

Policing within a Professional Framework



Michael E. Cavanagh

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*To Michael—A good son
and a good cop*

Preface

A heightened interest in law enforcement exists today primarily for unfortunate reasons. Misconduct and serious mistakes at the federal, state, and municipal levels of law enforcement have generated a level of interest by the public and the courts that has not been seen since the civil rights and Vietnam War eras, when law enforcement was caught between conflicting values and pressures and did not always react in professional ways.

The current scrutiny stems from officer misconduct in the streets, during investigations, and in court, often involving high-profile cases that saturate the media on a daily basis. This scrutiny results in criticism that sometimes is well deserved, but at other times it is not, especially when people who have agendas antithetical to effective law enforcement create it. Whether or not this criticism is well founded, it highlights the concept that the law enforcement community and its officers must make some significant changes if they are to regain and retain the respect of the public and the courts.

The theme of this book revolves around this question: How can law enforcement officers increase their level of professionalism in order to work in maximally ethical and effective ways? This growth is necessary because it is the right thing to do, will better serve society, and will increase respect for law enforcement, which is a requirement for better public cooperation. In this context, "law enforcement" includes federal, state, and municipal agencies, and "officer" denotes all sworn personnel, from city police, county sheriffs, state police, and federal agents of all ranks, from entry level to senior executives.

The concept I have striven to make the hallmark of this book is *balance*. I believe it is important to strike a balance between:

- Theory, research, and practice with each informing the other
- What is ideal (nice) in law enforcement and what is real (necessary)
- Positive and critical attitudes toward law enforcement, the latter being necessary if law enforcement is to advance to more professional levels

- A focus on the organizational dynamics of law enforcement and the dynamics of its individual officers
- The principles of law enforcement and those of psychology, with each informing the other
- A professional and a personal understanding of the issues that form the basis of ethical and professional law enforcement

The content and tenor of this book stem from my over 25 years of experience in law enforcement and psychology, which is reflected in many of the examples used to clarify theoretical points.

The book is aimed at a diverse audience: students simply interested in the law and/or law enforcement or majoring in some aspect of law enforcement, law enforcement recruits, academy instructors, field training officers, and other officers, supervisors, and administrators.

The topics addressed are summarized in the following chapter descriptions.

Chapter 1: Ethics in Law Enforcement. Ethics is the foundation of law enforcement; hence, it is the first chapter. What are “ethics”? Why are they important? What can go wrong? How can ethics become woven into the fabric of law enforcement instead of being relegated to codes and mission statements?

Chapter 2: Professionalism in Law Enforcement. Professionalism is the framework within which law enforcement must function. What professional standards can law enforcement measure itself against? What are the elements of a professional agency? What part do respect and professional education play? How important is a college education in law enforcement?

Chapter 3: Models of Enforcement. There are several methods of law enforcement. What are the strengths and weaknesses of the crime control, problem centered, and community oriented models?

Chapter 4: The Individual Officer. A great deal has been written about law enforcement collectively but very little about individual officers. On a personal basis, what separates effective from ineffective officers? What are the obstacles to becoming an effective officer? Why is the incidence of suicide so high among law enforcement officers? How can officers understand and respond to critical incidents in healthy ways?

Chapter 5: The Selection of Officers. The selection process used in choosing new officers lies at the heart of the strength, effectiveness, and health of an agency. Therefore, it is important to know the answer to questions such as these: What differentiates a valid selection process from an invalid one? What are the elements of a sound employment interview and background investigation? Why are there often difficulties in these areas? What should agencies and candidates know about psychological screening?

Chapter 6: Professional Leadership. Leaders are like ship captains: They can propel their agencies forward, throw them into reverse, or leave them dead in

the water. What qualities distinguish effective from ineffective leaders? What do leaders need to know about groups and how they function? What should leaders do and refrain from doing? How can leaders build effective teams?

Chapter 7: Interviewing Witnesses. The prosecution of the vast majority of cases that go to trial rests largely on victim-witness and bystander-witness testimony. How accurate is this testimony, and what can be done to increase its accuracy? What are some traps in interviewing both children and adults? How can the methods and accuracy of suspect identification by witnesses be improved?

