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## POLICE ETHICS

### The Nature of Policing and Police Corruption

#### ETHICS AND POLICING

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The study of ethics in policing has expanded considerably as cases of police brutality and corruption have increasingly surfaced in the media and in the courtroom. Commentators agree that three issues have shaped the role of ethics in policing: *styles of policing*, *the police as an institution*, and *police culture*.

Generally, we think of the police as controllers of crime; however, the original English conception of the role of the police force emphasized the need for police to obtain the goodwill of citizens in performing their policing duties. The very first set of instructions to constables, published in England in 1829, reminded the new police officer,

There is no qualification more indispensable to a Police Officer than a perfect command of temper, never suffering himself to be moved in the slightest degree, by any language or threats that may be used; if he does his duty in a quiet and determined manner, such conduct will probably induce well-disposed by-standers to assist him should he require it. (quoted in Skolnick and Fyfe 1993: 70)

When policing came to the United States, there was little concern among police officers about adhering to legal norms despite their formal policing role as enforcers of the law (Haller 1996: 7). In fact, police received little training in law, and most of those arrested were tried before justices who also had little legal training. Police were part of the larger political system, seen as a resource at the command of local political organizations. In the early period, it was common for police and other public officials to earn rewards by operating rackets (p. 8). Patrolmen worked on the streets with little supervision, and the main expertise a detective offered was his knowledge of the underworld. Violence was an accepted norm, because many policemen believed they were entitled to punish wrongdoers themselves, and on their patrols, they were expected to be able to physically dominate the streets without resorting to arrest. Police operated in neighborhoods as authority figures, sometimes whipping delinquent boys as a more effective sanction than arrest and incarceration. Police commonly used violence to persuade suspected persons to confess, and newspapers reported interrogations of this nature without critical comment (p. 22). In addition, the police culture of the time supported the use of violence in upholding the dignity of the police officer. Over time and by the end of the 1930s, police organizations had become large bureaucratic structures organized along military lines (Walker 1996: 27).

During the 1930s era of reform, police began to narrow their functions to focus on crime control and the apprehension of criminals; consequently, police became enforcers of the law with the goal of controlling crime. Other activities that police formerly engaged in, such as solving problems in the community, became identified as “social work” and were ridiculed (Kelling and Moore 1996: 79).

Notwithstanding the police attitude that constructs policing as crime fighting, many observers of police work regard the primary function of the police to be peacekeeping. In this view of

policing, police occupy their time for the most part by attending to a range of problems that have little to do with law enforcement. In fact, they may spend as little as 10% to 15% of their time engaged in enforcing the law (Manning 1996: 225).

## THE NATURE OF POLICING

Commentators on policing have struggled to adequately express and theorize the nature of policing in society, including its ethical base. Researchers have proposed models of policing to assist in understanding the police function in society; these models are *the crime fighter*, *the emergency operator*, *the social enforcer*, and *the social peacekeeper* (Kleinig 1996: 24–29).

*The crime fighter* sees criminals as the enemy and police and the community as the “good guys.” In other words, police see their role in punitive terms—for example, treating suspects as though they were already guilty. Perceiving the policing role as crime fighting runs the risk of ends justifying means and dramatizes policing so as to condone invasions of privacy and abuse of power. This is especially the case when citizens have surrendered their right to use force to the police.

The influence of media representations of police, either through police dramas on television or in reality programming depicting police carrying out their duties, should not be underestimated. In constructing images of police as “fighters against evil” in drama and as “protectors of society against permissiveness” in police reality programs, the media reinforce the notion of the police officer as crime fighter. In terms of audience response to this entertainment, three notions emerge: that offenders are professional criminals who are clever and motivated by greed, that the interests of justice are not well served by liberal judges or lawyers who are preoccupied with defendants’ legal rights, and that hardworking, dedicated cops are out there, on the streets, doing their best in the face of these constraints (Beckett and Sasson 2000: 118).

*The emergency operator* model sees the policing role as akin to that of other emergency personnel, such as ambulance operators and firefighters. Police offer emergency assistance, clearing the way for professionals such as social workers, who provide more substantive problem-solving services. This model emphasizes the policing mission as dealing with people rather than crime fighting; however, competence in crime control is still required in this model.

Viewing the police as *social enforcers* emphasizes coercion as the central feature of police work (Bittner 1967). This model sees the role of police as addressing many day-to-day problems whose solutions may require the use of force. The social enforcer model has been criticized for focusing excessively on coercion as a police function and for failing to recognize that other members of society may also use coercion, such as parents and schoolteachers.

In formulating *the social peacekeeper* model, Pollock-Byrne (1998) and John Kleinig (1996) argue for the need to adopt a broader definition of policing, with Pollock-Byrne advocating for policing as public service rather than crime fighting and Kleinig promoting policing as social peacekeeping. For Kleinig, this characterization offers the most satisfactory definition of the actual tasks that police perform, and he locates it historically in the Anglo-Saxon notion of the King’s Peace, breaches of which were considered crimes. According to Kleinig, the peacekeeper model incorporates the crime fighter and social service models and reflects the range of acts that might occupy the police in a community (p. 28).

Jerome Skolnick (1966) underscored the inherent tension between the police roles of enforcing the law and at the same time protecting citizens, and he considered that tension irreconcilable. He argued that police could reconcile this conflict by giving priority to their duty to uphold the law. William K. Muir (1977) and Herman Goldstein (1977) saw a need for officers

to be trained properly to exercise their considerable discretionary powers, while Muir noted that because officers are free to choose their style of policing, this enables them to act ethically or otherwise according to their desires. Edwin Delattre (1989) and Lawrence Sherman (1985) were concerned about issues of corruption in policing arising during the 1980s. Delattre argued that the best way to ensure ethical policing was to recruit officers with integrity. Sherman, however, saw the temptations open to police as an issue constituting a “slippery slope,” where minor acts of corruption would lead to major acts unless internal police controls and accountability sanctioned those minor acts.

Manning (2007: 63) identifies four “primary segments” found within policing: **patrol officers** who make up the bulk of a law enforcement unit and who often remain in this occupation throughout their police career; **middle managers** who rise through the ranks through seniority and examinations, supervise and handle paperwork, view themselves as “moderating and supervising the mistakes of others,” and generally remain at this level; **higher administrators** who are selected by local consultative political processes (including the mayor, city council, or a specific hiring committee), who rarely have contact with patrol officers, and whose duties involve political as well as policing considerations; and finally, **detectives and investigators** who enjoy higher status than patrol officers and are “information processors who investigate, define, clear and otherwise manage the tension between the ‘case.’” To this typology could be added the pervasive police paramilitary units known as SWAT teams described later in this chapter.

Scholars now commonly characterize police as either “warriors” or “guardians.” Stoughton (2016: 611), for example, tracks the emergence and significance of the warrior concept of policing, noting that it began with the Los Angeles riots in the 1960s, when the Los Angeles Police Department (LAPD) faced violent opposition that included sniper fire and firebombs (p. 641). The LAPD response was the formation and deployment of a specially equipped and trained police squad now familiar to the public as SWAT units. Over the next 20 years, more and more police forces established SWAT units until by the early 1980s, every year saw about three thousand SWAT deployments. Gradually, the training and equipment shifted from being SWAT specific to regular officers who now carried semiautomatic rifles on a regular basis to combat heavily armed criminals and respond to so-called active shooters. The federal government’s “wars” on crime, drugs, and, lately, on terrorism effectively augmented the warrior profile (2016: 646). Further reinforcing the warrior mode of policing, the Supreme Court, in a number of decisions, refused to adopt rules that would limit police discretion, frequently emphasizing the dangers faced by law enforcement.

The police warrior concept encourages an adversarial policing style, suspicion of the public, and an attitude that public support for policing tactics, while still valued, is not required (2016: 652). Police are taught to have *command presence* and to take control of a situation by interacting with the public through an “Ask, Tell, Make” approach. They regard themselves as distanced from the public and as an elite group of crime fighters.

Opposed to the model of police warrior is the “police guardian,” a concept with roots in community policing addressed in President Obama’s Task Force on 21<sup>st</sup> Century Policing. As Stoughton (2016: 667) explains, “guardian policing seeks to instill officers with values that encourage public engagement, foster trust and build lasting community partnerships.” It constitutes a form of community policing that emphasizes respect for human dignity and advocates using patience to achieve peaceful solutions rather than resorting to force.

Police Department awards to officers provide a mechanism for assessing how police themselves view policing styles. In a study of such awards covering the years 2011 to 2015 made by the large urban Elmont Police Department (Sierra-Arevalo 2021: 66), awards were given for

narratives the author categorized as danger (40%), heroism/courage (36.67%), and crime fighting (25%). In contrast, awards for restraint and deescalation were 15%, compassion and care 11.67%, and respect 1.67%. Awards in the latter categories, which reflect the police as guardian perspective were gendered, with 43.75% awarded to female officers compared to 14.06% to male officers. In the category of danger, males received 36.72% of mentions of danger while females received just 6.25%.

Rather than seeing warrior and guardian as opposing concepts, some scholars argue that these modes actually cohere with each other, with guardian policing constituting the “velvet glove” that envelops the “iron fist” of the warrior (Koslicki 2022: 3). To what extent do these modes of policing actually exist in police practice, and what forms do they take? To answer this question, McLean et al. (2020: 1096) analyzed survey data from patrol officers from two police departments to find out if the concepts were separate or actually overlapped. Their research revealed that the guardian orientation was associated with “greater communication priorities” in police and citizen interactions and with less support for officer misconduct. The warrior mindset was, on the other hand, associated with “weaker communication priorities” and a greater measure of citizen control in police and citizen interactions as well as with an attitude more accepting of police misconduct (p. 1112). The outcome of this research suggests, therefore, that were police to adopt the guardian model, more positive policing outcomes might be expected.

Further support for the warrior-and-guardian dichotomy was found by Carlson (2020: 399), who conducted 79 in-depth interviews with police chiefs in Arizona, California, and Michigan concerning police perceptions of gun violence. She found that police adopted the warrior and guardian conceptions of policing with racial distinctiveness in that the warrior mode stressed aggressive law enforcement against persons of color, whereas the guardian mode stressed the need to assert protection on behalf of white victims.

That some policing agencies are invested in the warrior model of policing became evident in 2019, when the mayor of Minneapolis banned police warrior-type training after a series of police shootings on the ground that it violated the tenets of community policing. The Minneapolis Police Union challenged this decision, asserting that it would partner with another organization and offer warrior training to any officer who requested it (Hunt 2021: 48).

## POLICE AS AN INSTITUTION

Policing in the U.S. is highly decentralized, with almost half of all local police departments employing fewer than 10 full-time officers. As at December 31, 2020, more than 14,700 law enforcement agencies in the United States employed about 708,000 full-time police officers and 348,000 civilian staff. The number of police officers increased almost 13% from 1997 to 2020. In terms of gender and race, about 14% of officers and 11% of first-line supervisors across local police departments were female. About 12% of full-time sworn officers in local police departments were Black, and 14% were Hispanic (Goodison 2022: 1). In the 16 European countries reviewed by Hirschfield (2020: 173), all except Belgium have a policing structure that is centralized at regional, state, or national levels.

Compared to other developed nations, U.S. law enforcement training is brief. While there are state-sponsored police academies, tuition costs are generally the responsibility of the individual police recruit. On average, academies offer 21 weeks of classroom instruction, teaching basic policing skills, compared to the 2 years provided in Europe at no cost to the recruit (Hirschfield 2020: 168).

The institution of policing has been perceived either as a profession or as a bureaucracy. Kleinig (1996: 30–46) sees the police as possessing some of the aspects of a profession, such as discretionary authority and providing a public service, but not others, such as the possession of higher education and special expertise. The importance of the distinction between a profession and a bureaucracy for the study of police ethics is that professions emphasize ethical standards and a service ideal. Organizationally, police resemble any other large, bureaucratically organized occupation. Police commonly define themselves using the rhetoric of professionalism, sometimes to deflect criticism, arguing that outsiders are incapable of understanding police work and therefore should have no say in its performance (Walker 1996: 29).

