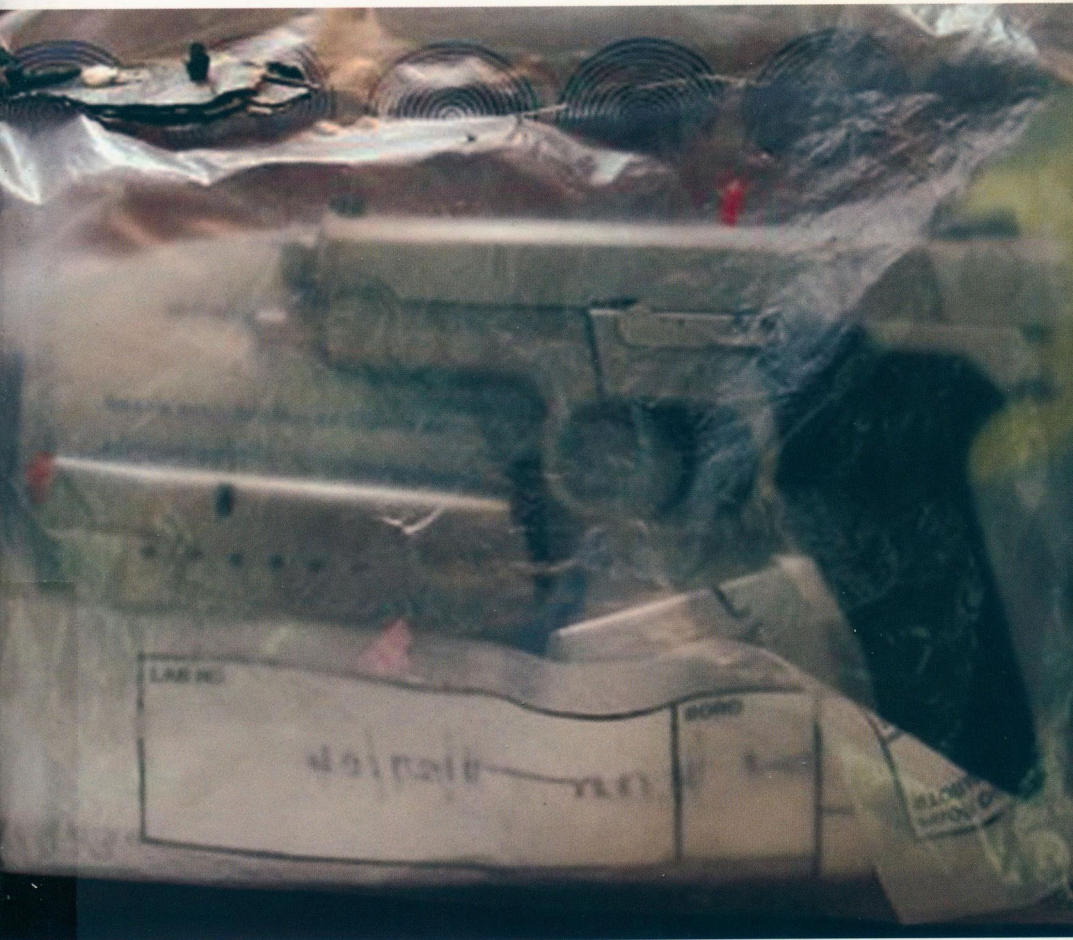


**Bad Cops, Police Misconduct, and the
New York City Police Department**

JAMMED UP



**ROBERT J. KANE AND
MICHAEL D. WHITE**

Preface by Candace McCoy

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JAMMED UP



This book is dedicated to the memory and legacy of Dr. James J. Fyfe, the original architect of the Bad Cops study. Few scientists of any discipline can rightfully claim that their research ever saved a single human life. Jim Fyfe's research has saved many human lives. Without a doubt, Jim left this world substantially better off than when he found it.

PREFACE

What Bad Cops Tell Us about Good Policing

Candace McCoy

Just as every cop is a criminal,
And all the sinners saints . . .
Just call me Lucifer
'Cause I'm in need of some restraint.
So if you meet me, have some courtesy.
Have some sympathy, and some taste . . .
. . . ah, what's puzzling you
is the nature of my game.

