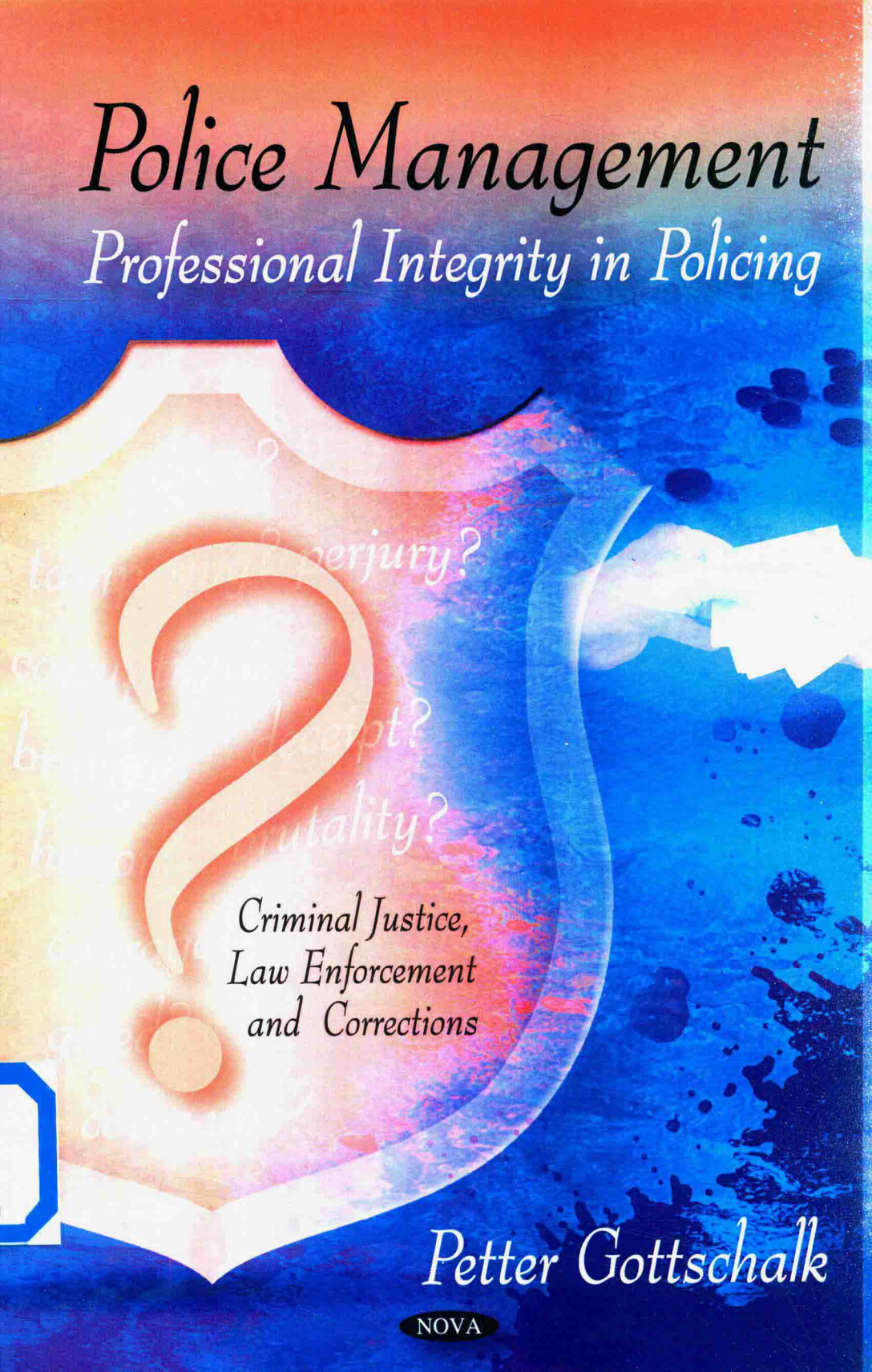


Police Management

Professional Integrity in Policing



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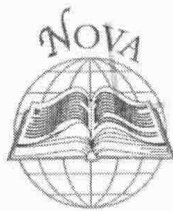
Petter Gottschalk