## POLICE CULTURE

Individuals within institutions carry out roles defined by the rules, regulations, and procedures of the institution, and these roles and their relationship to each other make up the structure of the institution. However, there is another dimension to the workings of an institution that commonly includes the attitudes, values, and norms of that institution, collectively described as the **institutional or organizational culture**. This culture largely determines the way in which institutional activity is performed, adding another layer to the official rules, regulations, and practices of the institution. Manning (1989: 360) explains police culture as the “accepted practices, rules and principles of conduct that are situationally applied, and generalized rationales and beliefs.” The institutional culture should be differentiated from the occupational culture, which refers to the particular roles and experiences of the different occupational groups within the institution—for example, as between police middle management and patrolmen (Bacon 2014: 106).

A number of commentators have attempted to analyze aspects of the police institutional culture. Peter Manning (1997: 4) argues that it is the **occupational culture** interacting with regulations, policies, law, and politics that constitutes the driving force of policing. For Manning, immorality, violence, and lies are routine in policing; teamwork is essential; and secrecy is endemic. Sherman (1982) identifies a set of values that new police officers acquire through their training process, through conversations with veteran officers, and in interactions with the public. These include the notion that enforcement of the law is not limited to the question of whether an offense has been committed but also includes the nature of the suspect. Accordingly, aspects of the individual—such as demeanor, the degree of cooperation with police, race, age, and social class—are all significant considerations in law enforcement decision-making. In a somewhat similar way, the institutional culture views any show of disrespect for police authority as a matter of great concern, and the perpetrator of such behavior is likely to be punished by arrest or use of force.

In terms of the use of force (see Chapter 3), police culture requires that police should never hesitate to use physical or deadly force against those who *deserve* it. Given that the role of police is to fight crime, police culture views due process as a practice that merely protects criminals and therefore as something that should be ignored when possible. From this perspective, rules concerning the protection of suspects and accused persons should be circumvented when possible because the function of such rules, so far as the police are concerned, is simply to handicap them in carrying out their true functions.

Similarly, lying and deception are considered integral parts of the police function.

*Loyalty* is a paramount duty, and the protection of one’s colleagues, even when they perform acts of misconduct, is considered an overriding principle of police work.

Finally, because the police engage in “danger work” in the protection of the public, it is considered appropriate for police to accept gifts from the public, such as free meals, coffee, and Christmas gifts. Sherman (1982) contends that police culture argues in favor of taking a reward that has no impact on what a police officer would do, such as eating a meal, but he argues that the culture rejects acceptance of money that would affect the policing task itself, such as accepting money for not giving traffic tickets.

Sherman contends that these values have weakened over time due to diversity within the police, the power of the police unions to defend individual officers, and the rise of investigative journalism, which has uncovered corruption in high places. Additionally, he points to the fact that police chiefs have taken significant steps to counter aspects of institutional culture.

In his explanation of police culture, John Crank (1998: iii) argues that existing literature oversimplifies the police, describing them in simplistic terms and minimizing the complexities of their employment. Crank presents various themes that he argues characterize police culture, ranging from “coercive territorial control” (the notion that the police view much of their work by reference to the use of force in controlling their assigned territory) to the vision of the police as “the new warriors” to guns as the ultimate expression of police authority. Crank extends his discussion to include the importance of suspicion in police work, the theme of “turbulence and edge control” (meaning triumph over unpredictable events), and cultural themes of solidarity.

In considering police deviance in France, Didier Fassin (2018: 180) argues that there, as in the U.S, police believe the public maintains an antagonistic and hostile attitude toward them. The outcome of this hostility is the reinforcement of group loyalty and secrecy. Other writers have identified suspicion as a characteristic of police work and the police personality, but Crank argues that it is a feature of police culture, a characteristic of the police worldview that provides a basis for all interaction between police and citizens. Importantly, in his discussion of the construction of police morality, Crank suggests that the police perceive themselves as “representatives of a higher morality embodied in a blend of American traditionalism, patriotism and religion” (p. 151).

Muir (1977) makes the case that police loyalty results in complicity. Once a police officer breaks or violates a rule or standard, he or she is bound to remain silent about other officers’ violations, even if they are more serious.

Stuart Scheingold (1984) asserts that there are three dominant characteristics of police culture:

1. *Cynicism*. Police view all citizens with suspicion, and all citizens are seen as a “problem,” especially if they can be categorized into a “type.” Those who can be categorized are to be dealt with as though they have already committed a crime because they probably have. The very nature of police work leads police to the conclusion that all people are weak, corrupt, or dangerous.
2. *Force*. This is to be used in all situations where a threat is perceived. Threats can include perceived threats against the officer’s authority rather than physical threats so that anyone with “an attitude” is thought to deserve a lesson in humility. Force, then, is both expressive and instrumental. It is a symbol of the officer’s authority and dominance and is seen as the most effective method of control because it keeps all people in line.
3. *The police are victims*. The idea that the police are themselves victims of public misunderstanding and scorn, recipients of low wages, and victims of vindictive administrators sets police officers apart from other people and legitimizes and

rationalizes a different set of rules for them. Police perception is that the public does not mind when the civil rights of “criminal types” are violated; they are only upset when police misconduct targets “good people.” A study of community policing in Seattle, observing interactions between police and the community, reveals how police see themselves as “members of a politically vulnerable group that deserves protection from ill-informed public meddling; they possess an authority to control situations to which the public should defer; they command a unique base of knowledge, and thus deserve an elevated professional status” (Herbert 2006: 86). Commentators, therefore, generally portray police culture as negative, defensive, and isolationist. In contrast to this portrayal, police often promulgate statements of values or of their policing mission that are positive in nature, as in the “Foster City Police Department Basic Values” Closer Look box.

## Changing Police Culture

While some scholars of policing have suggested that police culture has changed with the advent of community policing, a greater focus on service to the public, enhancement of communication and interpersonal skills, and the impact of cultural, ethnic, and gender diversification of police organizations, Bethan Loftus (2010: 1) suggests that, in the United Kingdom at least, the “underlying world view” of police officers has not altered because the basic pressures associated with policing have remained constant. In an ethnographic study of police culture in the north of England, Loftus found that police officers still perceived themselves as crime fighters (despite the fact that arresting criminals took up very little of their time) and as constituting the line that separated order from chaos. Loftus observed that physical responses to incidents were highly valued and that police celebrated a confrontational approach to policing despite policies and programs that reconfigured the policing mission as servicing “customers” (p. 7). The tensions between the realities of police work—mundane, monotonous, and unexciting—and the expectations—an action-packed day of crime fighting—meant that police “developed a profoundly cynical and pessimistic view of their social world” (p. 8). Loftus concludes that absent significant social change, police culture is unlikely to be impacted by radical change.

Similarly, in France, Fassin (2018: 185) found loyalty and secrecy among officers in the elite anticrime unit to be preeminent norms of police culture. Few officers took moral positions on corruption and abuse of power for fear of being marginalized by their precinct—their only course of action was to leave the police. The institution therefore sustained its deviant norms and resisted reform.

John Crank (1998: 119) argues that since the 1970s, in relation to the United States, police values have basically remained unchanged. One reason for this is that police recruits are selected from a pool of applicants who share police values, and persons attracted to law enforcement as a career are the same persons who have always been drawn to policing. Michael Caldero and Crank (2011: 66) argue that officers are hired with a set of values already in place that are enhanced and fine-tuned through the academy and on-the-job training. They identify the formative influences as the academy, the police field-training officer, the police culture, the danger and isolation of policing, and other elements. Importantly, as they point out, officers are often recruited from police families, from small towns, and from the military. They are already imbued with the values that policing privileges, especially the focus on creating order in human interactions. In this sense, then, newly recruited officers are already committed to the noble cause—they are believers because the noble cause is an inherent part of their moral upbringing (see the definition of *noble cause* under the heading “Noble Cause Corruption”).

Researchers have tended to describe police culture in monolithic terms and generalize its characteristics, often by reference to the culture of the patrol officer level of policing (Punch 2007: 107). One approach to understanding police culture is to think of a set of core characteristics, as noted previously, that can be said to represent the dominant culture. While officers may carry their shared experiences—the dominant culture—into different occupational specialties within a police force, studies suggest that specialists<sup>1</sup> also develop a culture for their specific occupation, as, for example, in undercover policing (Bacon 2014: 113). In addition, policing today is staffed by white and minority officers, by women, and by gay officers who collectively bring a heterogeneity to policing that did not exist when many ethnographic studies of policing were being conducted in the 1960s and 1970s (Sklansky 2007: 35).

The study of police ethics is especially important in light of the functions and duties of the police as well as the wide powers of discretion that they enjoy. Police decisions can affect life, liberty, and property, and as guardians of the interests of the public, police must maintain high standards of integrity (Pollock-Byrne 1998: 3–4). In addition, police have assumed the right to use intrusive, covert, and deceptive methods of law enforcement and have a crucial role in protecting minority groups. They have also suffered a series of blows to their reputation for integrity through acts of corruption, incompetence, and racism (Neyroud and Beckley 2001: 38). All of these factors point to the centrality of fostering ethical standards in policing. Police discretion concerning how to act in a given situation can often lead to ethical misconduct. In the following CLOSER LOOK, we see the Foster City Police Department Value statement from the 1990s, which was an effort to set more specific guidelines for its ethical standards.

## A CLOSER LOOK

### FOSTER CITY POLICE DEPARTMENT BASIC VALUES

1. Integrity is basic to the accomplishment of the law enforcement mission. Both personal and organizational integrity are essential to the maintenance of the F.C.P.D. This means that we:
  - Ensure that accurate reporting occurs at all levels;
  - Promote and recognize ethical behavior and actions;
  - Value the reputation of our profession and agency, yet promote honesty over loyalty to the Department;
  - Openly discuss both ethical and operational issues that require change; and
  - Collectively act to prevent abuses of the law and violations of civil rights.
2. Due to the dynamic nature of our profession, the F.C.P.D. values innovation from all levels of the Agency. This means we:
  - Reward and recognize those who contribute to the development of more effective ways of providing policing service;
  - Strive to minimize conflict which negatively impacts our work product, yet we support the constructive airing and resolution of differences in the name of delivering quality police services;
  - Listen to and promote suggestions emanating from all levels of the Department; and

<sup>1</sup> Manning (2007: 57) points out that within policing, prestige and status flow to officers working in “specialized units, investigative work, especially homicide, and positions most associated with crime control and crime suppression.”



- Wish to promote an atmosphere that encourages prudent risk taking, and that recognizes that growth and learning may be spawned by honest mistakes.
3. The law enforcement profession is recognized as somewhat close and fraternal in nature. The F.C.P.D. reflects this tradition, yet supports community involvement and ongoing critical self appraisal by all its members. This means we:
    - Encourage employees to socialize with employees and community members alike to promote the reputation of the Agency;
    - Promote programs that improve the relationship between our members and the community at large;
    - Report and confront employees who violate laws and the basic values of the organization; and
    - Promote and discuss positive aspects of the Agency and its product throughout the county.
  4. The provision of law enforcement services is a substantial expense to the taxpayer. The F.C.P.D. is obliged to provide the highest quality of police service for the resources expended. This means we:
    - Regularly assess the cost vs. benefits of the various programs of the Agency;
    - Require a standard of professional performance for all members of the Department;
    - Administer the Department funds in a prudent, cost-effective manner;
    - Publicly acknowledge and praise employees that excel at their jobs; and
    - Support and encourage employees in their pursuit of higher education.
  5. Law enforcement, in the course of performing its primary mission, is required to deal with both dangerous and difficult situations. The F.C.P.D. accepts this responsibility and supports its members in the accomplishment of these tasks. This means we:
    - Review and react to an individual's performance during such an event based upon the totality of the circumstances surrounding their decision and actions;
    - Encourage all employees, as the situation permits, to think before they act;
    - Take all available steps and precautions to protect both the City's and employees' interests in incidents that provide either danger or civil exposure;
    - Keep our supervisor informed of any incident or pending action that jeopardizes either the reputation of the Agency or individual employee;
    - Attempt, conditions permitting, to reason with individuals in the enforcement setting prior to resorting to the use of force; and
    - Recognize that it is our duty to prevent, report, and investigate crimes, together with the apprehension and the pursuit of vigorous prosecution of lawbreakers. We also recognize that it is the domain of the court to punish individuals convicted of crimes.

