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third edition

Police

ETHICS

The Corruption of Noble Cause

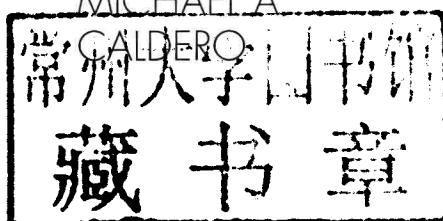
Michael A. CALDERO / John P. CRANK

POLICE ETHICS

THE CORRUPTION OF NOBLE CAUSE

REVISED THIRD
EDITION

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AMSTERDAM • BOSTON • HEIDELBERG • LONDON
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Introduction

Officers stroll into the room and take seats. In the back of the room, there are the usual coffee dispensers for decaf and regular, Styrofoam cups, a plate of bagels and sweet rolls, and a tray of fruit with too much rind left on the cantaloupe. Today the command staff is attending a lecture on police ethics, and the speaker, Michael Caldero, is from a northwestern city. The chief walks in, chats briefly with a couple of the officers, and takes a seat in the back of the room. In the minds of the officers is a single sentiment. Who in the heck is this person telling me about police ethics?

That's what the audience thinks when Mike begins his presentation on police ethics. This sentiment is expressed in several ways.

- What does education have to contribute to police work?
- Forget everything you learned in a book—here's how we do it on the street.
- An outsider can never understand police work.
- Why do I have to waste my time listening to this crap?
- His experience is with another agency. We don't work that way here.

Mike has heard it all. When they don't say it, they are thinking it. No one wants to hear a discussion on ethics. Ethics is learned in the streets. It's about victims and the assholes who prey on them. Mike organizes his materials and prepares to begin. He has talked to commanders before. They're accustomed to leaving a lot unsaid.

He begins. *Why are you people here today?*

A commander responds. "Same reason you are."

Mike laughs at this comment. It's the laugh of a cop. It's a half-second late. Like he's heard something hidden in what you said that even you don't know.

We put the question to you, reader. Why are you reading this book?

Chances are that if you're reading this book it's because you have to, so you might as well grin and bear it. You can bet that your instructor will test you on the material!

More importantly, we have something to say. Something that we think is important. Something we believe in. Our message is vigilance. The danger here, though, is not from predatory offenders or dangerous, unknown circumstances. The question central to our inquiry is—how well do you know yourself?

This is a different kind of book on police ethics. We provide very little discussion of ethical dilemmas such as accepting free gifts and the like, and then only as a secondary issue. If you're a police officer, you have department policies that clearly state what you are permitted to do and what is illegal or inappropriate. Whether or not you accept gratuities, you know when you are doing right or wrong by your department. In this book, we have our sights set on a different kind of ethical issue, one less clear but more important.

This book aims squarely at noble-cause corruption. What do we mean by noble-cause corruption? It is corruption committed in the name of good ends, corruption that happens when police officers care too much about their work. It is corruption committed in order to get the bad guys off the streets, to protect the innocent and the children from the predators that inflict pain and suffering on them. It is the corruption of police power, when officers do bad things because they believe that the outcomes will be good.

Some readers will no doubt feel betrayed by our approach to ethics. At times, we will seem too quick to criticize the police, to make them out to be bad guys. Without a doubt, we are raising moral questions about the behavior of police officers who see themselves as warriors against evil, the guardians of the thin blue line between order and disorder. Noble-cause corruption is a difficult topic to write about, because we are committed to the police, and because we also carry the beliefs that drive the noble cause. Yet, in today's world of intricate social and legal complexity, we recognize that there has to be a limit on the zeal police show for their work. All too often, as you will see in this book, there is not.

The time for discussing the ethics of police power is long overdue. It is a neglected topic, though a few researchers are beginning to acknowledge its importance in today's world (Carter, 1999; Barker & Carter, 1999; Kraska & Kappeler, 1995). We live in a country where the authority of the police to intervene in the affairs of the citizenry is on the ascent. Traditional due process restrictions on police authority are being relaxed. Citizens and politicians sometimes encourage illegal police behavior to "do something about crime." And increasingly, local police are seen to be the first line of defense in terrorism prevention and the first responders to terrorist incidents. With these changes, opportunities for noble-cause corruption are increasing. Consider the following four examples.