NOVA

CRIMINAL JUSTICE, LAW ENFORCEMENT AND CORRECTIONS

POLICE MANAGEMENT
PROFESSIONAL INTEGRITY
IN POLICING

PETTER GOTTSCHALK



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INTRODUCTION

Ever since James Q. Wilson in 1978 wrote the classic book entitled "Varieties of Police Behavior - The Management of Law and Order in Eight Communities" published by Harvard University Press, the issue of police integrity and accountability, followed by the introduction of police governance, have been important issues in law enforcement all over the world. In his classical book, Wilson (1978) reviewed the ways in which police styles change and explains why they change. The book delineates the role of the patrolman and the problems he faces because of constraints imposed by law, politics, public opinion, and the expectations of superiors.

According to the United Nations (UNODC, 2006), the great majority of individuals involved in policing is committed to honorable and competent public service and is consistently demonstrating high standards of personal and procedural integrity in performing their duties. Still more would probably do so if the appropriate institutional and training was given. However, in every policing agency there exists an element of dishonesty, lack of professionalism and criminal behavior.

The prevalence of police deviance is a much-debated statistic and one that is often rife with problems, according to Porter and Warrender (2009). While some researchers suggest that corruption is endemic to police culture across the globe, others argue that incidents are rare. Despite such statistical problems, incidents of police deviance do surface from time to time all over the world. Some examples in the UK involve suppression of evidence, beating of suspects, tampering with confidential evidence and perjury.

The police shall protect the society against threats, and detect, stop and pursue crime. To meet new security challenges and fight more complex crime

than before, the police in many countries have been given comprehensive powers. For those mandated to monitor the police, these comprehensive powers and the development of police organizations from bureaucratic to knowledge organizations, means new challenges. Inadequate control with the police could make the police power monopoly a threat to the rule of law and democracy. It is also a fact that amongst employees in the police service, are individuals who abuse the powers of their office to commit criminal acts, in some cases even take part in organized crime (Presthus, 2009).

Klockars et al. (2000) find that the history of virtually every police agency attests that policing is an occupation that is rife with opportunities for misconduct. Policing is a highly discretionary, coercive activity that routinely takes place in private settings, out of the sight of superiors, and in the presence of witnesses who are often regarded as unreliable.

According to UNODC (2006), key drivers in the institutionalization of police integrity include the selection, education and training of police officers, their salaries, working conditions, discipline and supervision, and the need for mechanisms for the receipt and processing of complaints by members of the public.

The organizational culture of the police service – the shared assumptions, beliefs, and most important, behavior of individual officers and the service as a whole – is critical if the public is to trust the police to do their job in an honest, fair, efficient and lawful manner. And if that trust is there the public is far more likely to co-operate fully with the police (Graham, 2006).

United Nations has adopted the code of conduct for law enforcement officials, which expects and requires that police officers fulfill their duty, respect human dignity, not tolerate torture, not tolerate corruption and keep confidential matters confidential. The code is to be implemented into national legislation and practice. The code can be applied in benchmarking the oversight capacity and integrity of a police system. In addition to developing an understanding of the strengths and weaknesses of a nation's approach to ensuring the integrity and accountability of the police services, the study of code implementation in a nation will also enable to identify opportunities for reform and development (UNODC, 2006).

There are many ways in which supervisory mechanisms for complaints may be structured. They may be managed by a branch of the central command structure or by a regional department. They may be entirely separate from the command hierarchy, or they may report directly to it. There may also be independent non-government organizations or interest groups that monitor police activity and measure it against international standards of behavior.

Often there will be a different set of procedures for minor procedural or administrative misconduct on the one hand and serious malfeasance or criminal behavior on the other. The former may remain at an internal local level whilst the latter will be dealt with by formal tribunals and prosecution (UNODC, 2006).

The existence of a legislative structure for complaints is an important step towards police integrity and accountability, but that system must be more than a legislative expression of intent. Any system must be readily accessible to members of the public and user friendly. It must protect complainants against negative consequences and offer a responsible, professional and timely resolution. Without such qualities, the public will soon label the complaints system as a waste of time and will not support it (UNODC, 2006).