*Note:* The Department have since changed its values statement into a much shorter and generic statement (<https://www.fostercity.org/police/page/our-philosophy-and-value-statements>). However, it has added a new and topical section on use of force called Where We Stand #8CANTWAIT, which it highlights as a response to the case of George Floyd and others around the nation (<https://www.fostercity.org/police/page/fcpd-glance>).

*Source:* From the Foster City Police Department, Foster City, California. Cited in More 1998: 48–49.

## POLICE DISCRETION

By law, police are given the power to deprive citizens of their freedom by arresting them and the right to use force in the performance of their policing function, including lethal force in certain situations. The police are therefore given great authority under the law, and that authority is to be employed, ideally, in enforcing the law and protecting the public. Police authority and power is exercised within the discretionary sphere given them; any exercise of power or authority is an

exercise of discretion. As well as authority conferred by law, police have another kind of authority derived from their role as police officers and represented by their physical, uniformed presence on the street. The public, therefore, tends to treat police officers with circumspection in most cases, aware in a general sense that police have specific powers, such as to arrest, but they are unclear as to the total extent of police authority. Police culture insists on the public giving the police respect and cooperation; flouting or resisting police authority can result in arrest or other consequences that may sometimes amount to misconduct—for example, threatening a future arrest or even assaulting a person to punish him or her for an attitude considered disrespectful.

### Limiting Police Discretion

In performing their policing duties, police officers are able to exercise a high degree of discretion. This means they have broad freedom to make decisions about how to act in a given situation. For example, a police officer may decide to investigate an occurrence, or he or she may decide that it is not worthy of his or her time and effort. Officers can also decide whether to make an arrest and may make decisions about the amount of force required during a confrontation. Caldero and Crank (2011: 79) argue that police discretion is not value free and is shaped by a set of values, including the noble cause morality that is already in place when they begin patrol work. It is therefore possible to predict the probable police action in situations calling for the exercise of discretion.

Some commentators argue that police discretion should be limited so that, for example, the rules and regulations of the police department and ethical standards circumscribe that discretion. Jeffrey Reiman (1996) argues even more radically that “police discretion has no rightful place in a free society” (p. 80). Manning (1997) points out that policing guidelines themselves create uncertain circumstances and that the impact of guidelines is unclear because cases in which the guidelines were not adhered to are never reported to supervisors. From the police patrol officer’s point of view, James Q. Wilson (1968) notes that patrol officers may legitimately complain that having no agreed-on standards for the exercise of discretion makes their task harder, especially if the existence of many procedural rules enables others to easily penalize them for acting in an allegedly improper manner.

Manning summarizes the issue of guidelines by noting that the solutions offered for limiting the wide powers of police discretion include judicial rule making, legislative regulation, and developing internal codes and regulations (p. 295). Jerome Skolnick and James Fyfe (1993: 120) point out, however, that elaborate police rule books, although purporting to be definitive, actually provide limited guidance of any worth to police because hard-and-fast rules do not adequately assist police in dealing with the fluid and fast-changing situations they may be faced with.

Some police officers deliberately use their wide powers of discretion and their authority to perform acts of misconduct, as discussed in this section. Davis (in Cohen 1996: 97) argues that discretion ought to be confined so that it is used only when truly required. In other words, where a rule, law, or policy can be applied to a situation, it should be applied. If this is not done, he argues, justice may be seen to be arbitrary or subject to inequalities.

James Fyfe (1996: 183) contends that police ought to enjoy some degree of discretion, but like discretion in any profession, it can be justified only to achieve a broadly agreed-on purpose; in the case of the police, this purpose is often hard to define. Like Manning (1997), he attributes this lack of clarity about police goals to those same police chiefs who complain that discretion in police organizations is broad at the base and much narrower at the top. However, most citizens,

including most police officers, support police having *wide discretion* on the basis that their hands should not be tied in their role as guardians of the public.

In a more recent discussion of how to regulate police discretionary power so that it is exercised in an ethical manner, Bradford and Jackson (2015) suggest three strategies that might regulate police discretion in relation to stop and frisk and associated police actions. One strategy is to place legal limits on police officer discretion so that there will be an internally generated list of circumstances in which stop and frisk is permitted. This approach has drawbacks, however, in light of the wide-ranging duties of the police and the almost endless contingencies involved in the task of policing.

A second strategy focuses on increasing police visibility through technology solutions such as body-worn cameras, citizen journalists who video police incidents, and the like (see Chapter 3 for a fuller discussion of these issues). The problem with this approach is the reality that police control what is recorded on camera and have the capacity to frame events in ways that favor police interpretations of events.

A third strategy, the most favored, is to institute procedural justice procedures that are characterized by transparency, fair and equitable treatment, and respect for individuals in interactions between police and the public. Additionally, it would be important to ensure that similar procedures are applied within law enforcement agencies to ensure that such organizations treat police fairly and with justice. This would reinforce police confidence in their own authority and, in turn, promote police legitimacy through procedural justice (see Chapter 3 for a fuller discussion of police legitimacy and procedural justice).

### Discretion and Accountability

Many argue that if police are permitted wide discretion, a high level of accountability should match it so that processes and machinery exist to investigate complaints of misconduct or abuse of discretion (see the section later in this chapter on “Combating Corruption”). Manning (1997: 146) notes that discretion creates uncertainty, and from the perspective of the police supervisor, it creates randomness in patrol practice that makes it difficult for administrators to enforce accountability.

Kleinig (1996: 4–5) outlines a distinction between decisions about scope and decisions about interpretation in exercising discretion. In the former, police must decide whether a given situation requires them to act, and in the latter, questions of definition arise, such as “Has an offense been committed?” and “Is this a situation in which I should act at all?” Police also must consider questions of priorities and make what Kleinig calls “tactical decisions” that bear on police attitudes, such as whether to react strongly to circumstances or to follow a more mediatory role.

## ETHICS AND CODES OF ETHICS

Kleinig (1996: 234) traces the history of a police code of ethics, noting that it was not until 1928 that such a code was formulated for police in the United States. Professions commonly have codes of ethics regulating standards for the protection of clients and the public, and the desire for professional status is a major rationale for the development of police codes of ethics (p. 234). Within the United States, individual police departments have codes or canons of ethics, and the International Association of Chiefs of Police (IACP), which is dominated by the United States, finalized its Law Enforcement Code of Ethics in 1991 (see the “Law Enforcement Code of Ethics” Closer Look box).

## What Is the Relationship Between Ethics and Codes of Ethics?

Kleinig (1996: 239) suggests that statements of values and ethical standards are likely to be briefer and more general than codes, with the latter detailing what kinds of acts may or may not be performed. Most codes of ethics are directed toward an undefined client or public base, and it may be in the public interest to establish certain standards expected of a particular profession. In this external sense, codes may be seen to have a rhetorical function and can provide some assurance that police do follow standards or are being urged to follow them by the code. Kleinig says that it is increasingly common for codes to be used as internal documents so that even when they are phrased in generalities, they at least identify issues and provide criteria for decision-making.

Police academies apparently use codes of ethics as a teaching device; however, codes cannot be considered definitive and do not usually include enforcement procedures (Kleinig 1996: 248). Kleinig cautions that although police officers pledge themselves to their codes of ethics, this does not mean they are required to sacrifice their reflexivity as individuals, and police may well find that their codes do not respond adequately to the situational demands placed on them. In one study, more than 75% of police officers surveyed responded that they depended mostly on their own personal ethics rather than the ethics of law enforcement to guide them in their professional activities (Felknes 1984: 217).

## Police Compliance With Ethical Codes

The standards of conduct incorporated in codes of ethics are directed at each individual police officer, and therefore, each officer must decide his or her own level of compliance. While some studies suggest that ethical standards held by officers during initial training diminish once they are “on the job” (Crank and Caldero 2000; Rokeach, Miller, and Snyder 1977; Zhao, Ni, and Lovrich 1998), Dennis Catlin and James R. Maupin (2004: 299) argue that socialization within law enforcement has no effect on an officer’s ethical orientation. Ultimately, compliance may become a question of character, and officers may be admonished to “do the right thing even when no one is watching.”

Part II of this book explores various ethical theories, including virtue theory, which emphasizes the importance of character, and deontology, which argues that one must do the right thing even though others are not there to see simply because there is a duty to do the right thing. Clearly, this theory has considerable relevance for codes of ethics regulating standards of behavior in policing.

## Ethics Instruction

Most would agree that ethics training and knowledge is essential for law enforcement in light of the complexities of policing and the legal liability issues that arise when police behave improperly and violate the public trust. The *Final Report of the President’s Task Force on 21<sup>st</sup> Century Policing* (2015) states,

despite the increased attention to 21st century police principles, evaluations of police training curricula show that in reality, there has been little to no progress in the implementation of a rigorous police training reform that is framed around educational principles and reflects the ethical values of public service.

Ethics training gained considerable traction in the 1990s when the IACP recommended providing ethics instruction for all ranks throughout an officer’s career, incorporating decision-making

models in instruction, discussing values and developing critical-thinking exercises, and using adult-learning models (Wyatt-Nichol and Franks 2009: 40). Preservice training in ethics in police academies is usually mandated, but the time spent on the topic is typically only between 2 and 4 hours (p. 41). In a survey of 100 selected police departments, Heather Wyatt-Nichol and George Franks found that among departments that required ethics training in the academy as a preservice requirement, most indicated that the instruction lasted half a day or less, and only a few departments required one full day of ethics training (p. 39). Nevertheless, some departments gave ethics greater prominence, with two departments reporting that one week of ethics training was required.

Only 14 departments required ethics training in service, while 6 reported that ethics was not mandated but was offered as an optional subject to fulfill in-service training requirements. Only 7% of departments required officers who had been disciplined for misconduct to complete ethics training. While most police chiefs took a positive view of ethics training, one chief gave his opinion:

By and large, people bring the moral and ethical values into the workplace and law enforcement is no different. Providing the training merely allows the agency to keep the subject of ethical behavior on the surface. The training will not, in my opinion, markedly change the behavior of attendees, either positively or negatively. (Wyatt-Nichol and Franks 2009: 47).

A 2022 study of 33 curricula from police training institutions found that on average, ethics courses constituted only 8.14 hours (1.27%) of the entire basic training program. In terms of actual course content, all curricula exhibited “a low-road approach” or a “low-road to high-road approach” with no curricula adopting a wholly “high-road approach.” A low-road approach can be characterized as a “stay out of trouble” perspective, whereas a high-road approach promotes “doing the right thing” (Cohen 2022: 297). Low road was expressed by giving recruits a list of actions to avoid that would constitute unethical conduct and by teaching recruits the punishments for such conduct. A high-road approach would describe the consequences not only for the officer but for the police department, the community, and the profession as a whole.

### Ethical Police Leadership

Police leaders now face considerable challenges including public disquiet over police use of force and the policing of Black communities. While many studies over time have focused on the extraordinary individual discretion exercised by individual police officers, police leadership and the necessity for it to be ethically appropriate have not received as much attention. Ethical leadership has been explained as “the demonstration of normatively appropriate conduct through personal actions and interpersonal relationships and the promotion of such conduct to followers through two-way communication, reinforcement and decision-making” (Brown et al. 2005: 120). As compared to other styles of leadership, ethical leadership has been said to have as its core objective “to cultivate ethical decision-making and behavior among followers” (Heres and Lasthuizen 2012: 441).