—"Sympathy for the Devil," The Rolling Stones, 1968

Mick Jagger was not claiming that all cops are criminals; he was saying that *everyone* is. The lyrics of this iconic rock song continue: "I cried out, 'who killed the Kennedys?' when after all, it was you and me." Given a certain set of conditions, any cop can be a criminal or any sinner a saint, but we are all responsible for our actions. Have a little sympathy, Jagger says; it can happen to anybody caught in a bad situation. The solution is to change the situation. Applied to the policing profession, this would mean that we first have to understand and probably change the conditions in which cops work, and also to develop policies and organizational structure that upholds standards of good policing. So: what are those conditions, how do they affect good decisions, and what exactly *is* good policing? Or, as Jagger asked, "what's the nature of the game?"

In this book, Kane and White deeply examine the conditions under which cops become criminals, or at least get "jammed up." They go further, analyzing whether those conditions are primarily attributable to the personal characteristics of the police officers themselves or to the organizational characteristics (and political environment) which define their employer, the New York City Police Department. Not surprisingly, the authors find that *both* individual and organizational variables significantly account for police misconduct—or, put in terms of previous scholarship on the police, "rotten apples commit acts of deviance, and sometimes the entire barrel becomes rotten because the rot spreads." Kane and White

add to existing knowledge about police misconduct by showing that organizational policy and practices, not simply individual “bad apples,” can be a source of bad policing through no fault of individuals. In other words, sometimes the barrel itself is rotten and induces good apples to do bad things, for instance when a police department requires highly aggressive street patrol in neighborhoods that need a different kind of policing.

Among its other strengths, this book sets these findings into criminological inquiry. It broadens the example of police officer deviance within a hierarchical organization into a larger question that applies to anybody who works in any organization: how much do organizational structure, context, and management policies account for individual acts of employee misconduct? Given recent events on Wall Street, in professional sports, in the finances of defense contractors, in medical and legal malpractice . . . well, it is very clear that Kane and White are on to something really important. In its theoretical base, this book is as much about white-collar crime as it is about brass-collar deviance, and it should be read by criminologists as well as scholars of criminal justice organizations like police departments.

The very term “jammed up” shows how nuanced the dynamics of deviance can be. New York police officers say that a police officer “got jammed up” when the bosses charged an individual officer with a violation of departmental rules, whether minor or middling or severe. But the term has another layer of meaning: the alleged offender has gotten caught up in the department’s bureaucratic machinery, which may apply arcane rules or office politics or political pressures to the detriment of fair treatment of the individual officer. The cops know when one of their own is a “schmuck” who should have known better or a “nut job” who needs to be thrown out (or, worst of all, a true “bad guy”). They also know that the bosses have their own set of priorities which might collide with what the street cop sees as good policing, blaming schmucks for being nut jobs or bad guys or vice versa. Another great strength of this book is that Kane and White show how the definition of good policing is malleable and, because the organization poorly defines and explains it and because city politics intervene, saying that an officer got jammed up can imply that the department might seek to deny its own responsibility for creating conditions under which cops are more likely to practice bad policing. Getting jammed up means that you got caught in an act of deviance and also in the cogs of an impersonal machine that turns for its own purposes.

Perhaps I am reading too much into the lyrics here, whether they come

from the Rolling Stones or officers of the New York Police Department. But I don't think so. Scholars of the police have described these problems before, but Kane and White describe them more deeply by starting with the extremely well-documented and well-analyzed example of officers terminated from NYPD employment over a 20-year period, compared to a matched sample of officers who were not thrown off the job, and expanding the findings into theoretical inquiry about crime committed within organizations and a normative inquiry into how we should define good policing. Such a multi-layered inquiry deserves equally layered terminology and description.

What is *not* described here, unfortunately, is "good policing." This is not a weakness of the book, since Kane and White take pains to explain that "bad policing" is not simply the opposite of "good policing," but a different thing altogether. This book explores deeply the correlates of policing gone bad, when officers are fired from their jobs, compared to officers who succeed in serving without termination. But this comparison cannot tell us much about whether the job these "good cops" are doing is what we would agree to be "good policing." It simply says how well these officers perform given their police organization's rules, policies, and goals. Whether these amount to good policing is another matter entirely.

It seems that bad cops cannot tell us much about good policing. Instead, Kane and White call for police departments to work in developing a new concept of what good policing would be, and they suggest that this can only come from "the bottom up," i.e., from those cops who are "good" and who inform both their bosses and the public about what it is like to practice their profession and what should be done to improve it. Kane and White do not say what "good policing" is. They simply say that whatever it is, good cops know it.