The first example is drug interdiction activity, where we encounter such tactics as "drug-courier profiles." Routine automobile stops aimed at the interception of drug couriers are conducted in many states, and permitted by the Supreme Court, without the prior requirement of probable cause for stopping the vehicle. A "profile" based on a vehicle's and occupant's similarity to known drug-courier activity can provide the basis for a stop, and cars that are profiled are routinely searched in some states. Profiles, however, create easy opportunities for what has been called race-profiling—stopping vehicles based on the race or ethnicity of their occupants. Cops know, for example, that they can stop Latinos in old, beat-up cars in farming areas and sharply increase the production of statistics for license, registration, and insurance violations. Some observers call the practice of profiling "DWM"—driving while minority. Given the nature of profile stops, it is extremely difficult to determine whether race-profiling occurs, thus increasing opportunities for noble-cause corruption.

Second, the courts are relaxing the circumstances under which confessions are admissible. Under *Arizona v. Fulminante*, the Supreme Court provided a basis for permitting coerced confessions under certain circumstances. What is the impact of such decisions on the police? In this decision are the seeds of noble-cause corruption. As Skolnick and Fyfe (1993:65) observe, "If courts allow the police to deceive suspects for the good end of convicting criminals, can we really expect the police to be truthful when offering testimony?"

Third, we witness the expansion of police authority in various versions of "community policing." Some reformers argue that police should be able to intervene even when a law has not been broken, on behalf of community civility (Wilson & Kelling, 1982; Kelling, 1985; see also Klockars, 1985a). It is argued that the police have become too concerned with the rights of individuals and detached from the needs of local communities. Police, it is suggested, need the authority to intervene in ordinary problems of public order on behalf of their local communities. Bums need to be roused out of parks. Skateboarders create fear and need to be controlled. In short, the police should have the

authority to do something about problems that do not involve the breaking of the law, but are disruptive to local ideas of public order.

Fourth, under expanded counter-terrorism protocols in many cities, police are re-engaging in the surveillance of citizens in public gatherings. This surveillance has been encouraged by the federal government, who has used expanded counter-terrorism laws under the 1996 anti-terrorism law and the 2001 USA PATRIOT Act to deal with a widespread concern about terrorism following the terrorist attacks on the Pentagon and World Trade Center, commonly known as 9/11. The police, working with other governmental agents at the local and federal level, can help “connect the dots,” a phrase popularized following 9/11 which referred to the need to increase the flow of information across governmental units in order to identify potential terrorist threats. However, many citizen’s groups have expressed the concern that expanded police powers will be used to surveille, track, and harass political dissidents rather than actual terrorists. Police, they contend, will use their expanded authority to suppress legitimate political dissent, a critical elements in the preservation of democracy. The use of counter-terror authority to suppress political dissent or to track citizens engaged in legal organizing activities would be a form of noble-cause corruption.

In the United States today, police power is an awaking leviathan. The power of the police to intervene in citizen’s lives stems directly from the courts, whose legal opinions are in turn driven by public opinion favorable to stern justice. It is a power that can be used for good or evil. It has enormous power to corrupt.

To understand how police can be corrupted by their work, we need to first recognize that they strongly believe in the “core” activity of their work: doing something about crime. Sometimes the public thinks of the police as automatons in blue, without feelings, dispensing law. This is called the “just the facts, ma’am” approach to police work. The police, however, believe in their work, and they carry it out passionately. They care about getting bad guys off the streets. They are morally committed to their work. Their morality is based in traditional and straightforward beliefs in right and wrong, good and evil. For the police, good and evil is a concrete notion practiced in the day-to-day work of policing. The police see themselves on the side of angels. And they deal with bad guys and assholes, who they firmly believe are associates of the non-angelic crowd. But it is precisely this—the nature of “good and evil,” and who decides which is which—that is up for grabs in the current era.