In England, the College of Policing, which promulgates a national Code of Ethics for police, has recognized an association between ethical behaviors and ethical decision-making (Neyroud 2019: 7). It is argued that the most significant level of leadership in police agencies is likely to be the middle level, where important operational and personnel decisions are made rather than at the level of police chief (Neyroud 2019: 10). Ethical leadership means

basing decisions on evidence. Policies of “stop and frisk,” for example, have been found to be ineffective in deterring crime. Neyroud argues, however, that while general crime strategies may not be effective, targeted police patrols to crime “hot spots” have shown to produce results provided police map communities and target places where the greatest harm occurs. This, he argues, in conjunction with appropriate tactical choices within “hot spots” represents ethical leadership. Tactical choices ought, then, ethically to include full consideration of how they will be procedurally just as between police and citizens and how they will be communicated to communities (p. 18).

## A CLOSER LOOK

### LAW ENFORCEMENT CODE OF ETHICS,\* INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE

All law enforcement officers must be fully aware of the ethical responsibilities of their position and must strive constantly to live up to the highest possible standards of professional policing.

The International Association of Chiefs of Police believes it is important that police officers have clear advice and counsel available to assist them in performing their duties consistent with these standards, and has adopted the following ethical mandates as guidelines to meet these ends.

#### Primary Responsibilities of a Police Officer

A police officer acts as an official representative of government who is required and trusted to work within the law. The officer's powers and duties are conferred by statute. The fundamental duties of a police officer include serving the community; safeguarding lives and property; protecting the innocent; keeping the peace; and ensuring the rights of all to liberty, equality and justice.

#### Performance of the Duties of a Police Officer

A police officer shall perform all duties impartially, without favor or affection or ill will and without regard to status, sex, race, religion, political belief or aspiration. All citizens will be treated equally with courtesy, consideration and dignity.

Officers will never allow personal feelings, animosities or friendships to influence official conduct. Laws will be enforced appropriately and courteously and, in carrying out their responsibilities, officers will strive to obtain maximum cooperation from the public. They will conduct themselves in appearance and deportment in such a manner as to inspire confidence and respect for the position of public trust they hold.

#### Discretion

A police officer will use responsibly the discretion vested in the position and exercise it within the law. The principle of reasonableness will guide the officer's determinations and the officer will consider all surrounding circumstances in determining whether any legal action shall be taken.

Consistent and wise use of discretion, based on professional policing competence, will do much to preserve good relationships and retain the confidence of the public. There can

be difficulty in choosing between conflicting courses of action. It is important to remember that a timely word of advice rather than arrest—which may be correct in appropriate circumstances—can be a more effective means of achieving a desired end.

### **Use of Force**

A police officer will never employ unnecessary force or violence and will use only such force in the discharge of duty as is reasonable in all circumstances. Force should be used only with the greatest restraint and only after discussion, negotiation and persuasion have been found to be inappropriate or ineffective. While the use of force is occasionally unavoidable, every police officer will refrain from applying the unnecessary infliction of pain or suffering and will never engage in cruel, degrading or inhuman treatment of any person.

### **Confidentiality**

Whatever a police officer sees, hears or learns of, which is of a confidential nature, will be kept secret unless the performance of duty or legal provision requires otherwise. Members of the public have a right to security and privacy, and information obtained about them must not be improperly divulged.

### **Integrity**

A police officer will not engage in acts of corruption or bribery, nor will an officer condone such acts by other police officers. The public demands that the integrity of police officers be above reproach. Police officers must, therefore, avoid any conduct that might compromise integrity and thus undercut the public confidence in a law enforcement agency. Officers will refuse to accept any gifts, presents, subscriptions, favors, gratuities or promises that could be interpreted as seeking to cause the officer to refrain from performing official responsibilities honestly and within the law. Police officers must not receive private or special advantage from their official status. Respect from the public cannot be bought; it can only be earned and cultivated.

### **Cooperation With Other Officers and Agencies**

Police officers will cooperate with all legally authorized agencies and their representatives in the pursuit of justice. An officer or agency may be one among many organizations that may provide law enforcement services to a jurisdiction. It is imperative that a police officer assist colleagues fully and completely with respect and consideration at all times.

### **Personal/Professional Capabilities**

Police officers will be responsible for their own standard of professional performance and will take every reasonable opportunity to enhance and improve their level of knowledge and competence.

Through study and experience, a police officer can acquire the high level of knowledge and competence that is essential for the efficient and effective performance of duty. The acquisition of knowledge is a never-ending process of personal and professional development that should be pursued constantly.

### **Private Life**

Police officers will behave in a manner that does not bring discredit to their agencies or themselves.

A police officer's character and conduct while off duty must always be exemplary, thus maintaining a position of respect in the community in which he or she lives and serves. The officer's personal behavior must be beyond reproach.

\*Adopted by the Executive Committee of the International Association of Chiefs of Police on October 17, 1989, during its 96th annual conference in Louisville, Kentucky, to replace the 1957 code of ethics adopted at the 64th annual IACP conference.

The IACP gratefully acknowledges the assistance of Sir John C. Hermon, former chief constable of the Royal Ulster Constabulary, who gave full license to the association to freely use the language and concepts presented in the RUC's "Professional Policing Ethics," Appendix I of the Chief Constable's Annual Report, 1988, presented to the Police Authority for Northern Ireland, for the preparation of this code.

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## POLICING AND STRESS

The notion that law enforcement is a stressful occupation is unsurprising given the nature of policing. For example, research studies have long focused on aspects of the policing mission and identified posttraumatic stress disorder (PTSD) as a condition likely to be experienced by police after shooting incidents. In such incidents, common reactions have been flashbacks, sleeping problems, time distortion, emotional reactions (including crying, anger, and elation), and fear of the legal repercussions of the shooting (Stratton, Parker, and Snibbe 1984: 127). Therefore, it has long been established that policing is a high-stress and high-strain occupation (Gershon, Barocas, Canton, Li, and Vlahov 2009: 276).

During the mid- to late 20th century, the study of stress began to focus on policing. While some police agencies conducted research into stress and established employee assistance programs, it was not until 2000 that the first confidential hotline for police and their families was established in New Jersey, following a series of police suicides, using retired officers with skills in crisis intervention techniques (Waters and Ussery 2007: 171).

As an at-risk group, police are exposed to more acute stressors than people in most occupations, as evidenced by officers beginning their careers in excellent physical health and retiring early or dying from stress-related causes. Suppressing emotions is often a precursor to forms of stress, and the task of policing generally inhibits free emotion, as does the police culture itself. The then-chief of the Cincinnati Police Department in the early 1970s spoke of police culture as leading "officers to believe that they are a special population that has superhuman abilities and no weaknesses." Nevertheless, police culture values the figure of the "tough cop" able to withstand any amount of pressure (quoted in Waters and Ussery 2007: 172). In fact, the contrary is true, because officers become vulnerable to stress by having to be constantly vigilant. Exacerbating the stress problem is that departments tend to ignore it in favor of issues of training and equipment.

### The Nature of Police Occupational Stress

Manning (2007: 73) describes organizational tensions within policing as arising from officer perceptions that their organization is "capricious, unpredictable and punitive rather than democratic and fair" and because officers "feel at risk from the internal machinations of politics, supervision, policies and uncertain events or incidents."



Workplace problems are important stressors, and studies have identified the following factors:

- Unsatisfactory interactions with fellow officers
- Concerns about status and opportunities for advancement in the department
- Bias and harassment
- Over- and underestimates of physical capabilities (Morash, Haarr, and Dae-Hoon 2006: 27)

Some stress is the outcome of a lack of support from networks both at work and at home. Shift work is also an issue in stress management because constant shift changes lead to serious health problems brought on by interrupted sleep patterns, digestive issues, and the general impact on physical and psychological well-being (Waters and Ussery 2007: 175). Excessive overtime, heavy workloads, and frequent interaction with the public all contribute to stress (Gershon et al. 2009: 276).

Organizational-based stress can seriously undermine law enforcement effectiveness through health issues, poor morale, and high staffing turnover rates (Gershon et al. 2009: 277). Studies have found that organizational stressors and not critical policing incidents are most closely associated with police stress (p. 284). Generally, police who experience high levels of stress report physical ailments and commonly have poor health, are often absent from work, experience burn-out, experience job dissatisfaction, may not be truly committed to the policing mission, and may retire early (Morash et al. 2006: 26).

### Stress and Crime Fighting

In terms of the policing mission, working in high-density/high-crime areas, working in metropolitan areas, and being employed in large departments differentiate the large municipal police departments from those that serve small cities and suburban and rural areas, where different behaviors and attitudes are found. In large departments, stressors may be associated with high levels of discipline and regulation and a more proactive, even militaristic approach to policing. In small departments, there may be less crime and more scope for community-type policing that diminishes the isolation of police from the local community (Morash et al. 2006: 29). However, in a survey of about 1,000 officers from 11 police departments, including one serving a population of more than 1.5 million and one serving half a million, Morash and colleagues (p. 36) found that high crime rates and poverty did not have strong predictive value in explaining police stress. As well, it was found that the violent crime rate was not associated with high levels of stress. This result could be explained by the fact that even in a high-crime jurisdiction, many police do not directly deal with violence most of the time, or possibly a high crime rate is not a principal stressor.

Policing can mean that each call for police assistance has the potential for violence and injury or death. Domestic violence cases are especially dangerous, as the protagonists may turn on the police. Police face three types of stress: **explosive events** (for example, crimes in progress); **daily tensions** that corrode confidence and resilience; and **implosive events** that challenge an officer's values and bring about internal conflicts (Waters and Ussery 2007: 175). Additionally, police continually swap "war stories" that illustrate the potential for danger and constantly view media images of danger in policing (Griffin and Bernard 2003: 12).

According to the National Law Enforcement Officers Memorial Fund (n.d.b.), 226 officers died on duty in 2022, a decrease from the 586 deaths in 2021 (the significant decrease is associated with a reduction in deaths due to the COVID-19 pandemic). In 2022, traffic accidents (auto crash, motorcycle crash, and struck by vehicle = 56) and firearms (64) accounted for 120 fatalities and were the leading causes of death. Job-related illness was the next-highest cause of death, responsible for 97 deaths, 70 of which were related to COVID-19 (National Law Enforcement Officers Memorial Fund n.d.a.).

Policing also means adapting to change, which can itself be a stressor—for example, when a policy of community policing is introduced that might require significant role changes (Chan 2007: 134). Depression and heart disease are prevalent in police populations, and stress has been associated with problem drinking and hyperaggression, both on and off the job (Gershon et al. 2009: 276). The death of or injury to a fellow officer—an event that occurs only irregularly in other occupations—is known to be especially stressful.

### Coping With Stress

It has been suggested that police culture itself develops in a way that helps police cope with the pressures and tensions of police work; for example, officers may rely on the mutual assistance and solidarity that are core elements of police culture (Chan 2007: 130, 144). There are numerous types of treatment and prevention programs for police, ranging from psychological counseling and Alcoholics Anonymous to training about stress at police academies. An officer may decide to cope with stress through alcohol, even though alcohol abuse is associated with domestic violence and poor job performance. Nevertheless, as a coping mechanism, alcohol is generally condoned by police culture (Waters and Ussery 2007: 176). Studies have shown that police are reluctant to contact mental health professionals because police culture disapproves of such action, and officers tend to have little confidence in professionals who are not closely associated with policing. As well, an officer may fear loss of his or her job because consultations with mental health practitioners may be held against them in disciplinary proceedings or even in litigation if they abuse their authority by using excessive force (p. 177). Generally, individual coping strategies (p. 177) include the following:

- Access to a dependable support system
- Improved communication skills to better articulate individual concerns (an appropriate mechanism that allows feelings to be vented)
- A regular exercise program and a good diet
- Recreational activities that allow an individual to “turn off” from work
- Participation in self-help groups
- Regular vacations

Departments can help officers to minimize or avoid stress through organizational practices and mechanisms that teach officers about stress and how to cope with it; by having open channels of communication to supervisors who are in turn supportive and understand how to recognize and respond to stressed officers; and by having debriefing sessions at the end of shifts (Waters and Ussery 2007: 184).