Chapter 8: Interviewing Suspects. There are two kinds of suspects: innocent and guilty, and it is critically important to be able to distinguish between the two. What goes into a proper preparation for a suspect interview? How can questioning a suspect make or destroy a case? What motivates people to make false confessions?

Chapter 9: Investigative Techniques. Detecting deception in witnesses and suspects is a critical part of a crime investigation. What are polygraph testing, voice stress analysis, and forensic hypnosis, and how accurate are they in detecting deception? What is criminal profiling, and how is it used? Who qualifies to be an expert witness?

Chapter 10: Responding to Violence and Death. One of the greatest challenges for officers is responding to calls in which violence has just occurred. How officers handle these calls can make a significant difference not only to the victims but also to the officers and their agencies. What distinguishes constructive from destructive responses in cases of child maltreatment, domestic violence, sexual assault, elder abuse, and unexpected deaths?

Chapter 11: Understanding Psychological Disorders. Responding to “mentally disturbed person” calls has become routine for most agencies and presents unique challenges. What is the nature of psychological disturbance, for example, personality disorders, substance abuse, mood disorders, schizophrenia, dementia, and Tourette Disorder? What actions should officers take and avoid when encountering people with these and similar disorders?

These topics were chosen for three reasons. First, they represent a cross section of issues and activities officers frequently face and with which they must grapple. Second, they are topics not typically covered to any meaningful degree in college courses, training academies, or continuing education workshops. Third, they are issues in which many people not directly related to law enforcement are interested because these issues are often involved in high-profile cases and become the subject of media attention.

After reading the book, people will be better educated about what constitutes professional practice in law enforcement, as well as the real challenges officers face in their efforts to protect and serve society.

Michael E. Cavanagh

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Ethics in Law Enforcement

This chapter deals with ethics because ethics is the foundation upon which all other issues in law enforcement rest. Although ethics is a very complex field, for the purposes of this chapter and text, ethics refers to the study of what constitutes right and wrong behavior and is used as synonymous with morality. Ethics in law enforcement is especially important because there is no entity in society, other than the judiciary, that deals with the constitutional rights of people on a daily basis. The primary goals of professional law enforcement are to protect the rights to life, assembly, free speech, liberty, privacy, and property, as well as due process and equal protection under the law. Society bestows on law enforcement the power to enforce the U.S. Constitution, and at the heart of this power is discretion. Officers must exercise good judgment as to whom to arrest, when to arrest, how to investigate crime, and what charges to bring forth.

These decisions, which directly and indirectly affect the welfare of all citizens, can never be ethically neutral; they will be either ethical or unethical. It is with ethics in mind that an agency's values, code of ethics, and policies are crafted. It should be kept in mind that law enforcement officers are also protected by the U.S. Constitution and should be treated accordingly from both within and outside the agency.

When law enforcement not only fails to protect constitutional rights but also, in fact, violates them, serious problems arise in three areas. First, officer misconduct and the scandals it generates sorely affect the public's image of law enforcement.

A report by the National Institute of Justice and the Office of Community Oriented Policing Services (1997, p. 13) describes the following surveys done in 1980 and 1995 that compare the rankings of the top 12 occupations based on how much moral confidence (trust) the public has in each one.

1980	1995
1. pharmacist	1. firefighter
2. clergy	2. pharmacist
3. firefighter	3. teacher
4. teacher	4. dentist
5. police officer	5. clergy
6. doctor	6. stockbroker
7. dentist	7. doctor
8. accountant	8. accountant
9. stockbroker	9. funeral director
10. lawyer	10. police officer
11. funeral director	11. lawyer
12. politician	12. politician

As can be seen, the occupation of police officer dropped five places and ranked tenth by 1995. In light of recent scandals, one wonders what would be the rank of law enforcement today despite the slight increase in ratings that may have occurred after the terrorist attacks of September 11, 2001.