For instance, the authors mention that their study of officers dismissed from police service, when put in the context of the neighborhoods being policed, showed that citizens living in primarily Latino neighborhoods complained less often about police misconduct, probably because they feared their immigration status would be questioned if they complained. What would officers working in Latino neighborhoods, a great many of them Latino themselves, say about this? Previous research about reforming traditional police structures in favor of community policing has shown that Latino neighborhoods may be ignored in otherwise successful policing innovations.¹ How can we do better? Ask the cops on the beat and the people on the street.

Kane and White say that analysis has to “move beyond bad cops” and define the difference between aggressive policing, good policing, and police misconduct. The latter is conceptually isolated from the others. The first two, furthermore, may not necessarily be highly correlated. Is aggressive policing good policing? “Too much aggressive policing can backfire,” they say, “but . . . too little can undermine police legitimacy.” Incentives and disincentives in performing police work must go beyond punishment for misconduct on the job and support a new vision of “what is good for the people policed, and how can officers be trained and supervised to do it? What is good for our neighborhoods? What can police do to help protect life?”

These ideas are not new, of course. Dorothy Guyot long ago advocated “policing as if people mattered,” in which the organization assigns value to actions that do not necessarily result in arrest, and of course the problem-solving model of policing has become a staple of scholarly and community discussion if not action.² Kane and White add to this important discussion by suggesting that the good cops at the bottom of the hierarchy be empowered to develop models of good policing consistent with a “protection of life” mission. The protection of life approach is not new, either. My late husband, James Fyfe, articulated the idea in suggesting that it be implemented with a bottom-up rather than traditional military hierarchical police organizational style.³ What Kane and White add to these earlier discussions is important: understanding police misconduct from the point of view of the bad apples is insufficient. We have to develop the good apples, and ultimately they will remake the barrel.

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I am continuously and deeply indebted to Anne-Marie, the true scholar of the family. She is all at once both my inspiration and support network. Without her, there is no book. Liam and Aidan are my daily reminders of what is truly important in life, offering much needed “distractions” when the writer’s block sets in. When I initially asked Mike White to write this book with me, I naively thought we were in for an easy ride, turning a final report into an academic press book. Mike (and the review process) quickly reset those expectations, and his intellectual contributions have made this book as much his as it is mine.

—RJK

I would like to thank my colleagues and friends who have continued to influence and shape my thoughts on the police, especially my co-author Rob Kane, Charles Katz, and Justin Ready. I am also grateful for the continued support and encouragement from my parents. And my final thanks go to my wife, Alyssa, and my kids, Devon, Gabi, and Logan. Their extraordinary patience with “dad typing on his computer all the time” is deeply appreciated. This book is for them.

—MDW

PROLOGUE

"This is car 2119."

"Call Greenpoint Hospital."

"We're bringing in a wounded cop."

"All right?—"

"25th Precinct."

"Jesus Christ."

"Guess who got shot."

"Serpico."

"You think a cop did it?"

"I know six cops said they'd like to."

"Hello?"

"*New York Times*."

"Oh, my God!"

Many readers will identify the above as the opening dialogue from the 1973 movie *Serpico*, which dramatized perhaps the most infamous case of organized police corruption in the modern history of the New York City Police Department. As the Knapp Commission noted during its investigation of the so-called Serpico scandal, at the time Frank Serpico reported the corruption to investigative reporters at the *New York Times*, over half of all plainclothes officers in the NYPD were engaged in profit-motivated corruption. Although the movie *Serpico* suggests that the misconduct enterprise was protected by a group of officers who would enforce the rules of the game through violence or the threat of violence (including the alleged shooting of Frank Serpico in retaliation for making the systemic corruption public), the most probable tools of enforcement were what the majority of line officers feared most from their colleagues: social isolation and the "silent treatment."¹ Whether Serpico was set up by fellow police officers to be shot during a drug bust on the night of February 3, 1971 remains debatable. What is unquestionable, however, was the response by the NYPD and New York City at large once the *New York Times* published Serpico's accounts of the corruption activities.