Officers without a supportive family or friends may be especially vulnerable to stress (Gershon et al. 2009: 276). A study of the lives of five former police officers who had engaged

in forms of undercover and covert policing, described as one of the highest-rating stressors for police officers, revealed that participants feared being discovered and being subjected to violence, including sexual violence in the case of the two female officers (Curran 2021: 256). These fears provoked feelings of paranoia, anxiety, and a state of hypervigilance. Some officers were unable to disassociate from their undercover persona when not working undercover. They coped through family and work-related support and relieved stress through regular exercise, which they regarded as the most effective coping mechanism (p. 256).

### Angry Aggression

Griffin and Bernard (2003: 3) have proposed that the use of extralegal (as opposed to excessive) force by police can be explained by “angry aggression theory.” Extralegal force refers to the deliberate, knowing, and wrongful use of force by police, such that police are aware they are abusing their power. In other words, police have the intent to act extralegally (p. 5). The authors of this theory, which is composed of elements of sociology, psychology, and biology, argue that it better explains police extralegal force than do theories that focus on individual psychological characteristics such as “authoritarianism” or on police culture.

Angry aggression theory originated to explain violent responses to minor conflicts and insults by disadvantaged minorities in the inner cities. It posits that persons who experience chronic physiological arousal—the body’s “fight-or-flight” response—tend to see threats and respond to them more aggressively than do others who do not have that experience. These responses become embedded in norms and values. The literature also supports the notion that police experience chronic arousal and therefore tend to see threats and respond with aggression to an extent that others do not. The theory makes the case that police transfer aggression to visible targets in their immediate environment—namely, members of the public with whom they interact. The stressful nature of policing (including citizen disrespect and challenges to police authority), its social isolation (police tend to socialize only with other police), and the inability of police to actually relieve the stress they experience (police are generally unable to relieve the stress of danger, citizen hostility, and organizational pressures) are all said to link angry aggression theory directly to use of extralegal force (Griffin and Bernard 2003: 12).

Clearly, research demonstrates that police experience numerous stressors on the job, and mechanisms for alleviating stress are crucial if stress is not to result in domestic violence in the home, alcohol abuse, angry aggression, or even suicide. Police use of force is an intrinsically complex issue impacted by training, experience on the job, police culture, occupational stressors, perceptions of illegitimacy by the public, and media representations of how and why it was used and to what degree (see Chapter 3 on police use of force).

## POLICE “MILITARIZATION”

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Since the late 1990s, scholars have advanced the proposition that there has been a “militarization” of policing in the United States. This proposition is focused on one aspect of policing and had drawn little attention outside academia until the events in Ferguson, Missouri, a town of about 21,000 people, in August 2014, when a white police officer shot and killed an 18-year-old Black male. The public response initially focused on questions of race and bias and resulted in protests in the streets, some of which turned to looting and violence. Local law enforcement handled the situation by sending in police equipped with military-type weapons and body armor and accompanied by armored vehicles. This was widely viewed as police overreaction to the

protests and focused public attention on the style and tactics of the policing of the protests. Questions were raised, generally about the nature of policing in the United States and how it had become militarized and the consequences of this for the public (Kiker 2015: 282).

This section examines the historical and contemporary context associated with the separation of police and the military, the theories and the narrative of militarization, and the nature of that militarization and how it has been said to have changed policing and the possible consequences.

### Historical and Contemporary Context—Police and Military

Since 1776, the United States has sought to isolate the military from involvement in civilian affairs, citing the quartering of British troops in colonial Boston in the late 18th century as a show of power over a dissident population. However, the Reconstruction Act that followed the end of the Civil War divided the Confederate states into military districts and placed them under military control. Consequently, at that time, the military became the principal law enforcement agents. A rule prohibiting military involvement in domestic law enforcement was adopted in the Posse Comitatus Act (PCA) of 1878. The decisions of the courts have confirmed this isolation approach and have noted “a traditional and strong resistance of Americans to any military intrusion into civilian affairs” (*Laird v. Tatum* 1972).

In World War I, the PCA was suspended, enabling the military to be used in aiding the policing of domestic unrest, and the National Guard was deployed overseas (Hall and Coyne 2013: 491). In 1981, the PCA was substantially weakened when it was amended to allow the military to participate in the war on drugs (Kiker 2015: 294). Specifically, the Military Cooperation With Law Enforcement Act created exceptions to the PCA and allowed the Department of Defense (DOD) to share information, as well as the military to provide advice and assistance to local police agencies and to offer them military equipment for deployment in the war. As well as providing aerial surveillance to interdict drug shipments, National Guard troops (provided by federal funds) were used by many states in prohibiting drug activities (Hall and Coyne 2013: 494–495).

As noted earlier, events in the town of Ferguson, Missouri, raised the profile of militarized policing, and soon after, the U.S. Senate reacted to public concerns by debating and holding hearings about federal programs that allowed police departments to obtain military assets at no cost. The general approach of the Senate was that this kind of equipment and its deployment as part of police tactics brought about mistrust between police and the communities they were supposed to protect and serve.

### The Militarization Thesis

The foremost proponents of the militarization thesis are Kraska and Kappeler, especially Peter Kraska, who alone or with other scholars has researched and drawn attention to the expansion in the creation of SWAT teams in U.S. law enforcement agencies (Kraska 2007c: 1). Kraska’s argument is that there has been a “little noticed but nonetheless momentous historical change—the traditional distinctions between military/police, war/law enforcement, and internal/external security are rapidly blurring. . . . Two interrelated trends . . . embody this blur: the militarization of U.S. police and crime control, and the police-ization of the U.S. military” (2007c: 1). In support of this convergence argument, Kraska points to the following:

- The weakening of the law preventing military involvement in law enforcement
- The creation of cooperation between police and the military, including technology transfers, information sharing, an operational relationship on drugs control and terrorism, and cross-training on SWAT tactics and antiterrorism

- The growth and routine use of SWAT units modeled on military units
- A “growing tendency” for police to rely on the war/military model in designing crime, drug, and terrorism control and operations
- Constructing crime as “insurgency” and crime control as “low-intensity conflict,” requiring the performance of counterinsurgency measures by police and the military (2007c: 2)

Kraska sees the notions of *militarization* and *militarism* as organizing concepts to better understand the changes that have occurred in policing since the 1960s, when the SWAT concept was first introduced. He offers this explanation of militarism:

[It is] an ideology focused on the best means to solve problems. It is a set of beliefs, values, and assumptions that stress the use of force and threat of violence as the most appropriate and efficacious means to solve problems. It emphasizes the exercise of military power, hardware, organization, operations and technology as the primary problem-solving tools. (2007c: 3)

Militarization is therefore the implementation of the ideology of militarism; it means “adopting and applying the central elements of the military model,” and it is represented in policing by police drawing on and patterning themselves around “the tenets of militarism and the military model” (Kraska 2007c: 3).

Kraska recognizes that the police have always been militarized to some extent and suggests there is a continuum of militarization. He proposes a set of indicators from which the degree of militarization can be measured. The indicators relate to type of weapons, military style such as combat dress, the use of elite squads and command and control entities, and operational factors, including using SWAT teams to execute “no-knock” drug warrants. Wherever SWAT units may be located on this continuum—Kraska does not offer an opinion on this—it remains unclear whether it is being argued that police have taken on the “primary war-fighting task of the standard military organization: to overwhelm and subdue” (Campbell and Campbell 2010: 338) or whether their role remains more limited than this. It is argued that even with a degree of militarization, there is no convergence of police and military roles in terms of “cognitive demands,” because while even a police patrolman may exercise significant discretion in carrying out missions, a rifleman is required to simply obey orders (p. 339).

### Number and Deployment of SWAT Units

Based on survey research, Kraska (2007c) makes the case that as of the late 1990s, about 89% of police departments serving populations of 50,000 or more had an established paramilitary unit, representing a doubling of such forces that existed in the mid-1980s. In towns of fewer than 50,000, the growth in such units was even more marked, with about 80% having a paramilitary unit compared to only 20% in the mid-1980s. Also significant is the rate at which these units have been deployed. Kraska argues that there was a 1,400% increase in deployments between 1980 and 2000 and that by 2007, when his study was published, there were an estimated 45,000 deployments of SWAT teams annually among the departments he surveyed, compared to an average of about 3,000 in the early 1980s. This trend began with the declaration of the war on drugs. The increase is not attributable to a growth in dangerous incidents for which SWAT units were originally conceived, such as hostage, terrorism, or “sniper” situations (Kraska 2007c: 6). In fact, regardless of the size of the town, more than 80% of deployments were for drug raids

with “no-knock”<sup>2</sup> entries into property searching for drugs (p. 7). Additionally, a high number of deployments were to undertake “routine patrol work in crime ‘hot spots,’” indicating a normalization or routinization of SWAT units.

According to Kraska (2007a: 166), this represents a dramatic change in police tactics; in his view, prior to the 1990s, such tactics were almost unheard of and would have been considered an “extreme and unacceptable police tactic.” This may be because there is now a perceived threat equivalent to the war on drugs at that time, but Kraska does not discuss this. He concludes that this represents “strong evidence that the U.S. police, and the ‘war on crime’ in general, have moved significantly down the militarization continuum” (Kraska 2007b: 793). An alternative view is that the frequent development of SWAT units was a reaction to the new demands placed on policing by the war on drugs—for example, in responding to well-armed and highly dangerous drug operations. This view therefore suggests that increased use of SWAT units is simply a response to needs and does not represent any real change in policing styles (Campbell and Campbell 2010: 329).

A 2014 study by the American Civil Liberties Union (ACLU) looked at 818 SWAT incidents involving more than 20 police agencies in 11 states covering the period from July 2010 to October 2013. In seven cases, civilian deaths occurred in the course of SWAT team deployments. The study also found that 62% of SWAT callouts were for drug searches, and 79% involved raids on private houses. Only about 7% of callouts fell into the categories of action for which such units were conceived, namely, “hostage, barricade and active shooter scenarios” (p. 2). The report describes SWAT raids as “undoubtedly violent events” involving 20 or more officers carrying assault rifles and grenades who break down the doors of premises and scream at those inside to get down on the floor. In the view of the ACLU, SWAT deployments often “unnecessarily entailed the use of violent tactics and equipment including Armored Personnel Carriers (APCs); and the training provided to such units encourages the development of a ‘warrior’ mentality” (p. 3).

The ACLU concluded in its assessment of deployments that the use of SWAT teams to serve search warrants was inappropriate because officer safety did not appear to be under genuine threat. Of the incidents in which officers believed weapons would be present (usually a handgun, not an assault rifle), weapons were found in only 35% of cases. ACLU argues that SWAT units should not be deployed based solely on probable cause of the presence of drugs and that warrant service is appropriate only if it can be demonstrated that regular police cannot execute a warrant without facing “an imminent threat of serious bodily harm” (2014: 4). The ACLU notes that “reasonable standards for deploying SWAT teams appear to be virtually non-existent” (p. 4).

In terms of targets for SWAT raids, the ACLU found that “the use of paramilitary weapons and tactics primarily impacted people of color” (p. 5). Specifically, in drug searches, the targets were primarily people of color, but in hostage and barricade situations, whites were the targets. Overall, the ACLU study found that 42% of persons subjected to SWAT raids to execute warrants were Black and 12% Latino; therefore, for all warrant deployments, at least 54% of the suspects were minorities (p. 5).

<sup>2</sup>Police are not required to “knock and announce” in order to execute a search warrant if they have reasonable suspicion that there is a threat of physical violence or that giving advance notice would result in the destruction of evidence. If they are satisfied that either of these situations exist, they can secure a “no-knock warrant,” which allows forcible entry without prior announcement of police presence. The police have significant discretion in executing search warrants then, but even if a court finds police have violated the general rule that requires knock and announce, the Supreme Court has said that the evidence seized will not be excluded (ACLU 2014: 24).