A tarnished public image presents not only a public relations problem but also one of great practical concern. As Palmiotto (2000) states:

When the police lose the community's respect and trust, the department can't be an effective tool in criminal apprehension and in controlling crime. Without the community's support, victims and witnesses will not come forward. This is crucial because victims and witnesses willing to participate in the legal process contribute to the arrest and prosecution of offenders. (p. 69)

The second problem is that police misconduct can be instrumental in sending innocent people to prison, some being sentenced to death. Scheck, Neufeld, and Dwyer (2000, pp. 246, 265) studied 62 cases in which innocent people had been sent to prison for serious crimes, including murder, but were exonerated by DNA evidence. Police misconduct played a part in 50 percent of the cases and prosecutorial misconduct in 42 percent. In the cases in which police misconduct was shown to have occurred, the following indicates the type and frequency of each.

Evidence fabrication	9 percent
Alleged undue suggestiveness in ID procedures	33 percent
Allegation of coerced witness	9 percent
Coerced confessions/admissions alleged	9 percent
Suppressed exculpatory evidence	36 percent
Other misconduct	4 percent

In addition to law enforcement misconduct, prosecutorial misconduct is also involved in convicting innocent people. Among these types of misconduct, four stand out:

Suppressed exculpatory evidence	43 percent
Knowingly used false testimony	22 percent
Coerced witnesses	13 percent
Gave false statements to jury	8 percent

It is no wonder that law enforcement and the courts are no longer automatically trusted by the public, especially by the people most affected by them—the poor and minority groups.

The third problem is that police misconduct has a serious impact on the morale of ethical officers within the agency. They are also victims of officer misconduct. Ethical officers take pride in their integrity and, despite facing the same temptations and occupational and personal stressors as unethical officers, maintain and even strengthen their sense of integrity. Yet these officers suffer the consequences of the misconduct of others: disrespect, suspiciousness, rejection, hostility, embarrassment, and disparaging remarks, even from family and friends. Officer misconduct can exact a high toll on agency morale, cohesiveness, pride, and effectiveness.

The objective of this chapter is to advance ethical awareness and practice in professional law enforcement. Its theme is this: *Behaving ethically is doing the right thing*. To this end, the chapter will address the following issues:

- What does doing the right thing mean?
- Why are ethics important in professional law enforcement?
- How is an agency's subculture related to ethics?
- How do officers justify unethical conduct?
- What is the slippery slope, and where can it lead?
- What types of officers eventually participate in misconduct?
- What are warning signs of misconduct?
- What are antidotes to misconduct?
- What is leadership's role in creating an ethical environment?

DOING THE RIGHT THING

Doing the right thing means behaving both within and outside of the agency in ways that clearly reflect its values, which are codified in its mission statement, code of ethics, and code of conduct. Additionally, it means obeying and enforcing the U.S. Constitution as well as criminal and civil law. Although it might

seem that these documents encompass a large number of values, in fact, there are a manageable number of overlapping values: honesty, justice, respect, accountability, freedom, commitment, courage, obedience, loyalty, duty, and caring.

Characteristics

The admonishment to *do the right thing* is less common in law enforcement than the admonishment *do not do the wrong thing*. Although this may appear to be merely a matter of semantics, it is not. Avoiding evil is only half of an ethical commitment; doing good is the other half. For example, the fact that officers refrain from misconduct does not make them good officers. The report on police integrity by the National Institute of Justice and the Office of Community Oriented Policing Services (1997) states:

... Many police officers view integrity simply as the absence or avoidance of wrongdoing. Most wrongdoing is perceived as a violation of policy, procedure, or law. Within this context, there is little focus on the meaning or need for a higher order integrity—moral responsibility, moral decisionmaking, infusion of values in all tasks, and ethical performance regardless of circumstance or location. (p. 42)

Along the same lines, it is important to understand the difference between “acts of commission” and “acts of omission.” For example, it is not all right (ethical) for an officer to plant evidence (act of commission), but it is equally wrong (unethical) not to report another officer for planting evidence or to fail to intervene when an officer is acting illegally (acts of omission).

Doing the right thing requires officers to understand that ethical practice begins at home, that is, within the agency. From the top down, officers treat each other with the same honesty, justice, respect, and care that they are expected to show citizens. Sometimes officers, including supervisors, treat fellow officers in ways that would result in a serious reprimand if civilians were treated in a similar manner.