According to Smith (2009), police refers to traditional police forces or services and other publicly authorized and/or controlled services granted responsibility for the state, in full adherence to the rule of law, for the delivery of policing services. Policing services refers to the responsibilities and duties performed by the police to protect the public, including preserving the peace, enforcing the law, preventing and detecting crime, and protecting human rights. Such services should be delivered in accordance with principles of fairness, equality and respect for human rights.

Allegations of officer misconduct may come from either internal or external sources. Internal allegations involve reports by supervisors or other department employees. External allegations involve formal or informal complaints by citizens. In the USA, an Internal Affairs Unit (IAU) or a Professional Standards Unit (PSU) investigates all internally generated allegations. A number of cities and counties in the USA have also established external citizen oversight agencies with original jurisdiction for investigating citizen complaints. While many of the issues related to internal and external misconduct investigations overlap, Walker (2006) argues that it is necessary to discuss them separately.

Thus, Walker (2006: 18) discusses internal versus external misconduct investigations:

The nature and quality of police internal investigations of citizen complaints have been a major part of the police-community relations' problem. Civil rights groups have attacked police departments units for failing to investigate citizen complaints thoroughly or fairly. These allegations have been documented by external investigating commissions.

Walker (2006) finds the literature on IAUs extremely limited. The only descriptive survey of IAUs is over twenty years old. While anecdotal evidence indicates considerable variations with respect to the structure, staffing, and procedures of IAU and PSU organizations, there are no recent surveys specifying these variations.

Walker (2006: 20) finds a significant body of descriptive literature on external citizen oversight agencies and procedures:

Several articles and books have developed classification schemes for external agencies identifying different roles, structures, and procedures. Not all citizen oversight agencies have authority to independently investigate citizen complaints. Many simply involve the review of completed investigations by IA units, with authority to recommend a different disposition or that the case be reinvestigated. No external citizen oversight agency has the power to impose discipline of officers against whom complaints are sustained.

In the USA, there is often a distinction made between police corruption (misuse of authority for personal gain, e.g., taking a bribe), police abuse of authority (e.g., excessive force or racial profiling), police occupational deviance (e.g., sleeping, drinking), and police crime (e.g., stealing from a crime scene), although the lines between these are definitely not always clear, since technically any of them could be a crime. Then there is the matter of a police officer who commits a crime on his own time (e.g., domestic violence), and whether to count that as police crime.

An interesting approach to rethinking police complaints is taking place in Sweden. Swedish police employs a specially trained group of police officers that are called dialogue police. Dialogue police officers have the task of solving conflicts on the spot, both between persons outside the police as well as between outside persons and the police. Dialogue policing is expected to reduce the number of unnecessary and irrelevant police complaints. Often, a complaint is caused by misunderstanding and frustration that can be prevented and solved by dialogue policing. Also, the existence of dialogue policing in Sweden tends to prevent police officers from misconduct, as they know colleagues who are dialogue police officers might get involved to mentor and monitor their behavior (Holgersson, 2008).

An example of misconduct is sexual misconduct of law enforcement personnel with witnesses, suspects or informants. This kind of misconduct is known to also lead to corruption or other integrity failure. For example, an officer may ignore a sexual partner's criminal activity, alter evidence that

implicates him or her, or even provide that partner with confidential information. Such misconduct also leaves the officer open to extortion.

Rethinking police complaints is also going on in Australia. The Office of Police Integrity is trying to improve Victorian policing services through effective complaint handling. Refocusing complaint resolution processes in Victoria Police implies to encourage police involved to learn from the process or from any mistake, to take the opportunity of improving police policies or practices, and to develop imaginative and innovative ways to address issues before they become problematic (OPI, 2008).

There was a book 30 years ago by Lawrence Sherman - *Scandal and Reform: Controlling Police Corruption* - that posited the need for more proactive methods to minimize corruption. It led to such things as integrity tests in some US police departments (NYPD is one example that still does them, it seems).