Once the scandal was made public, Mayor John Lindsay convened the Knapp Commission in 1970 to investigate allegations of systemic police corruption in the NYPD. In its report the Commission famously identified

two types of corrupt police officers: *Meat Eaters* and *Grass Eaters*. The former represented officers actively engaged in police corruption and who sought out and exploited opportunities to maintain and even expand the corruption enterprise. The latter represented officers who did not necessarily participate in the actual corrupt activities but who accepted money for not reporting the corruption to police command staff. The Knapp Commission argued that during the Serpico era, the NYPD was largely organized around a value system that protected police corruption, and that the department maintained few if any effective strategies for preventing and detecting corrupt activities. In response, Mayor Lindsay appointed Patrick V. Murphy as a reformist police commissioner who made sweeping changes to the bureaucratic structure of the NYPD. Among these were the creation of the field associate program, where a small number of academy graduates from different classes were asked to surreptitiously serve as “undercover anti-corruption investigator(s)” while working their regular (usually precinct-level patrol) assignments.² In addition, Murphy created an early warning system designed to identify violence-prone police officers, and he developed field internal affairs units.³ Finally, and perhaps most important, Murphy prohibited organized crime officers from enforcing laws against “victimless crimes,” such as prostitution and illegal gambling, unless complaints about these activities originated from outside the department.⁴

Research for this book largely begins where Serpico left off. It examines patterns of misconduct in the NYPD from 1975 through 1996 and is anchored loosely by the Knapp Commission inquiry and the Mollen Commission investigation that took place 20 years later. Perhaps unlike the Serpico era, the NYPD from 1975 to 1996 was not dominated by a value system that favored police corruption. Though there were a small number of scandals since Serpico, they were relatively isolated, involving a limited number of precincts and/or officers. Even the corruption scandal that led to the formation of the Mollen Commission—though it was widely publicized—did not reach nearly the scope of the Knapp Commission-era scandal.⁵ Although our data include a number of officers who were part of the Serpico-era misconduct spectacle (in many cases it took several years to successfully identify and adjudicate the offending officers), most of the officers who were forced to leave the job because of official misconduct (i.e., profit-motivated corruption) co-offended in small groups, and in many cases with people they knew before joining the NYPD.

Given that our study period begins in the wake of the Knapp Com-

mission (1972) report and concludes shortly after the publication of the Mollen Commission (1993) report, in Sherman's (1978) terms this book examines patterns of police misconduct over a single cycle of scandal and reform. We regard this timing as key, for as long as an organization can remain relatively free from public scandal, some deviance is allowed to flourish in the department without being sanctioned by the organization's external environment.⁶ Under such conditions, the department is free to determine how to respond to the detected deviance. Thus, to a great extent, this study not only examines the causes of police misconduct among individual officers, which probably did not change much over time; it also examines an organization's *response* to police misconduct between two highly publicized anchor points and during a period of relative calm when the department operated in an environment that was relatively free from public scrutiny.

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An Introduction

Mitchell Tisdale¹ was born and raised in Brooklyn. He lived in a two-parent household with three other siblings. His father worked in the service industry, and despite no criminal history in his family, Mitchell was arrested three times on juvenile delinquency charges prior to his eighteenth birthday. He earned his general equivalency diploma (GED) in lieu of a high school diploma, did not serve in the military, and worked at seven different service-industry jobs before joining the NYPD as a police officer at the age of 24. In addition to the juvenile delinquency findings, Mitchell had four moving violation summons and disciplinary problems in two previous jobs. Nevertheless, he had no financial troubles, he was making timely payments on his auto loan, and pursuant to his NYPD background check, investigators found no reason to recommend against his appointment to the department.

At the time of his appointment to the NYPD, Mitchell was married with one child while still residing in Brooklyn. In the police academy Mitchell earned acceptable ratings on all aspects of training (academic, physical fitness, tactics); upon graduation, he was assigned to a Brooklyn patrol precinct. In his fourth year of service, Mitchell received his first citizen complaint. It was for off-duty profit-motivated misconduct. Mitchell was allegedly involved in a drug-dealing enterprise to supplement his NYPD income. The complaint was unsustainable, as NYPD investigators were unable to prove at an acceptable threshold Mitchell's involvement in the drug ring.² Six months after the first complaint, Mitchell received his second complaint, this time for off-duty violence. As with the first case, the second complaint was adjudicated as unsustainable.

Several months after his second disciplinary case, Mitchell was in a bar while off duty, where he met a woman, with whom he went to a hotel room to engage in a consensual sexual encounter (Mitchell was still married). At some point during their time together, a struggle over Mitchell's off-duty firearm ensued, during which the woman was shot in the neck and killed. Mitchell dressed and fled the scene, leaving the woman's body to be discovered by hotel staff. On his way home from the incident, Mitchell disposed of his off-duty firearm so that it could not be traced to the woman's death. It took just a few days for the NYPD to link the deceased woman at the hotel to Mitchell; and despite initial (and repeated) denials

of involvement, Mitchell finally confessed that it was his gun that killed the woman. Although no criminal charges were filed against Mitchell, he was subsequently dismissed from the NYPD for violating several administrative rules, such as “conduct unbecoming a member of service,” and “failure to safeguard a firearm.” He never made it past the rank of patrol officer.