Multifaceted Concept

While doing the right thing appears simple (just act according to the values mentioned earlier), it becomes complex very quickly in the real world of law enforcement because doing the right thing is multifaceted, as can be seen in the following example: A hungry street person shoplifts a carton of milk, which she intends to share with her equally hungry child. In this situation, doing the right thing can be:

Subjective. One officer believes that arresting the woman is the *just* thing to do, while her partner believes it is *unjust*, considering the circumstances.

Relative. The next day, the same woman is caught stealing milk from the same store. This time the same officers agree that the *just* thing to do is arrest and book her at the jail, even though her crime is the same one for which she was *not* arrested on the previous day.

Graduated. Or, the same officers decide that although it would be *just* to arrest and book the woman, it would be even *more just* to issue a citation and release her because it would be *unjust* to punish the child who would be sent to Child Protective Services.

Hierarchical. Or, the same officers decide that it would be the *just* thing to arrest her, but it would be the *caring* thing to drive her and her child to a place where they can receive food and shelter. In other words, in this case, *caring* trumps *justice*.

Competitive. Leaving the above example, the *ethical* right thing can compete with the *legal* right thing. For example, a supervisor orders an officer to use deceit to trap a murder suspect. The supervisor assures the officer that deceit in this circumstance is legal. But in terms of the officer's ethical standards, lying is wrong (unethical) in any situation. What happens now?

Punished. An officer arrests the mayor for drunk driving because his blood alcohol level is more than twice the legal limit. It is the *ethically right thing to do*, but the *politically wrong thing to do*. Sometimes, the latter overrides the former, so the officer is assigned to a desk job until he can "come to appreciate the meaning of 'discretion.'"

Anticipation of Ethical Situations

Doing the right thing calls for intelligence, critical thinking, psychological security, openness to different perspectives, and courage. All this can take time, which is often a luxury in the split-second decisions necessary in law enforcement. Therefore, it is important to anticipate situations in which ethical issues are likely to arise and develop an ethical framework ahead of time.

All of the ethical dilemmas just mentioned could arise within the same week. Multiply this by 20 or 30 years in law enforcement, and it can be seen that of all occupations, law enforcement arguably has the most opportunities for doing good or doing evil. Therefore, it is helpful to have some core values—for example, honesty, justice, respect, and caring—engraved on the officer's moral compass, which is carried at all times.

Personal Reflections

1. What is your image of law enforcement in general and your local agency in particular?
2. Have you, or anyone you know, been the object of officer misconduct, and if so, how did it make you feel about yourself and law enforcement?
3. What would you do if you caught a fellow officer "stretching the truth" in a report?

4. What would you do if you caught your supervisor in a lie that could have serious consequences?
 5. What would you do if a prosecutor in a high-profile case strongly suggests to you that you *did* Mirandize the suspect, even though you know you did not?
-

THE IMPORTANCE OF ETHICS

Officers may ask why acting ethically is so important in law enforcement. The short, utilitarian answer is this: Ethical officers stay out of six places they do not need to be—the boss's office, the internal affairs office, the criminal courts, the civil courts, the unemployment office, and prison. Moving to more profound reasons for ethical conduct, there are at least six reasons why ethics in professional law enforcement is important.

The Right Thing to Do

The first and best reason for behaving ethically is that it is the right thing to do, although organizations seldom state this as their reason for acting ethically. Typically, the reasons given to support ethical behavior are utilitarian: It is good for business; it is good public relations; it will make the organization more efficient; it will help attract good job candidates; it will keep the organization out of court; and so on. However, there still is something to be said for doing the right thing simply because it is the honest, just, respectful, caring thing to do. It also, incidentally, creates an inner sense of goodness and peace that makes officers feel good about their job.

Public Image

An ethical agency has a good public image, which can make an officer's job easier. When people trust officers, they feel free to ask for help, pass on information, and give them the benefit of the doubt when the officers are involved in controversial incidents. Citizens will support an agency that is temporarily losing the fight against crime, but they will never support one that is losing the fight against officer misconduct.

Avoid Litigation

An ethical agency need not concern itself with civil lawsuits that have become a reflexive reaction to law enforcement action in our litigious society. Law enforcement agencies are paying out hundreds of millions of dollars each year in lawsuits, some legitimate and some frivolous. There seem to be two kinds of agencies in this regard: those that frequently get sued and those that seldom, if ever, get sued.