures are enacted without also addressing societal shifts in older centers of political and moral authority. The following paragraphs offer two possible avenues for better aligning law enforcement ethics with postmodern shifts in authority. We must discover where political and moral authorities are now located and understand how they are legitimated. Further, we must reevaluate the effectiveness of any one-size-fits-all approach to dealing with law enforcement ethics and seek out new localized solutions that pertain directly to individual communities across the nation.

To address ethics in law enforcement more adequately, we need to turn our attention to the wider societal trends in centers of authority. Gone are the days where we could look to things like common sense and prevailing Judeo-Christian mores to guide our collective sense of right and wrong. Even though law enforcement professionalism burst on the scene at the beginning of the 20th century as a redress for politically driven policing, the authors argue that it still remained fully reliant on the country's dominant moral conventions to legitimate its understanding of ethics. Police departments' attempts to tighten their moral laces during this period did not incorporate wider social injustices (e.g., Jim Crow laws). Given incongruities between laws and ethics, it is little wonder why ethical failings still exist in policing agencies. Social awakenings such as the civil rights movement have increased social awareness of human rights and civil liberties. These awakenings have also fostered the growth of postmodern theory, which asks important questions about who holds political and moral authority and why.

In more recent times, new modes of accountability are surfacing in the forms of social media and

personal electronic devices that may prove more capable of maintaining citizen pressure for ethical behavior on law enforcement authorities. In general, citizens are using these media networks and devices to document police behavior and rapidly communicate breeches in police conduct to a global audience as was demonstrated during the University of California at Davis “pepper spray incident” in 2011 (Chappell, 2012). Bolstered and sometimes sensationalized by mass media networks, a private citizen becomes much more than a witness to police misconduct: He or she becomes a source for moral authority. What is more, the more prevalent these technologies become, the more educated the general population is becoming with respect to their rights and therefore all the more disparities are exacerbated between law enforcement and communities. For example, Police Inspector Tom Cowper states that new technologies will cause an increased demand for public security that will impact civil liberties and further stress existing tensions between police and communities (Stephens, 2005). Police officials can respond to this new center of moral authority in one of (at least) two ways. They can resist this authority and desperately seek to secure their own political authority, and therefore destroy their own moral authority by equivocating legal rightness with ethical rightness. Or they can learn from these new sources of authority and rely on them as an external motivation for practicing ethical behavior. If police officials choose this second option, they must find new ways to collaborate with their communities to better understand changing social mores and if necessary redefine police roles and functions.

Suman Kakar (1998) provides one such example based on the rubric of *community policing*. Kakar’s approach explores the increasingly complex roles and functions of officers today within a postmodern context. Community policing fosters collaborations between citizens and officers that can enhance officer assumptions about who makes up the community and citizen perceptions of officers. Since police reception in individual communities is so often polarized by the actions of officers who are required to perform these complex roles and functions, Kakar hopes that such a process will humanize both officers in the minds of citizens, and vice versa.

The second solution to more ethical policing in a postmodern context is the need to reevaluate one-size-fits-all approaches to tackling police misconduct. Beginning with Kant, modern forms of ethical analysis attempt to wrap all contextual details of ethical situations under the fold of grand universal theories. The primary mode for understanding and doing ethics was largely dependent on complex theories that were tested first by the academic before they were worked out in real-life situations. According to the normative philosophical ethicists reviewed above, ethics was meant to supply a scientific—that is, unbiased and universally applicable—rubric for guiding all human actions. But as seen above, no ethic is ever devoid of a larger social context in which its rubric is fashioned. Each ethic both plays and is played by social, political, economic, and ideological norms unique to the ethicist’s social context. To the extent that we continue teaching ethics to law enforcement officers while also assuming an unbiased or universal perspective, our social contexts will play us unwittingly.

Since universal theories have proven insufficient for universally resolving the tensions between knowing the good and doing it, it is little wonder that the move to professionalism in law enforcement was not sufficient for resolving the tensions between structure and agency. Police officers still engage in deceit, prejudice, or abuse of their authority (Souryal, 1992) despite decades-long progress toward professionalism. While professionalism may have been or still is a viable solution in some locations, it is not the only approach to confronting issues of ethical misconduct. We must find new ways not only to realize that ethical situations differ from region to region, but also to enact ethical approaches differently within these differing regions. Policing in Chicago is much different than policing in Sutter Creek, California. Not only are the nature and extent of crimes different; the policing agencies in each place have a different history and relationship with the communities they pledge to serve and protect. Given these discrepancies, it almost seems too obvious to call for more localized approaches to establishing and maintaining high rates of ethical conduct.

