

Ethics and the Practice of Forensic Science

Robin T. Bowen

INTERNATIONAL FORENSIC SCIENCE
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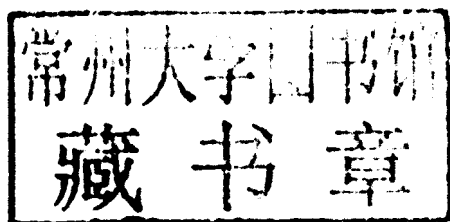


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Foreword

DOUGLAS M. LUCAS

Forensic scientists have been assisting the judicial process throughout the world for at least several hundred years through the provision of scientific and technical information derived from physical evidence of all kinds. This information has been, and continues to be, delivered in the form of verbal or written reports to investigators and attorneys or by means of *viva voce* testimony in courts or tribunals of various kinds. Throughout this time, these specialized scientists and technicians have usually performed their examinations according to the appropriate professional standards of the day and the generally accepted ethics of their professions. In earlier times, the latter were generally intuitive rather than promulgated, but in more recent years professional codes of ethics have been developed to assist in the guidance of what is and is not acceptable.

Notwithstanding this, the timing of the publication of this book on ethical practices in forensic science could not have been more appropriate. The interest of the general public in ethical performance in all fields has been stimulated by the well-publicized departures from ethical practice by some business executives (at, e.g., Enron, AIG, Martha Stewart Omnimedia) and by some in the world of sports (e.g., figure skating judges at the Salt Lake City Olympics, performance-enhancing drug users). Such deviations from acceptable practice have not been restricted to boardrooms or athletic venues; sadly, some have also occurred in forensic science laboratories. Although the numbers are relatively small, such events, when they do occur, develop very high profiles. Major media headlines have been generated by issues in, for example, the laboratories of the Federal Bureau of Investigation (FBI), the Detroit Police Department, and the Houston Police Department. The latter resulted in more than 200 articles in a single newspaper over a four-year period.

The enhanced interest of the public at large in ethics has been mirrored by additional emphasis by the forensic science profession on ethical conduct. In 2008, the principal forensic science laboratory accrediting body, the American Society of Crime Laboratory Directors Laboratory Accreditation Board (ASCLD/LAB), began to require that staff of accredited labs receive training in the application of ethical practices in forensic science.

In February 2009, the U.S. National Academy of Sciences in its report *Strengthening Forensic Science in the United States: A Path Forward* recommended the following:

The National Institute of Forensic Science (NIFS), in consultation with its advisory board, should establish a national code of ethics for all forensic science disciplines and encourage individual societies to incorporate this national code as part of their professional code of ethics. Additionally, NIFS should explore mechanisms of enforcement for those forensic scientists who commit serious ethical violations. Such a code could be enforced through a certification process for forensic scientists. (Recommendation 9)

Many of the forensic science organizations in North America have, in fact, had ethics codes for 30 years or more; the first Code of Ethics of the American Academy of Forensic Sciences, for example, was approved by its membership in 1976.

While codes of ethics of different professional organizations may vary widely in their format, they all have (or should have) one thing in common: They should represent a distillation of a profession's collected historical experience and wisdom. Their provisions can thus be readily accepted by the members of the profession and become the rules by which the profession operates. They can offer guidance and support about a course of action in a particular situation although they may not provide unambiguous answers to specific questions.

Training in ethics begins long before professional activity is even contemplated; the mentors are parents, teachers, and spiritual advisors. Training occurs largely through a form of osmosis. Professional ethical concepts can then be added to supplement the base foundation, but it is not an exaggeration to state that in the absence of a well-developed sense of personal morality an unequivocal acceptance of ethical responsibility is unattainable.

Teaching ethics is therefore extremely difficult, if not impossible, and this book makes clear that its purpose is not so much to teach ethics as it is to create for the reader an awareness of the subject and to provide a greater appreciation of the professional culture of forensic science. It discusses concepts in the abstract and then tries to assist by asking questions with specific contexts. Some situations, such as misrepresentation of credentials, are very straightforward, but others such as competence and whistle-blowing can produce situational dilemmas. Not all situations are black or white with good or bad answers. Many are gray with only good and better or bad and worse solutions. This book assists readers in dealing with ethical challenges by providing crutches to help them walk but not a motorized wheelchair to carry them through a sometimes muddy field.

Preface

What is ethics? How do ethics differ from morals? What ethical concerns are inherent to forensic science? Everyone learns basic ethics from the time he or she is born, so why is it necessary to explore the topic? Who decides what is ethical? These are just some of the questions posed when discussing the topic of ethics in regard to forensic scientists. Approaching the topic of ethics is quite daunting for a variety of reasons: It is philosophical in nature, there is not always a clear distinction between right and wrong, and it is closely related to religion. Personal character may influence ethical decisions, and to fully explore the subject people should possess open-mindedness and a willingness to discuss their points of view. Answers to these questions and many more will be presented in a manner that encourages contemplation, discussion, and reflection. The reader should consider the information provided and relate this to his or her everyday life.