## Causes of Militarization

Kraska (2007b) and other commentators point to two government strategies as key in the growth of militarization—the war on drugs and the war on terror. These metaphorical wars are argued to have shaped policing through the use of militaristic rhetoric. It is not clear how this occurred, and there seem to be no empirical studies that actually map how and why police departments came to form SWAT units. There are, however, some demonstrable linkages between law enforcement and these wars in the form of military involvement in the war on drugs and the transfer of equipment to police agencies to support the two wars. It is also argued that a driver of the move to militarism was the perception among police that SWAT teams and the like are elite forces and associated with “real police work,” similar to the high status that special forces enjoy within military culture (Campbell and Campbell 2010: 335).

The war on drugs is discussed in Chapter 9, but in summary, the “war” was declared by President Nixon in the 1970s and was conducted by the Drug Enforcement Administration (DEA) and local police agencies with military assistance and great publicity. By the end of the 1980s, mass arrests for drug offenses were taking place, fears about crack cocaine and drug abuse generally were being fostered, and popular support for the war had increased such that by 1989, almost 40% of the public considered illegal drugs to be the “primary problem” facing the United States, and by 1993, 64% viewed drugs as a “critical” influence on crime. There was wide support for taking the war overseas to the drug-producing countries and for using the military to fight drug trafficking.

Some scholars have argued that while the effects of militarization in policing are clear and explicit in the growth and nature of SWAT-type units, the causes remain contested; they also argue that the war on terror was not a cause of but rather an excuse for militarization and that policing has become militarized worldwide because of the amplification of threats to national security (Hill and Beger 2009: 29).

Applying a political economy perspective to militarization, Hall and Coyne (2013: 488) suggest that what they term “indirect militarization” occurs over time when police departments as bureaucracies engage in “mission creep” with the aim of expanding the range of their activities and increasing their spending. This tendency is argued as “inherent” and exemplified by the increase in the military budget from \$306 billion in 1988 to \$698 billion in 2010 (p. 488). Similarly, police spending climbed, growing 445% between 1982 and 2007. Hall and Coyne therefore argue that police agencies expand their operations to secure additional staff and funds. Having secured more funds, tactical training, and weapons, they face an incentive to use them to justify the increase and seek yet more funding (p. 488).

Hall and Coyne (2013) also point out that actual or perceived crises as well as moral panics that are fear based and associated with forms of crime or terrorism give government the opportunity to expand its activities by formulating new programs. The war on drugs and the war on terror are instances of such crises, and both created the opportunity for expansion of policing services (p. 488). Improvements in military technology also play a role as they are transferred to police agencies in the form of drones, satellite monitoring, and facial recognition systems. This, Hall and Coyne argue, facilitates the militarization of the police (p. 490). Kraska (2007b) does not mention that many police agencies have regularly recruited military veterans as patrol officers since the end of the Civil War. Whether the presence of military veterans in line positions or in SWAT units affects police culture or tactical perspectives has not yet been established (Crank, Kadleck, and Koski 2010: 408).

## The Consequences of Militarization

Kiker (2015) has argued that the move toward militarizing police began in the 1960s in Los Angeles when then–police chief Darryl Gates, faced with riots and looting in the Watts district of the city, decided that traditional police tactics were inadequate to deal with the situation and created a tactical unit—the first Special Weapons and Tactics (SWAT) team. With assistance from a nearby U.S. Marine Corps unit, Gates deployed the SWAT unit for the first time against the headquarters of the Black Panthers. By 2007, about 80% of U.S. towns with a population of between 25,000 and 50,000 persons had an operational SWAT team (p. 288). In Maryland, a report was released, revealing that Maryland deployed a SWAT team an average of 4.5 times every day in 2014 and that more than 93% of those deployments were for the purpose of executing a search warrant, and about 60% were for nonviolent crimes (p. 288).

The deployment of SWAT teams has become a pervasive policing tactic. The following examples show how SWAT tactics have been employed inappropriately or recklessly, resulting in very adverse outcomes. Kiker (2015) argues that the existence of SWAT teams increasingly shapes aspects of policing that previously were conducted without militarized police units.

- In 2014, the U.S. Eleventh Circuit ruled in *Berry v. Leslie* that using SWAT tactics to conduct a regulatory raid on Orlando, Florida, barbershops was a violation of the Fourth Amendment.
- In St. Louis County, Missouri, the location of the town of Ferguson, police have determined that they will use SWAT teams to serve all felony warrants.
- In 2012, a police chief in Arkansas announced that he would bring in a policy that SWAT officers would patrol the streets of the small town he policed and stop all pedestrians, requiring identification and an explanation of why they were walking the streets (Kiker 2015: 289–290).
- In Detroit, a 7-year-old girl was shot in the head and killed by a SWAT team member who entered her home in search of a suspect who lived in another unit of the duplex owned by the girl’s family. The team had been warned before the raid that there were children in the home (p. 290).
- In Cornelia, Georgia, a SWAT team that executed a no-knock warrant on a suspected drug dealer threw a flash-bang grenade prior to entering his house. It landed in the crib of a small child, who was severely burned (p. 291).
- Today, police militarization has reached university police departments and schools. At least two university law enforcement units have obtained grenade launchers from federal sources, and the Ohio State University police unit has a mine-resistant ambush protected (MRAP) vehicle (specifically designed to withstand explosives attacks) to provide “presence” on football game days (ACLU 2014: 22).

Even in a context where violent crime continues to decrease, the expansion of the tactical use of SWAT teams continues. Hill and Beger claim that militarization subverts democratic policing and encourages the perspective that inner cities are war zones, with the urban underclass constituting the enemy (2009: 32). Thus, individual rights are in danger of being disregarded when the traditional police role of “protect and serve” is reconfigured to “overwhelm and defeat” (Campbell and Campbell 2010: 329). Campbell and Campbell do not explain the degree to which this claimed erosion of rights is occurring, but it is clear that even with an expanded



jurisdiction, SWAT units are not dominating policing, nor are they likely to do so. Any claims otherwise would need to be supported by empirical research. As to the public reaction to SWAT units, Jefferis (2012: 71) argues that the public accepts their law enforcement officers behaving as and resembling soldiers because the rhetoric of fear associated with violent crime and terrorism warns that the “enemy” is always close by.

Some police agencies have, however, opted out of the drive to militarize. Police commanders have questioned the effectiveness of SWAT activities, such as patrolling in full tactical gear, noting that communities find these shows of force intimidating and offensive (Campbell and Campbell 2010: 335). Nevertheless, most departments have retained their equipment, and some scholars believe that as long as the wars on drugs and terror persist, the militarization of policing will continue, promoted by the “drug-terror complex” (Hall and Coyne 2013: 500). It is not clear if this means policing operations will increasingly be handed over to SWAT units or whether the changes in policing said to have already taken place will be enhanced or even accelerated.

### Critiques of the Militarization Thesis

Kraska and Paulsen (1997: 266) argue that SWAT teams engender fear and outrage within communities, but Waddington (1999: 129) has countered that there is a lack of evidence to support this assertion. He suggests that SWAT teams could not have expanded beyond the original Los Angeles model without political support and that the general public has at best remained apathetic about their expansion and the tactics they employ. He therefore disputes the notion that such units inspire public fear, drawing on international studies that show no correlation between public approval of the police and the weapons they carry and have found police in armed jurisdictions to be no less popular than unarmed police.

The ACLU (2014: 23) noted that the Cary, North Carolina, SWAT team offered a training session called “Warrior Mindset/Chemical Munitions,” but Waddington rejects the argument that SWAT teams constitute a “warrior culture” and are “warrior cops” who have adopted a military-style culture, enjoy action and combat, delight in possessing and using powerful weapons to fight crime, and maintain a strong esprit de corps. He contends that SWAT teams may well have their own culture, but it remains a police and not a warrior culture because SWAT team values are shared by most police (1999: 130). While Kraska suggests that SWAT units see themselves as elite police involved in real crime fighting and in dangerous activities, it can be said that police culture (see earlier section on “Police Culture”) similarly perceives the policing mission as crime fighting. Therefore, there may be little difference in role assumption between SWAT teams and patrolmen. Kraska (2007c) does not discuss the articulation between police culture and militarization.

Finally, Waddington (1999: 133) points out that while the military is trained to use lethal force indiscriminately in order to defeat an enemy, police may target specific individuals only for good reasons, and while they have discretion to use force and violence, it is limited and circumscribed by rules and institutional practice. Therefore, he argues that it cannot be said that police have adopted a military culture or posture—their training and their missions are completely different. While it is true that SWAT units are heavily armed and protected by body armor, they must be discriminating in using their weapons compared to the military, who generally favor volume of fire as opposed to accuracy (p. 135). For example, if SWAT teams use flash-bang grenades when entering a building, this contrasts with the military, whose practice is to throw a shrapnel grenade into a room and spray it with automatic fire. Nevertheless, while contending that Kraska overstates his case, Waddington agrees that “if the distinction between police and military disappears, then it threatens the very basis of democratic polity” (p. 137).

Den Heyer (2014: 347) reviews the militarization thesis, but like Waddington, he maintains that police are not being militarized and that the establishment of SWAT-type units is “a natural progression in the evolution and professionalization of one aspect of policing agencies.” He argues that contentions about the war on drugs, the war on terror, and the enticing culture of SWAT units “display a lack of understanding of policing, police institutions and of police officers” (p. 347). In his view, in other words, SWAT units both in the United States and in other countries were established in response to a specific incident or series of incidents or because police required a SWAT capability to respond to armed offenders. Thus, he denies the militarization thesis in favor of the proposition that police were merely responding to an actual or perceived need for specialist units.

While agreeing there has been an increase in SWAT callouts, den Heyer points out that there are no data on the reasons for this increase or on the type of incident for which a unit was deployed. Conceding there has been a change in policing because SWAT units are now executing search warrants, especially in drug cases, den Heyer disagrees that this signifies the militarization of “mainstream policing.” Instead, he maintains it represents the “rational utilization of resources and the appropriate use of expensive and highly trained personnel” (p. 354). Relying on events in New Zealand when two officers were killed in making routine drug-related inquiries, den Heyer suggests that the increased use of paramilitary units there relates to officer safety and notes that such units are subject to detailed regulation.

## A CLOSER LOOK

### MILITARY EQUIPMENT TRANSFERS TO LAW ENFORCEMENT: THE FEDERAL 1033 PROGRAM AND HOMELAND SECURITY GRANTS

The federal 1033 program, begun in 1997 and administered by the Department of Defense, permitted the transfer of surplus military equipment to police departments at no cost. The initial purpose was to use the equipment in counterdrug activities, but this was later broadened to also assist in the global war against terrorism by securing the “homeland” against possible terrorist attacks (ACLU 2014: 16). Between 1995 and 1997 alone, the DOD gifted 1.2 million items of military hardware to police agencies, including M16 rifles, grenade launchers, and armored personnel carriers (Hill and Beger 2009: 30). The DOD-supported transfer program claimed that the considerable financial investment in various weapons was justified because these items possessed a “dual-use status” (Campbell and Campbell 2010: 335). The 1033 program required that agencies taking delivery of equipment put it to use within one year of receipt, thereby incentivizing agencies to deploy military equipment in law enforcement (ACLU 2014: 16). Of the equipment transferred under the program, 36% was brand new, and it was therefore possible for the DOD to purchase equipment and simply transfer it on to law enforcement agencies free of charge (ACLU 2014: 24).

The Associated Press (AP) reported on November 24, 2013, that the equipment transfers included 18-ton, armor-protected, military fighting vehicles called MRAPs with bulletproof glass and gun turrets that were used in Iraq to counter roadside bombs (in Peak 2015: 201). At least 600 MRAPs have been given away. As one county sheriff in Albany, New York, stated, “It’s armored. It’s heavy. It’s intimidating. And it’s free.” An AP investigation revealed that of the \$4.2 billion worth of equipment distributed since 1990, a disproportionate share had been delivered to rural police and sheriffs with small police forces and little crime. The equipment transfers are justified on the basis that they are necessary

in conducting the wars on drugs and terror and to generally enhance homeland security (p. 200). The equipment has been described by critics of these transfers as “representing symbolic statements of war” (p. 206).