This book makes a contribution to the emerging academic discipline of police science. According to Jaschke et al. (2007: 23):

Police science is the scientific study of the police as an institution and of policing as a process. As an applied discipline it combines methods and subjects of other neighboring disciplines within the field of policing. It includes all of what the police do and all aspects from outside that have an impact on policing and public order. Currently it is a working term to describe police studies on the way to an accepted and established discipline. Police science tries to explain facts and acquire knowledge about the reality of policing in order to generalize and to be able to predict possible scenarios.

Core topics of police science include strategies and styles of policing, police organizations and management, and policing specific crime types. This book is at the core of police science by studying integrity and accountability in police forces. Specifically, this book addresses police oversight in a management perspective.

It seems hard to discover any particular studies that have focused specifically on police crime and how it is discovered (such as through complaints) in the USA. It seems so much of US attention has focused on police corruption and police abuse of authority that police crime has flown under the radar for the last couple of decades. One might assume that police crime would be explained (well or poorly) by the various theories about crime in general - for example, would an agency that took a tough punishment approach (deterrence) have less police crime than an agency that did not take such an approach? But we are not familiar with any careful studies of that.

CONTENTS

Introduction		ix
Chapter 1	Police Integrity	1
Chapter 2	Police Crime	33
Chapter 3	Management Methods	63
Chapter 4	Management Performance	91
Chapter 5	Maturity Levels	113
Conclusion		137
References		139
Index		151

Chapter 1

POLICE INTEGRITY

Integrity is defined as the quality of being honest and morally upright. Practices that impugn the integrity of the police range from obtaining or maintaining evidence without following proper procedure, to direct violations of the rights of suspects. This includes the coercion of confessions (sometimes through torture), plating and fabricating evidence, or giving false testimony in court (perjury). This latter situation can often arise where an otherwise conscientious officer loses faith or trust in the criminal justice system and acts through a misplaced sense of duty or zeal in seeking to secure a conviction against someone of whose guilt the officer is convinced (UNODC, 2006).

Integrity in public office demands open and transparent decision-making and clarity about the primacy of a public official's duty to serve the public interest above all else. Conflict between this duty and a person's individual interests cannot always be avoided but must always be identified, declared and managed in a way that stands up to scrutiny. This particularly applies to police officers who are sworn to uphold the law (OPI, 2007).

Police integrity is an important element of what is called public integrity. According to Fijnaut and Huberts (2002), public integrity denotes the quality of acting in accordance with the moral values, norms and rules accepted by the body politic and the public. A number of integrity violations or forms of public misconduct can be distinguished: corruption including bribery, nepotism, cronyism, patronage; fraud and theft; conflict of interest through assets, jobs and gifts; manipulation of information; discrimination and sexual harassment; improper methods for noble causes; the waste and abuse of resources; and private time misconduct.

Integrity is sometimes defined as the absence of misconduct, where misconduct is generally understood as being an attempt to deceive others by making false statements or omitting important information concerning the work performed, in the results obtained by or the sources of the ideas or words used in a work process. According to Cossette (2004), the intention to deceive, even if difficult to determine, is a key element in this conception of misconduct.

Rather than defining integrity in terms of what it is not, such as absence of misconduct, integrity might be more properly defined in terms of what it is. In this perspective, police integrity is a number of concepts and beliefs that in combination provide a structure and a culture within which police officers are characterized by honesty, honor, knowledge, morality, fairness, principled behavior, and dedication to common mission. Police officers engage in positive behaviors such as community partnership, problem solving and other actions that go beyond minimum standards for policing. Internal and external expectations to law enforcement are met, or at least attempts are carried out to satisfy reasonable expectations.

Accountability refers to situations in which someone is required or expected to justify actions or decisions. It also refers to situations where an officer bears the responsibility to someone or for some activity. Accountability has been called "the mother of caution", and as such it has a prophylactic and deterrent effect (UNODC, 2006).

Accountability is a feature of systems, social institutions as well as individuals. It means that mechanisms are in place to determine who took responsible action and who is responsible. Systems and institutions in which it is impossible to find out who took what action are inherently incapable of ethical analysis or ethical action.