This book is about the power that police use. It is meant as a way to think about that power—not only in the street-level sense of getting bad guys off the streets and dealing with assholes, but in terms of how it can corrupt the police as individuals, as organizations, and as a

profession. This book is intended to provide students of policing with a realistic understanding of the kinds of corruption that can envelop police officers. We recommend that students and recruits carefully consider what we have to say—the problems we describe are in their future, and they must be prepared for it if they wish to undertake a career in police work or other justice careers. This book is also designed to be an exercise in ethical tuning-up to street officers, a call from us to them to act from an ethically alert frame of mind.

This book is also for police commanders. Importantly, we argue throughout that the focus of ethics in police organizations should not begin at street level; properly applied, it begins at the level of administration and command, where leaders teach by example. Here, we apply an old adage—“I teach and you forget; I behave and you learn; I involve and you understand.” Commanders teach best by involving officers in the decision-making process and through the example they set in making decisions. Without these elements, all the ethics training in the world is worthless.

There are many public voices, including respectable citizens and legislators, who should know better, yet who encourage the police to be tougher than the bad guys, to step over the line if that’s what it takes to do something about crime, to do what it takes to win the war on crime. We’re here to steer recruits and students interested in a policing career away from stepping over that line. We’re here to provide a different view, maybe not so simple in its good-guy/bad-guy imagery, but a view more consistent with the kind of work that the police do. Our ethics come from the way the police and the public share similar dreams, struggle through ordinary problems, and seek peace and happiness in their daily lives. We believe in the noble cause, but we believe that noble-cause corruption breaks the bond that links the police to those they are sworn to protect.

When police reformers talk about corruption, they are mostly concerned with the illegal use of police authority or power for economic gain. A review of the many police ethics books shows that, with a few important exceptions, they seem to be more concerned with grafting and illegal economic gain—a free cup of coffee, for example—than with violence and corruption in the name of law and order. There are several good reasons for this. Economic corruption is more tangible—it is easier to identify. Economic corruption has historically been the most important corruption problem faced by the police. On the other hand, in recent years, noble-cause corruption has been of increasing importance. And it is more difficult to talk about and treat. An illegal search of an offender to find drugs is much more difficult to explain, and putting someone in jail for a weekend for COC—contempt of cop—is intangible. These latter types are noble-cause corruption, more difficult to deal with because they are closely aligned with the morality of the

police—they serve purposes that the police tend to support. But they are far-reaching in their consequences. When they occur, the damage to the person impugned by a police officer may be substantial—a beating, jail, or prison time and a criminal record—hopes for a return to a normal life damaged beyond repair. The department becomes vulnerable to liability. And perhaps most importantly, the legitimacy of the police is undermined.

It is more politically expedient to talk about economic corruption than noble-cause corruption. Economic corruption is usually explained in terms of criminal acts and described in terms of a slippery slope—small crimes (for example, taking a bribe from a motorist), provide the justification for more serious ones such as shaking down a drug dealer for cash. When we look at economic corruption, we can explain everything in terms of “rotten apples” (an aphorism for bad cops) and we don’t have to ask the deeper, harder questions about the nature of police work. Even when many officers in the same agency are involved in economic crime, we think about their criminality in terms of economic temptations and their impact on individual weaknesses. It is the explanation that departments most frequently use to explain corruption problems.

Noble-cause corruption is different. When we look for explanations of noble-cause corruption, we have to look for an explanation for crime in the nature of police work and the kinds of people who are drawn to policing. We begin to recognize how our values themselves contribute to our corruption—how we become that which we most dislike. When an officer makes a questionable arrest, or when an asshole is thumped, the police are acting out of strongly held moral beliefs. Both of these are noble-cause corruption—corruption in the name of the moral rightness of good ends. Ethics aimed at economic crime will not help us understand these kinds of corruption. Noble-cause corruption is about how we can be corrupted while we are carrying out our most highly held beliefs. In a dark way, it is our strongest desire to protect the innocent from the cruel that sometimes carry the seeds of our own undoing.