Forensic science is a profession of scientists whose work answers questions for the law through reports and testimony (Houck and Siegel, 2006). It is composed of a variety of disciplines that work with the legal system. Common statements made to me by the general forensic community in regard to ethics include the following:

- Forensic scientists are ethical by nature.
- It is not possible to teach a person ethics; either he or she is ethical or not.
- The topic of ethics is boring and too philosophical.
- A course, lecture, or text is not going to make an unethical person ethical.
- Just explain what is right and wrong for given situations so ethical dilemmas are not an issue.

Although such points have some validity, they do not provide a clear picture of the purpose in discussing ethics as it relates to forensic science.

Though everyone would like to believe that all forensic scientists are ethical in nature, it is simply not the case. Circumstances coupled with pressure, motivation, and opportunity can cause anyone to cross the proverbial ethical line. Throughout my years of studying ethics as it relates to forensic science, the statement, "You cannot teach someone ethics," has been a

recurring theme. The point of publications that explore the topic of ethics is not necessarily to *teach* ethics as much as to create *awareness* of the subject. Knowledge, discussion, and thought are important to prevent ethical dilemmas. Information also provides people with the tools necessary to refocus after misconduct affects the workplace or the profession. Finally, although it would be much easier to have a rulebook containing dos and don'ts for every situation professionals may encounter, it is unrealistic. Variables, such as the people involved, the agencies and their affiliations, the circumstances of the situations, and the consequences and effect on innocent people, create unique situations. Due to these variables, it is impossible to have a set of rules that comprise any and all situations.

Ethics is an extremely important topic in professional cultures such as law, business, medicine, science, and technology. A *culture* is a large group of people with shared beliefs, laws, morals, standards, and characteristics. This common view influences behavior, communication methods, and values. *Values* describe a belief that a specific method of conduct is personally or socially preferred. Components of professional cultures include managerial styles, traditions, loyalties, hierarchy, and decision-making rules. It is important to explore how cultures communicate with and about each other to gain a deeper understanding. Discussing ethics among cultures begins with recognizing common interests or goals and valuing diversity. To work with other cultures, it is imperative to understand their values, to maintain positive cooperation and conflict resolution, to determine potential diversity within the culture, to listen carefully, and to show respect for differences. Most professions have had examples of misconduct. Throughout this book we will explore the intricacies of ethics as it relates to the forensic science profession. By the end of this book, the reader will have a greater appreciation of the professional culture of forensic science as well as the professional cultures that work with and against the rules of the forensic science profession.

What are your beliefs? How do you put them into practice in your career?

Series Editor

Max M. Houck is director of the Forensic Science Initiative, a program that develops research and professional training for forensic scientists and related professionals. Houck is a trace evidence expert and forensic anthropologist. Houck is also director of forensic business development in the College of Business and Economics at West Virginia University (WVU). He was chair of the Forensic Science Educational Program Accreditation Commission (FEPAC) from 2004 to 2008. Houck has authored or co-authored four books and an introductory forensic science textbook, *Fundamentals of Forensic Science*, was co-authored with Dr. Jay Siegel. Houck serves on the editorial boards of the *Journal of Forensic Sciences* and the *Journal of Forensic Identification*. Houck has appeared on *Forensic Files*, *The New Detectives*, *National Geographic*, and *E! Entertainment*.

Series Editor Preface

The modern forensic world is shrinking. Forensic colleagues are no longer just within a laboratory but across the world. E-mails come in from London, Ohio and London, England. Forensic journal articles are read in Peoria, Illinois and Pretoria, South Africa. Mass disasters bring forensic experts together from all over the world.

The modern forensic world is expanding. Forensic scientists travel around the world to attend international meetings. Students graduate from forensic science educational programs in record numbers. Forensic literature—articles, books, and reports—grows in size, complexity, and depth.

Forensic science is a unique mix of science, law, and management. It faces challenges like no other discipline. Legal decisions and new laws force forensic science to adapt methods, change protocols, and develop new sciences. The rigors of research and the vagaries of the nature of evidence create vexing problems with complex answers. Greater demand for forensic services pressures managers to do more with resources that are either inadequate or overwhelming. Forensic science is an exciting, multidisciplinary profession with a nearly unlimited set of challenges to be embraced. The profession is also global in scope—whether a forensic scientist works in Chicago or Shanghai, the same challenges are often encountered.

The International Forensic Science Series is intended to embrace those challenges through innovative books that provide reference, learning, and methods. If forensic science is to stand next to biology, chemistry, physics, geology, and the other natural sciences, its practitioners must be able to articulate the fundamental principles and theories of forensic science and not simply follow procedural steps in manuals. Each book broadens forensic knowledge while deepening our understanding of the application of that knowledge. It is an honor to be the Editor of the Taylor and Francis International Forensic Science Series of books. I hope you find the Series useful and informative.