Following the events of 9/11 and the formation of the vast Department of Homeland Security (DHS) with a 2013 budget of more than \$60 billion, in 2003, the DHS began to provide grants to law enforcement that could be used to acquire military equipment under the Homeland Security Grant Program, which states its objectives as including preventing future terrorist attacks. Significantly, the grant program does not authorize grants to be spent to “supplant inherent routine patrols and law enforcement operations or activities not directly related to providing enhanced coordination between local and Federal law enforcement services” (Peak 2015: 203).

There is now a network of private suppliers actively marketing weapons and tactical equipment to police agencies, ensuring the persistence and growth of paramilitary units. As well, pressure and special-interest groups comprising the “terror industry” made up of government agencies, technocrats, consultants, and private companies offer security and antiterrorist training and services and promote SWAT-type units as a means to counter the fear of terrorism (Hall and Coyne 2013: 489). In the war on drugs, police and prison officer unions lobbied for more funds, and police became increasingly dependent on federal funding for antidrug measures. The police wanted more stringent antidrug laws, and the companies running private prisons saw the opportunity to expand their earnings via the increased incarceration of drug offenders (p. 496).

In an article in the *New York Times* of June 8, 2014, Matt Apuzzo describes the town of Neenah, Wisconsin, with a population of about 25,000, where police took delivery of a 30-ton armored truck. The town had not had a homicide in more than 5 years, but the police chief justified the truck on the basis that the “possibility of violence, however remote, required taking precautions.” He is quoted as saying, “We’re not going to go out there as Officer Friendly with no body armor and just a handgun and say ‘Good enough.’” The police chief described a proactive police approach during a shooting or standoff; instead of setting up a perimeter and waiting out the suspect or negotiating, “police are trained to move in and save lives.”

In another justification for armored vehicles, the Richland County Sheriff’s Department in South Carolina has a website featuring its SWAT team flanking an armored vehicle resembling a tank with a mounted .50-caliber gun. The department spokesman said that the vehicle “allows the department to stay in step with the criminals who are arming themselves more heavily every day.” Police take the truck to schools and community events, where it is a “conversation starter.” In the suburbs of Indianapolis, officers justified a mine-resistant vehicle to “protect against a possible attack by veterans returning from war” (Apuzzo 2014).

At the same time that the president of the police federation was reported justifying the equipment to save the lives of hostages and ensure officer safety, the police chief of the town of Bloomingdale, Georgia, with a population of fewer than 2,800 persons, secured armored vehicles and grenade launchers through the 1033 program, even though he has not had to use deadly force against anyone in 20 years (Peak 2015: 202).

In 2014, President Obama ordered a review of the acquisition programs that dispatched military-grade equipment to police forces, and in January 2015, he issued an executive order creating a working group that, among other tasks, was to examine the equipment issue (Kiker 2015: 295). On May 18, 2015, President Obama announced he would ban the transfer of some types of military-style equipment to police departments and restrict the availability of other equipment (Davis and Shear 2015).

On April 30, 2015, Montana passed legislation to ban the state from receiving categories of military equipment from the federal government under the 1033 program. The prohibition covers weaponized drones, combat aircraft, grenade launchers, silencers, and militarized armored vehicles (“Montana Legislature Passes Bill” 2015).

## A CLOSER LOOK

### ETHICAL POLICING AND DRONES

This chapter discusses the militarization of policing, explaining how, over time, police agencies have reequipped themselves with new weapons and technologies to bring them closer to a military model in terms of both their policing ideology and their policing assets. Drones have been used in policing for some years. (Chapter 10 discusses the use of drones by the military as weapons in the “war against terrorism.”) Here, we examine how police have used drones, whether drones are being or could be weaponized for police use, and the ethics associated with drone deployment.

Technology has enabled the use of drones, defined as “airborne devices that are controlled remotely by computer systems and/or operators on the ground” (Salter 2014: 163), for multiple purposes, including extensive military use in overseas operations conducted by the U.S. for counterterrorism purposes. The marketing of drones for domestic purposes in the U.S. has included police agencies since 2005. In 2012, police agencies met in Australia to discuss the use of drones in law enforcement, with one Australian state police minister claiming drones had become recognized as a useful tool for law enforcement, ideal for inspecting high buildings, after fires, or searching for missing persons and drugs (Salter 2014: 170).

Similar statements from police in the U.S. indicated the utility of drones for surveilling public spaces generally, for terrorist attacks, and for scanning areas where felons and drug dealers might be located. Absent from these laudatory comments was any mention of the drawbacks associated with drones, such as their limited range, fragility in bad weather, and the costs of training and operation. In fact, studies have found manned aircraft to be more cost-effective. In 2012, a police paramilitary unit staged a press view of a drone, but within a few minutes of launching the \$300,000 unit, it crashed into a police vehicle (Salter 2014: 171).

During the COVID-19 pandemic in 2020, a number of police agencies in several countries deployed drones with cameras and sometimes loudspeakers to monitor public compliance with pandemic rules. Clearly, a drone could observe a crime scene from above or monitor crowds for safety purposes. There have been cases in which drones have used their cameras to obtain evidence of criminality, such as a drug sale in Florida in 2019 (Enemark 2021: 127). However, using drones to *forcefully* police public gatherings goes beyond passive surveillance in which, for example, rubber bullets or tear gas are used to control movement on the ground. If police are not present in person in such situations, there is a danger that events will not be sufficiently well monitored to prevent escalation or injury to citizens fleeing forceful measures from above.

There is speculation in the U.S. about weaponizing drones with Tasers, beanbag guns, tear gas canisters, and rubber bullets (Salter 2014: 172). Using a drone to conduct a targeted killing domestically would likely be considered an extrajudicial execution, and whether an armed drone could be used as a means of applying nonlethal force is ethically problematic (Enemark 2021: 126). In 2014, a U.S. company demonstrated how a drone-mounted Taser could deliver a shock, and in 2015, a French company displayed a drone that could carry up to 18 tear gas grenades that was being marketed to law enforcement. North Dakota law implicitly authorizes the use of drones armed with nonlethal weapons, while other states prohibit drone weaponization (Enemark 2021: 127).

In terms of ethical policing, there is concern that drone use with nonlethal weapons would represent a hardening of the militaristic ethos in policing. Because drones are associated with military use, in which a different set of moral rules about killing without warning exists, the fear is that current rules about police use of force are liable to become attenuated or even negated in favor of a more military ethos. For example, so-called collateral damage is sometimes considered acceptable in military operations, but there is no such normalization in law enforcement.

Respecting and safeguarding human life and human dignity are paramount values in policing but not in military operations. Further, the capacity to control drones from a distance raises the issue that applying force from afar through a drone is inconsistent with close police interaction with citizens that enables police to assess an incident, make speedy decisions, and react consistently with the continuum of force. Indeed, drones would not be capable of utilizing techniques designed to ease tensions through negotiation and deescalation. On the other hand, it is also argued that in terms of self-defense, police would be better assured of protection by replacing them on scene with a drone (Enemark 2021: 134).

In the United States, officer safety appears to be the primary justification for the expansion in the deployment of SWAT units, but no studies have yet analyzed the police rationale. Minimizing risk does, however, seem to be a central issue in the deployment of SWAT units. For example, Radley Balko describes how searching online police discussion boards often locates some version of the statement “Whatever I need to do to get home safe” (2013). den Heyer (2014: 355) denies any convergence between police and the military and asserts that apart from some “cross-fertilization” in the adoption of policies and procedures, there is a “clear vision” of the role separation.

### State Violence and Fear of Crime Versus Police Culture

Several levels of analysis can be applied to the issue of police militarization. One level situates the research and analysis of militarization within a wider discourse of increased state violence, fear of crime, and fear of terrorism. As Henry Giroux (2015) summarizes it,

[m]ilitarism is one of the breeding grounds of violence in the United States and is visible in the ubiquitous gun culture, the modeling of schools after prisons, the exploding incarceration state, the paramilitarization of local police forces, the burgeoning military budget, and the ongoing attacks on protesters, dissidents, black and brown youth, and women. (para. 19)

Another level of analysis might regard SWAT teams as embodying one of the core elements of police culture—namely, that the police are risk-makers. As Manning puts it, “the police seek risks in high-speed chases, arrests, raids and other interventions and act on behalf of society in taking on risks” (2007: 52).

Phillips points out (2016: 185) that the influence of police militarization has now extended beyond paramilitary SWAT units and into street-level policing. Today, street-level officers are the so-called first responders to “active shooter incidents,” and there is evidence that shotguns previously available to these officers are being replaced by the “patrol rifle”—the military-style assault weapon. This raises the question about whether the boundaries between paramilitary and nonparamilitary forces within law enforcement are diminishing. If so, what questions are posed by this development in light of explanations that street-level officers require these weapons so they are not “outgunned” by criminals or terrorists and can respond appropriately, for example, to school shootings? Issues of public safety and protection, actual limits to the use of military-style weapons on the streets, and the perceived and actual dangers faced by police are all relevant factors in considering how militarization continues to progress within law enforcement.

## POLICE CORRUPTION

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Police corruption has been variously defined as the following:

- Accepting money or its equivalent for doing something that a public official is already required to do or not required to do or in consideration of exercising a discretion for improper reasons (McMullan in Kleinig 1996: 165)
- Accepting goods or services for performing or not performing duties that are part of one's employment. A gift becomes a gratuity according to the reason for which it is given, and it is the reason the gift is accepted that constitutes the corruption (Cohen and Feldberg in Kleinig 1996: 165).
- The misuse of authority by a police officer in a way intended to produce personal gain for the officer or others (Goldstein in Kleinig 1996: 165)
- Actions taken by a police officer that exploit police powers in exchange for considerations of "private-regarding benefit" (i.e., the range of awards acquired by the officer and the officer's colleagues, family, and friends) that violate standards governing the officer's conduct (Johnston 1995: 287)

These definitions do not exhaust all forms of police misconduct. For example, improperly eliciting confessions and lying to secure a conviction are distinct forms of misconduct and are discussed in Chapter 3 (see "Ethical Issues in Investigation, Interrogation, and Custody").

### The Nature of Police Corruption

Kleinig (1996) defines corruption as follows: "Police officers act corruptly when, in exercising or failing to exercise their authority, they act with the primary intention of furthering private or departmental/divisional advantage" (p. 166). Kleinig admits that his definition covers many acts and practices that are never explicitly revealed as corrupt—for example, ignoring small jobs for the large, visible ones—but makes the point that such acts are not motivated by a spirit of corruption. The important element is that a police officer is motivated by a personal desire for gain, regardless of what acts he or she actually performs to secure that gain.

It may be helpful to characterize corruption in typologies because they explain, illustrate, and add specificity to the kinds of acts defined as corruption. The following represents a typography produced by Tom Barker (in Kleinig 1996: 168):

#### Kickbacks

These include goods, services, and money received for a multitude of services, such as referring business to various professionals (i.e., lawyers and bondsmen) with whom police regularly interact in their duties. Kickbacks have been condoned within police culture, as long as the rewards are modest and the businesses legitimate, the rationalization being that businesses providing kickbacks are simply demonstrating their enterprising nature.

#### Opportunistic Theft

This takes a number of forms, including stealing property from those arrested, those involved in traffic accidents, and other victims; stealing money or goods left behind by a burglar when investigating a burglary; removing items from unprotected property sites, such as building materials; or stealing parts of confiscated evidence, such as drugs, drug money, or liquor.

### Shakedowns

This is understood to include accepting payments for not making an arrest or issuing a summons that, in the ordinary, course of events would have been made or issued. Shakedowns may be protected by a police code of silence, but if revealed, they are usually strongly condemned by police supervisors.

### Protection of Illegal Activities

There are many forms of protection that police may provide to those engaging in illegal enterprises so they may operate with the minimum of official harassment. Examples are payments to police by cab companies to park illegally and to operate cabs in breach of safety standards; payments by trucking firms to haul overloaded cargoes; and payments by construction companies to overlook violations of regulations. According to Julian Roebuck and Thomas Barker (1974: 430), some of these activities, where there are no complainants, are difficult to prosecute and have the effect of causing “resignation, ritualism, inaction, or corruption” in honest police officers. Kleinig (1996) proposes that selling confidential police information should also be included in this category.