Substituting universal ethical theories and solutions with local ones may place new strains on departments already exhausted by trying to manage the host of other demands that call for their attention. While valid in its concern, the need outweighs the perceived costs. Police departments may even find community resources they never knew existed in the forms of a community's readied willingness to begin ethical reform dialogues. Such is the case, for example, in Denver, Colorado, where university students in the Denver Urban Issues and Policy class at the University of Denver and the not-for-profit CPC are raising community awareness of identified repeated problems within particular city districts. These efforts are not designed to undermine policing as an institution, but to heighten both police and public sensitivity to their issues with respect to balancing social inequalities. Yet community-police collaboration as advocated by this example and the remarks of Kakar (1998) must not be championed as the only solution to tackling ethical reforms. There may be cases where police already maintain good relations with their communities. These departments will be better served by going back to Souryal's (1992) three-tiered typology of unethical behavior to identify and address their own circumstances. It may be the case that unethical behavior can be addressed by providing more extensive psychological counseling to help officers better cope with the many stresses and traumas of their jobs.

A shift from universal to local may also be met with resistance because it treads the line with forms of moral relativism in which there are no criteria for judging between moral and immoral, just or unjust, or any other common misgiving of postmodernism (Parker, 1995). Branches of postmodern thought certainly have devolved into complete moral relativism wherein no one moral claim carries any more authority than any other. But adopting a postmodern approach does not require us also to adopt this extreme position where all things devolve into a state of chaos or anarchy. Instead, postmodern theory can be used as an aid for understanding how and where authority has been dispersed within society. Political and moral authority do not simply disappear but rather shift from place to place. No longer are social and ethical norms completely determined by traditional centralized sources. An increasingly diverse and complex society now demands an equally diverse and complex approach to law enforcement ethics.

Prospects for Professionalism

Given our deconstruction of the problems facing law enforcement ethics, the prospects for professionalism as understood by McClellan and Gustafson (2012)—the social construction of standards—are undeterred. Professions have long garnered enduring features, including educational attainment, codes of conduct and ethics, and some sort of peer review or oversight. As described throughout this chapter, many social and law enforcement leaders have advocated the structural enactment of these features of professionalism as the means toward ethical reforms. While the authors do not disagree with the merits of higher education, codes of conduct and ethics, or peer oversight and review, these are insufficient means for ensuring ethical behavior even while they are useful lenses for recognizing ethical needs. This is because knowing the good does not mean we will automatically do the good. Tactics of professionalism may well be good enhancements for law enforcement, but they are not in and of themselves a remedy.

The feature of independence or autonomous decision making prominent among professions is especially problematic for law enforcement when enacted in advance of ethical grounding. The last thing a powerful institution that is struggling with ethical conduct needs is increased autonomy because it further removes the institution from wider networks of social and political ideologies that foster inequality. And in this sense, the authors advocate ethical supports and localized reviews before broad-brush system-wide change. The authors are not, however, concerned that either of these can happen in a

vacuum. Whether a matter of ethical reform or professionalization, these are socially constructed processes rooted in the discourse of countless communities and institutions. What is most important is that law enforcement and community leaders engage together to come to terms with their needs and the means for achieving them.

Summary

Policing in a postmodern age has become incredibly complex. It requires new techniques and strategies for meeting the demands of an increasingly technological and ethnically diverse society. What is clear in this brief overview and discussion of law enforcement ethics is that not all ethical decisions faced by officers are as plainly decipherable as the issue of cheating on academy exams. But even the example of cheating within training academies is not without its own complexities. The push of implementing structural reforms and pull of cultivating virtuous agents have made little progress toward any sort of universal eradication of misconduct, be it deception, discrimination, or abuse of authority. In fact, the need for a more effective ethical approach is needed now just as much as it was in 1931 when President Hoover established the Wickersham Commission and in 1975 when the International Association of Chiefs of Police hit on the Law Enforcement Code of Ethics.

Discussion Questions

Ideally this chapter will have identified areas of opportunity for enhancing ethical law enforcement practices. Further, it should also give rise to critical questions about how law enforcement personnel can go about doing good in the world. Consider the following:

1. Are there parallel professions/industries that have had struggles and learned lessons that could benefit law enforcement and community leaders? If so, what are they, and what are the lessons?
2. This chapter has argued that solutions to ethical dilemmas need to be local and contextual (within time, space, and social norms). To what extent is the same true about ethical norms or standards themselves?
3. How can we maintain national standards for ethical behavior while still allowing individual jurisdictions responsibility for establishing solutions appropriate to their own community contexts?
4. After reading this chapter, what alternative solution would you offer to the ethical dilemma presented in the introductory case study example (cheating in the law enforcement academy)?
5. We used examples from the recent and distant past (e.g., slavery) that were considered both legal and ethical then but, given today's social norms, would not be ethical or legal. What do you forecast or imagine might fall into this category now when reflected on 50 or 100 years from now? Put another way, what 2012 social norms are legal and ethical that might be illegal and unethical in the future? How does your answer relate to current hot-button issues such as immigration or protests associated with the "Occupy" movement?
6. What do you believe has been most formative for your own moral compass and where do you find moral authority? Do you draw on family roles models, religious texts, scholarly reasoning, or other sources for your inner sense of right and wrong?

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