We believe that the noble cause is something of which the police can be proud. The noble cause enables police to celebrate their special craft, to find meaning in the day-to-day activity of their work. Without the noble cause, police work would lose its meaning, and police officers would lose their sense of humanity, their concern for the innocent, and their dislike of bad people. This makes it difficult to write about the noble cause corrupted, about how our own values can corrupt us.

Where do we draw the line between where we act on behalf of the noble cause and where we encounter noble-cause corruption? The line is fuzzy, indistinct. It is a gray line, worked out in the day-to-day world of police work. There is not an absolute rule an officer can memorize from his or her department’s Standard Operating Procedure or some school’s academic textbook to distinguish this line. Noble-cause

corruption is not in any department's code of ethics; indeed, noble-cause corruption can be a consequence of the interpretation of a department's ethics, as Mike Caldero observed in the prologue.

Although the line may be fuzzy and indistinct, there are real consequences for the corruption of the noble cause. For an individual officer, it is paid in terms of stress, sleepless nights, and the possibility of lawsuits, criminal charges, unpleasant media attention, alienation from the public and from former friends, friction with supervisors, increasing difficulty in gaining promotion, and maybe a visit from the internal affairs officer. A few officers will commit noble-cause corruption and be unable to reconcile it to their sworn obligations to uphold the law. These officers will suffer a great deal of job-related stress. Sometimes the price is a retirement spent justifying what they did. For managers, it is stark disbelief, a denial followed by loss of esteem and frustration. For departments, the cost is a loss of legitimacy in the eyes of the public, an inability to get witness and victim testimony because ordinary people are afraid of the police, a change of executive leadership, corruption scandal in the headlines, and civil litigation. For all of us, it is a threat to the democratic values we cherish.

We're not asking police officers to believe in their work any less. To paraphrase Skolnick and Bayley (1986), we think that the answer for police officers—for us all, for that matter, certainly the public no less than the police—lies in understanding the petty problems and frustrations that can overwhelm people. It is in the ordinary struggles of everyday life that the battle between good and evil is fought with the greatest intensity; it is a struggle that we all share.

We're not going to provide absolutes. If you are a police officer or recruit, we can't tell you that you'll never encounter situations in which ends outweigh means. What we're telling you is to be very, very careful. There are many people out there—prosecutors, the public, legislators, even colleagues—who will make it easy to justify corrupting the noble cause. They will lead you down the garden path. They won't tell you what you are getting into. Or if they do, it'll be like a footnote in a book, the kind of footnotes you never paid attention to in school. You thought ethics was about accepting a free cup of coffee. If you read this book you'll know what you're walking into. Forewarned is forearmed. Now you're warned.

Purpose of this Book

We have written this book in accordance with Sherman's (1999:310) admonition: that instead of being ethically disinterested "fence-pole sitters," as academics tend to be, we benefit from examining police problems in the light of basic moral principles and from a moral point of view

(see Figure I.1). If we want to live by principles of personal responsibility, a moral foundation and ethical sense may well be the only road that will get us there.

Figure I.1

Learning Ethics Differently

Many issues in police ethics are in fact clear-cut, and hold little room for serious philosophical analysis. One would have a hard time making a rational defense of police officers stealing, for example.

But what may be wrong with the way police ethics is now taught and learned is just that assumption: that all police ethical issues are as clear-cut as stealing. They are not. The issues of force, time, discretion, loyalty, and others are all very complex, with many shades of grey. To deny this complexity, as the formal approaches of police academies and police rule books often do, may simply encourage unethical behavior. A list of “do’s” and “don’t’s” that officers must follow because they are ordered to is a virtual challenge to their ingenuity: catch me if you can. And in the face of a police culture that already has established values quite contrary to many of the official rules, the black-and-white approach to ethics may be naïve.