Civilian accountability of the police has been one of the critical issues facing the transformation of the police in countries like South Africa. Emerging from a totalitarian past and a legacy of hostility, a police service accountable to the people through strong oversight mechanisms was seen as one of the cornerstones of the new democracy. The danger of complacency, together with an ever present and natural resistance to accountability, can erode the effectiveness of oversight mechanisms and the democratic gains made in emerging democracies. A strong and robust system of accountability has been consistently shown to be key enabler in developing trust between police and communities (OSJI, 2005).

At one point in the history of policing, domestic violence calls were thought to be the most dangerous situations handled by police officers. Of all

police officers murdered in the line of duty in the US in 1970, 22% were killed while handling family violence incidents. Family disturbances were the single most dangerous call police officers would handle. Domestic violence calls still pose great dangers for the safety of police officers in the US as thousands of police officers are assaulted annually while handling domestic violence and domestic disturbance calls (Johnson, 2008).

Police officers may be held accountable in a number of different ways. They may be accountable in management or business terms for their performance and productivity, perhaps against government or community-set targets and objectives. They must be accountable for the way in which they exercise the powers entrusted in them (UNODC, 2006).

Walker (2006) conducted research on police accountability by identifying current issues and research needs. Accountability is a vital element of American policing. Both individual officers and law enforcement agencies are held to account for their actions. Accountability includes both what the police do and how they perform.

Effective accountability is often vital to the achievement of police goals. Law enforcement agencies that reduce problematic officer behavior will enjoy greater trust among citizens and thus receive greater cooperation from citizens in programs and actions designed to reduce crime and investigate crime. In the US, the most important area in this regard involves the perceived legitimacy of the police and relations with racial and ethnic minority groups. Walker (2006) argues that racial and ethnic tensions have beset the American police for many decades and persist despite the introduction of many different reforms.

A distinction can be made between agency accountability and police officer accountability. Agency-level accountability involves the performance of law enforcement agencies with respect to controlling crime and disorder and providing services to the public. Individual level accountability involves the conduct of police officers with respect to lawful, respectful, and equal treatment of citizens. Walker (2006) argues that it is a fundamental principal of a democratic society that the police should be held to account for their actions.

Individual-level accountability procedures fall into two general categories according to Walker (2006): internal and external. Procedures that are internal to law enforcement agencies include controlling officer conduct through written policies, routine supervision, regular performance evaluations, and the investigation of allegations of misconduct, and early intervention systems. External accountability procedures include citizen oversight agencies.

Chan (1999) argues that accountability is a term that has two competing meanings in the context of policing. On the one hand, accountability is seen as ultimately concerned with control over the police. On the other hand, it is said to be fundamentally about requirements to give accounts or explanations about conduct. These competing meanings are found in the subordinate and obedient model versus the explanatory and co-operative model. While the subordinate model seeks political and democratic control, the explanatory model requires decision makers to provide reasons or information about their decisions without any obligation to take into consideration any challenges regarding their accounts.

INTEGRITY AND ACCOUNTABILITY ISSUES

There are a number of integrity and accountability issues in policing. Typical categories of misconduct issues are discussed by UNODC (2006):

- a) *Physical Abuse.* Indiscriminate and careless use of powers delegated to police officers is a major factor in alienating the public. When and where police apply their powers is usually a matter of individual discretion. Because officers often are required to make people do something, or refrain from doing something, police action may be met with resistance, conflict, or confrontation. Under such circumstances, members of the public may wish to complain. The validity of such complaints will depend on the context and will be judged against standards of police conduct enshrined in law or regulation.

Use of excessive force is an abuse of police power. However, as argued by Johnson (2005), appropriate use of force can, in many cases, be very difficult to discern, especially since the line that separates brave from brutal is thin. In the police world, the bravest are sometimes the most brutal, and they tend to be the ones most admired by other police officers.

- b) *Prisoner Mistreatment.* Persons are sometimes held in police custody. Experience has shown that the conditions under which suspects make confessions or admissions can be related to their treatment in custody before the confession or admission has been made. This may be because of the threat or direct use of violence (i.e. torture), because of other indirect intimidation or menacing behavior on the part of the