In the same year that Mitchell Tisdale was hired, Paul Barrett was also hired by the NYPD. Paul, along with his four siblings, was born in Manhattan and raised there by his mother and father. Although Paul did not attend college, his father was a college graduate who worked in the professional sector of the economy. Nobody in his immediate family had ever been arrested, including Paul. Upon receiving his high school diploma, Paul joined the then-new NYPD Cadet Corps—essentially a paid internship within the NYPD that socialized pre-recruits into the administrative practices of the police department. During his time as a cadet, Paul also held three different outside jobs in the service economy; he was never disciplined in those jobs, and he never had a former employer make derogatory comments about his performance. By all official criteria, Paul was a model candidate for the position of police officer. After working three years as a cadet, he entered the police academy and was assigned to a Manhattan patrol precinct when he graduated. During his career with the NYPD, Paul moved from Manhattan to Brooklyn, he never married or had children, and he never carried any bank debt. He received zero citizen complaints and took a career path with an upward trajectory: three different commands with a promotion to Detective, Third Grade in his tenth year of service.

At some point in his eleventh year of service, while investigating a deceased person incident in a Brooklyn apartment, Paul and his partner stole a stack of U.S. savings bonds worth several thousand dollars. He took the savings bonds to a local bank, and posing as the owner (i.e., the deceased person from the apartment), attempted to cash them. The suspicious bank teller stalled Paul while the manager called the NYPD. When officers arrived, they arrested Paul, who was subsequently brought up on federal charges. In the end, Paul was convicted in federal court of conspiracy, and he was dismissed from the NYPD for profit-motivated official corruption (an administrative violation).

Approximately 20 years later, the first author of this volume was sitting in an office on the first floor of Police Headquarters at 1 Police Plaza (1PP) in Manhattan. His task as a university researcher was to identify every police officer whose career had ended due to occupational misconduct from 1975 to 1996. While sorting through yellowed personnel docu-

ments from the 1970s that had been stored in file cabinets in various locations throughout 1PP, the researcher happened upon the following entry: “Mitchell Tisdale, dismissed for *Failure to Safeguard a Weapon*.” After scouring NYPD documents for months, and having seen the range of “normal” incidents for which officers were usually dismissed (e.g., corruption, abusing a citizen, perjury), the researcher asked himself, “Who gets fired for failing to safeguard a weapon?”

The Origins and Methodology of *Jammed Up*

This volume represents the culmination of perhaps the largest study of police misconduct ever conducted in the United States, with a study period spanning from 1975 through 1996. In 1996, the now-late James J. Fyfe offered his graduate student (the first author of this volume) an opportunity to help design and conduct this study of career-ending misconduct in the New York City Police Department. That study, known as *Bad Cops*,³ was ultimately funded by the National Institute of Justice and gave the research team unprecedented access to NYPD records and data. That study is the foundation for this book. *Bad Cops* sought to explore the nature and prevalence of police misconduct in the NYPD from 1975 to 1996, as well to identify relevant personal and career history characteristics most responsible for distinguishing between officers who engaged in career-ending misconduct and officers who did not. In the end, the research team collected information on more than 3,000 police officers (half of whom had been separated from the department due to misconduct), hired approximately 20 NYPD employees, who worked on the study in the evenings after their regular shifts ended at 1PP, and spent almost three years post-study assembling data at different units of analyses in order to tell the story of *Bad Cops*. Though we refer the reader to Fyfe and Kane’s NIJ final report for complete coverage of the study’s methodology, the sheer scope and breadth of the study’s design warrants some discussion here.

The first methodological step involved identifying the population of officers separated from the NYPD between 1975 and 1996 for reasons of misconduct. At the time of the study, the NYPD maintained no central file or database that provided information on employment separations, whether for misconduct or other reasons. Instead, usually one to three times per week, it published Personnel Orders and disseminated them to every departmental unit. These orders reported every change in status (e.g., appointment, promotion, transfer, change in designation, resignation, retirement, vesting, dismissal, termination, or death) of both sworn