Source: Lawrence Sherman (1999). *Learning Police Ethics*, p. 310.

The purpose of this book is to provide a way of thinking about police ethical dilemmas and for police officers to think ethically about their work. It is a product of our understanding of the police, what they do, and why they do it. In the text, we challenge contemporary ways of thinking about the police on a variety of issues. Sometimes we are intentionally provocative.

The narrative in this book is developed from an ethics presentation Dr. Michael Caldero developed for police commanders. The presentation is a one-day event, a condensation of the information presented here. Our tone is a blend of academic and conversational styles, emphasizing key points of the presentation. Quotes from Dr. Caldero are italicized. Some of the quotes are not from a specific presentation, but emerged from discussions and emphasize core presentational issues. The narrative is expanded by additional material intended to clarify particular points of emphasis.

This book is about who police officers are and who they should be. For those of you that are or will soon be police officers, it’s about your moral self. It’s about how to think about the communities where police do their work. And it’s a way to think about how communities

should be policed in the face of the profound changes our country is encountering in the early twenty-first century.

This book is intended for three audiences: students interested in criminal justice and policing issues, police recruits, and police commanders. The primary focus of the narrative is a command group, but the book is written in a way to reach each audience. The issues presented in the book are useful for studying ethical issues in policing and for understanding the everyday world street officers inhabit and in which they work. Sections in the book are also written for police managers and commanders. Too often, in the ranks of management, commanders forget about the constant temptations of the street. When things go sour (and here's a rule of thumb—they either just have or are about to), it's always a surprise for managers. It shouldn't be. We explain why.

We think that general criminal justice students will also have much to gain from this book. It provides a perspective on police work not often discussed openly in the classroom. Today, too many college instructors take sides—they either know nothing about real police work and distrust police altogether, or they are cheerleaders for the police regardless of what the police do. This book aims at an ethical balance between these two viewpoints.

The narrative of the book flows back and forth between its twin audiences of college students and police officers. This is intentional. Many students who read the book will become police officers and will be informed by the discussions. And many police officers who read the book are, or will become, students.

What can we hope to accomplish by ethics education and training? Ethics training enables us to think about why we make the decisions we do. But ethics training, to be useful, has to be about more than lofty, academic thinking about why we act the way we do. Ethics has to be practical, that is, be useful in the kind of decisions we make in our daily work routines. When confronted with a routine situation, an officer has to decide the right way to act and avoid doing the wrong thing. A practical ethical standard is the standard we bring to bear when deciding what is right and what is wrong. This book also helps think through the consequences of noble-cause corruption. It is unfair to hold police officers responsible for their behavior if they are uninformed as to its consequences. This book, we believe, helps make those consequences clear.

Our view, stated simply, is that police work is too “ends” focused. Our police sense of identity is bound up in the achievement of law and order. We tend to believe that there are ends so noble, so right, that sometimes it's okay to bend the rules a bit. Sometimes we end up bending the rules a lot.

We argue for a means-oriented ethic of negotiated order that will prepare police for America's future. The United States is in the midst of profound demographic changes, in rural as well as urban areas. The population of the United States is radically diversifying its ethnicity and racial character, and growth is creating crime and disorder pressures in traditionally rural areas. The reality we confront in the United States is a polyglot of ethnic, religious, racial, age, and income groups. Citizens seem to be increasingly enclaved by minority status, by income, and by age. Policing's future, in order to adapt to the needs of the twenty-first century, requires a refocusing from moral ends to negotiated ends. Order is not to be asserted, but negotiated.