Max M. Houck, PhD

*Director, Forensic Science Initiative, Research Office
Director, Forensic Business Research and Development,
College of Business and Economics
West Virginia University*

Acknowledgments

The journey of writing this book began with the desire to fill a void in the forensic community. Science is ever changing, and through the years since my research began, ethics has become quite a hot topic. Although people recognize that ethics and forensic science are inseparable (or at least *should* be), I am told time and time again that it is impossible to teach a person to be ethical. I hope that in reading this book you discover, as so many forensic practitioners have, that “learning about ethics” is about awareness, questioning, and consideration of the pressures placed on forensic scientists. I would like to express my gratitude to all of the people who conveyed the need for ethics training as well as to all of those who told me that it was not necessary. The scientists who have unknowingly gone down the wrong path and those of you who were grateful for the information I collected were the inspiration for this book, and I am grateful.

I am lucky to be surrounded by such a wonderful support system of family, friends, and colleagues. First, I would like to thank the Forensic Science Initiative office for putting up with my ethical “picking” and for always teaching me something. I would like to thank all of the friends who supported me and sacrificed time for this book—it is wonderful to know that you are in my life and do not hold grudges for my lengthy hiatuses! I would like to thank my families and especially my parents, Arlene and Bernie Stoehr and Leanne and Jim Bowen, for the sheer joy on your faces as you found out that I had writing a book up my sleeve (and for allowing me to miss the occasional holiday to do so). I would like to thank Liz Richardson and Samantha Neal for taking the time to make comments on drafts of this book and Brandon Smithson for his creativity and enthusiasm to design the cover. I would like to thank my wonderful husband, Matt, and my mascot (“ethics dog”) for the patience, support, and entertaining time-outs they provided. Finally I would like to thank Max, my friend and mentor, who nudges me into new opportunities and experiences—and then guides me through the journey. I appreciate each and every person who has supported me along the way and made this book possible.

Author

Robin Bowen is assistant director for the Forensic Science Initiative, a program that develops research, scientific resources, and professional training and continuing education for forensic scientists and related professionals. Her primary responsibilities include coordination of continuing education programs, management of research projects, and correspondence of progress to the National Institute of Justice. Bowen is the primary developer of the Forensic Educational Alliance, an initiative to offer a variety of forensic science continuing education courses online. She has an undergraduate degree in forensic and investigative sciences and a graduate degree in secondary science education. Bowen is a member of the American Academy of Forensic Science, International Association for Identification, and National Science Teachers Association. Over the last four years, ethics as it relates to forensic science has been her primary research topic and has culminated in a successful Web-based continuing education course as well as workshops provided to the forensic community.

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What Is Ethics?

1

Introduction

Ethics is a branch of philosophy dealing with what is morally right and wrong, good and bad. *Right* and *wrong* refers to behaviors or conduct, while *good* and *bad* refers to outcomes and consequences of behaviors. The discussion of ethics in forensic science explores a profession that shares moral values or qualities within its own community and in relation to coexisting professions. Ethics can be viewed as the general study of the ideals regarding human behavior and the guiding principles. People typically think of ethics as practical knowledge, not theoretical knowledge; in reality, it is both. Ethics are not meant to dictate actions but to offer the tools and direction for dealing with situations. The goal of ethics is to protect the rights and needs of professions (or groups) when situations are not just “black and white.” Ethics are standards of conduct that *prescribe* behavior but do not *describe* actual behavior. If ethics deal with right and wrong in terms of ideals, then what constitutes morals, and how do these differ from ethics?

Morality is the “operational side” of ethics that provides a basis of right and wrong for ethical application. Ethics are applicable to situations and are “practiced” while morals are “known.” Morals tend to be specific and generally agreed on standards of conduct in society. Though people tend to confuse *ethics* and *morals*, morality and integrity are more similar and may be used interchangeably when referring to actions. Honesty and integrity are society’s *most* general values that apply to everyone (right or wrong). Just because people are honest and have morals does not mean that they will not face ethical issues at some point in their lives. Learning about ethics as it relates to a profession will serve as a guide to overcome ethical dilemmas. The learning process involves constant questioning and discussion of ethical values. Ethical principles, such as obligation, fairness, mercy, and duty, are validated by consistency, relevant factors, and suitability for human experience.

Moral standards may be universal even if moral judgment is influenced by society. Aristotle’s virtue theory’s perspective is that the goal of ethics is the development of moral goodness. A person must portray character traits that fit social and moral values while having the desire to act morally. A person who seeks to make practical moral judgments will strive for moderation in lieu of extremes. Although moderation depends on the individual,