At the end of the twentieth century, the police were responding to changes in the urban and rural American landscape by implementing practices under the umbrella of community policing. At the end of the first decade of the twenty-first century, many scholars and professionals alike have pronounced the death of community policing. What role changes are in store for the police? Broad changes sweep across the landscape. We are a decade into a war on terror, and the police are broadly affected by this conflict. Departments have adopted counter-terrorism into their missions, and many officers are either veterans who are returning Iraq and Afghanistan they are or closely related to veterans. Yet, the terror mission for police is yet to be articulated—it lacks focus and direction. One area, adapted from the counter-terror discourse, is called “intelligence-led policing.” Intelligence-led policing is a blend of counter terror practices and problem oriented policing, with an emphasis on tactical intelligence, real-time crime management, and intelligence gathering. COMPSTAT is widely popular among police agencies, with its emphasis on law enforcement facilitated by mapping technologies. It remains to be seen if COMPSTAT will live up to its promise of reducing crime through focused law enforcement, though at the current time it seems promising.

All of these changes, however, are leading the police away from a community negotiator role and toward “hard law enforcement,” as conceived by and anchored in state notions of public safety. It is unclear that the broad mandate of the police under community policing, with its focus on community protection through police-community reciprocity, and by implication the close partnerships of citizens and police, will survive. In the current era, we witness few of the hoped for fruits of community policing in minority neighborhoods. To the contrary, extraordinarily high arrest rates have decimated some African and Latino communities, and generations of young languish in jails and prisons for non-violent offenses. When one looks at contemporary arrest and incarceration rates, combined with continued high levels of drug use and poverty levels in minority neighborhoods, one could easily conclude that the community policing movement, as a strategic

effort to enhance minority community quality of life through positive police-citizen relations, was a complete and utter failure.

The United States continues to diversify along religious, ethnic, and racial lines. To respond to the dramatic internationalization of American society, we need police to be more than hard-edged law enforcers. They will need to be negotiators of public order. Skills at negotiating order will be the tools police use to enable people to get along. Ends-oriented thinking cannot get them there. Means-oriented thinking, we believe, can.

Overview of Book

The book is organized into three parts. Part 1 frames the central idea of the book. It is that police officers are value-based decisionmakers. The core value is a commitment to the noble cause. The noble cause is allied with two other values—a commitment to the problems faced by victims and a willingness to place themselves in harms way for strangers. These values are powerful and admirable elements of police work, and they provide the core elements of value-based decisionmaking. But they also foster a psychology that can justify noble-cause corruption. We present a review of the literature on the police that has dealt with noble-cause and its corruption. Part 1 concludes with an analysis and discussion of research carried out on police values.

Part 2 presents noble-cause corruption as a form of what ethicists call a means-ends dilemma. Herbert Packer's justice model is used to describe how the justice system creates pressure to de-emphasize police concerns over the due process laws and administrative guidelines and emphasizes criminal justice "ends" such as the accumulation of arrest statistics. The corruption of noble cause, we argue, is at the core of many entrenched police problems. Where noble-cause corruption is widespread, police culture acts as a shield to protect officers from oversight. The consequences of noble-cause corruption include insularity, secrecy, and loss of legitimacy. Many elements in this section are particularly aimed at commanders. We encourage commanders to recognize how traditional police hiring and training practices unintentionally contribute to noble-cause corruption. A balanced orientation to police work that recognizes the importance of both ends and means, we suggest, provides an alternative ethic that can protect officers and agencies against the corruptive effects of the noble cause. We suggest that it is the "golden apples," sometimes the best officers in the department, those most committed to their work, who are the most vulnerable to noble-cause corruption.

Part 3 considers ethical dilemmas we think the police will face in the twenty-first century. Through various examples, we try to show how

community policing fits with a means-oriented ethical outlook. Through an analysis of demographic patterns and population changes in the twenty-first century, we construct a role for the police in terms of the “negotiation of order.” By this we mean that the responsibilities of the police will increasingly be to help different and often conflicting groups coexist in a society increasingly divided along status, religious, racial, and ethnic lines. An ends-oriented ethic, we argue, will be ineffective and out-of-touch, contributing to growing internal strife and a breakdown of internal security. By viewing their work in terms of a means-orientation to the co-production of community order, police can help us deal with the profound social changes that even now are occurring. This part concludes with a discussion of recommendations for departments interested in addressing noble-cause issues.