### The Traffic Fix

This involves taking money or other rewards for disposing of traffic citations.

### The Misdemeanor Fix

Here, a police officer quashes proceedings for a misdemeanor by, for example, not proceeding with a prosecution, tampering with evidence, or perjuring himself or herself in proceedings.

### The Felony Fix

This is the same as the misdemeanor fix, except that felonies are involved.

### Direct Criminal Activities

These occur when officers commit criminal acts for personal gain as if they were themselves criminals.

### Internal Payoffs

There are various forms of internal corruption in which police officers may buy, barter, or sell aspects of their employment, such as off days, holidays, and promotions. Officers who administer assignments may receive rewards for assigning officers to particular divisions or for providing transfers to or from specific or preferred assignments.

### Corruption of Authority

This involves authorized and unearned benefits officers are given by virtue of their employment as police officers. Included are free meals, liquor, sex, entertainment, discounts on purchases, payments for property protection extending beyond normal police duties, secret payments by property owners to arrest robbers and burglars at their places of business, and payments by bondsmen to police for the arrest and notification of those who jumped bail where the bondsmen are acting as bounty hunters. It is common practice for restaurants to offer police free or half-price meals or free coffee. This raises the issue of the expectations of those businesses in giving these benefits. In one survey of 116 people in Reno, Nevada, about half reported that if they were to run a small business like a coffee shop or movie theater, they would offer police

free coffee, meals, or movie tickets (Ivkovic 2005a: 39). Significantly, one-third of those who would make such offers explicitly reported that they would expect special favors in exchange. An example of this kind is shown in the “No More Free Meals” Closer Look box.

### Accepting Gratuities

Accepting gratuities such as free meals and coffee, free lunches, half-price dinners, and gifts from merchants during holiday seasons is a vexing and much-discussed issue within policing. In 1988, Richard Kania (in Coleman 2004: 37; see also Kania 2004) argued that under certain circumstances, police ought to be encouraged to accept gratuities because most people offering them do not have the intention of corrupting police but are expressing a debt to police for their services, which they are attempting to repay through the offer of gratuities. Kania, a former police officer from Louisiana, suggested an analogy with tipping, where the recipient is being tipped for services rendered and where no future obligations are being created by the transaction. He argued that only in situations in which the provider of the gratuity was seeking to establish credit for future use were such transactions problematic and that if police did not vary the way in which they carried out their duty as a result of receiving gratuities, then receiving them was ethically appropriate.

Responding to Kania’s arguments, Stephen Coleman (2004: 38) argues that police should refuse gratuities that could, in the public mind, be regarded as influencing their judgment in the conduct of their duties. He reasons that the practice cannot be regarded as analogous to tipping because those who commonly receive tips come to expect them and perhaps even make a demand for them. Also, he argues that there may be a future orientation toward tipping, and he suggests that giving a generous tip may give rise to an expectation of above-average service in the future. Another objection is that police regard themselves as professionals, and most professionals do not receive tips. Furthermore, accepting gratuities may well have an effect on how police conduct themselves, even if they fail to appreciate that fact. For example, if the police patronize establishments that offer gratuities, and this causes them to visit and spend time there more often, to the detriment of other establishments, the result affects the distribution of police services in the community.

Jim Ruiz and Christine Bono (2004) also take issue with Kania, arguing that accepting gratuities is a harmful practice that should be actively discouraged. The authors are unable to accept that a police officer’s acceptance of daily gratuities (amounting to thousands of dollars each year) will not give rise to expectations on the givers’ part (p. 46). One of the authors, a former police officer, recounts that merchants who gave gratuities “were quick to remind him of their generosity when stopped for a traffic violation . . . at the very least they expected to be given special consideration when calling for service” (p. 46). Ruiz and Bono contend that the annual value of regular gratuities in the form of coffee, doughnuts, lunch, cigarettes, alcohol, laundry, and free movie tickets could be between \$8,000 and \$10,000 each year, and with an average national police gross salary of around \$35,000, these gratuities comprise an increase in gross salary of more than 33% (pp. 50–51).

Michael Feldberg links gratuities with distributive justice, arguing that the effect of a gratuity is to induce a police officer to “distribute the benefit of his presence disproportionately to some taxpayers and not to others, a practice that undermines the democratic ethos of public service” (in Del Pozo 2005: 28). Thus, if police eat lunch daily at one restaurant that offers a free or half-price lunch, they are providing their presence and therefore police protection and security to one restaurant during that period. In this view, their presence skews the distribution



of police service in favor of a particular restaurant. One solution to this argument about distributive justice is to follow the approach tried in England in the 1970s in which all police officers were required to eat their meals in a canteen located inside the police headquarters. However, Brandon Del Pozo argues that this would “also have the effect of cutting off one’s nose to spite one’s face: were officers forced to take meals at the stationhouse, no location would benefit from their presence” (p. 33).

**What policy should police departments follow concerning the issue of accepting gratuities?** Many departments strictly prohibit their acceptance, but because police officers are often out of direct supervision, enforcing such a policy is very problematic. As well, those giving the gratuities have no incentive to report officers for violating their departmental policy (Withrow and Dailey 2004: 174). Some departments attempt to regulate gratuities by imposing a policy that limits the amount of gratuity on the basis that the value of the gratuity is related to the level of corruption (p. 175). Arguably, the most important factor in the acceptance of gratuities is the rationale for offering the gratuity. Thus, a policy that merely seeks to limit the extent of the gratuity appears unrelated to the real likelihood of corruption.

An example of how those who give gratuities to police do so with an expectation of police assistance is given by Brian Withrow and Jeffrey Dailey, as shown in the “No More Free Meals” Closer Look box.

## Explanations for Police Corruption

What justifications or explanations do police and others offer to explain the existence of police corruption? How can we explain or understand why police corruption occurs? This is an important issue, because an analysis of the explanations for police corruption can contribute to possible solutions. Johnston (1995: 285) argues that explanations for police corruption may be *personalistic*, *institutional*, or *systemic*. Other scholars have identified a “slippery slope” that leads to corruption. “Noble cause” corruption is analogous to the slippery slope and involves police justifying corruption or “bending the rules” as legitimate acts in the service of the noble cause of policing. These explanations are discussed in the sections that follow.

### A CLOSER LOOK

#### NO MORE FREE MEALS

While serving as a headquarters staff officer in a state police agency, Withrow was conducting a routine inspection tour and was invited to lunch by local troopers. In the restaurant, when the bills came, the troopers argued with the waitress about the full price stated on the bills. They were regulars at the restaurant, but the waitress told them that restaurant policy had changed, and now, everyone had to pay the full price. One of the troopers responded very loudly, “We never pay full price, and we are not going to start now.” To diffuse the situation, Withrow told the troopers to pay the full price plus a tip and apologized to the waitress. He later discovered that the restaurant owner’s son had recently been arrested for driving while intoxicated (DWI).

Source: Withrow and Dailey 2004: 165.

## A CLOSER LOOK

### DETECTIVES RECEIVE SEX SERVICES IN ANTIPROSTITUTION CAMPAIGN

Undercover police detectives from Spotsylvania County in northern Virginia involved in “rooting out prostitution” in the massage parlor business received sexual services from “masseuses.” According to court papers, “detectives allowed women to perform sexual acts on them on four occasions and once left a \$350 tip.”

The sheriff argued that this practice was “not new, and only unmarried detectives are assigned to such cases.” The sheriff went on to defend his detectives. “Most prostitutes are careful not to say anything incriminating, so sexual contact is necessary. If I thought we could get a conviction without that, we wouldn’t allow it. If you want to make them, this has to be done.”

However, numerous police and experts told the reporter that they had no knowledge of any law enforcement agency in the Washington, D.C., area or in the nation that permitted sexual contact in prostitution investigations. As they put it, “police should not break the law to enforce it.”

It is normal practice for a verbal agreement to provide services plus an explicit act such as undressing or producing a condom to be considered sufficient evidence in charges of soliciting prostitution.

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Source: Jackman 2006.

Whatever may be the explanation, one implication of corruption is that corrupters gain influence over the police, subverting police from their proper role and creating conditions that favor crime in the sense that there is an increase in public tolerance for some crimes. In the inner cities, corruption may permit crime to flourish. Most important, corruption undermines public trust in the police force and diminishes credibility in the integrity of individual police officers.

### Personalistic Explanations

Three explanations emphasize the individual police officer as the ultimate cause of corruption: the *rotten apple*, the *recruitment perspective*, and the *police personality* explanation.

In the rotten apple explanation, corruption is described by police chiefs and others as merely the acts of a few rotten apples in an otherwise honest department. The aim of this explanation is to divert attention from the possibility that corruption might be systemic. This argument may also function as an excuse for not instituting investigations that might uncover other corruption, as a way to limit investigations, or as a means to protect individuals. It implies that recruiting persons of the right character will eliminate corruption. Barker (1996: 39) asserts that police use the term *rotten apple* because they wish the public to believe that a publicly identified corrupt or racist cop is an aberration and not a departmental problem. He regards the labeling of individual police as rotten apples to be a management technique used to explain away corrupt behavior.

In the United Kingdom, investigations of corruption have revealed how close links between police and their criminal informants can result in passing information that can be used for criminal activities. The “Corrupt Arrangements” Closer Look box shows an example of this kind of individual corruption.

In the **recruitment perspective**, it is argued that personal traits shared by officers recruited from similar social backgrounds make them particularly susceptible to corruption. It is true that in the early days of policing, officers tended to be recruited from certain groups. However, over the last decade, police forces have become more heterogeneous, and now it is common to see women, Black Americans, Hispanics, and others in police departments. The argument is that whites with working-class, lower-status backgrounds and a lack of advanced education might harbor certain attitudes and values that could make them susceptible to corruption.

## A CLOSER LOOK

### POLICE CORRUPTION IN AUSTRALIA

There have been two major investigations of police corruption in Australia: the Royal Commission into the New South Wales Police Service (1997) and the Fitzgerald Commission in Queensland (1989). Their findings of corruption in these states are described as follows:

Royal Commission Into the New South Wales Police Service (1997), New South Wales, Australia	Fitzgerald Commission (1989), Queensland, Australia
A state of systemic and entrenched corruption, well organized	Corruption by prostitutes, gambling, drug dealers
A very serious state of corruption that is widespread and of long-standing origin	Thefts
Types: thefts of drugs and money; shakedowns of drug dealers; regular payments from drug dealers, gambling operations, clubs, and brothels; assaults	

Source: Ivkovic 2005a: 52–53.

## A CLOSER LOOK

### THE ROTTEN APPLE

Local criminals regularly visit a gym that is also used by a police officer. The officer becomes friendly with some of the criminals and begins to socialize with them. As their relationship develops, they ask him to provide information from the police national computer and from the police intelligence system. In return for some favors, such as free meals or drinks, he passes this information on to them, and it is used by the criminals to build up a picture of the activities of the police.

Source: Miller 2003: 10.

The police personality argument is analogous to one that asserts that the institutional police culture is responsible for creating an environment that encourages or fails to discourage police corruption. It contends that certain traits make up the police personality, including suspicion,

authoritarianism, and loyalty. Caldero (in Crank and Caldero 2000: 58–60), in a 1997 survey of the values of police officers, found that over the previous 25 years, police values had remained constant, that these values are imported from particular groups in society, and that education has had little effect on these values. This contention concerning the influence of police values or police personality suggests that corruption therefore is linked to personality and values.

Another contributor to police corruption is a police officer's personal lack of competence. Here, it is argued that, for example, an officer who, through laziness or neglect, fails to ensure that he or she takes advantage of all opportunities such as further training to ensure that he or she is fully conversant with the law, and who, because of this conduct and his or her ignorance of the law, makes unlawful arrests engages in a form of corruption. Similarly, an officer who continues to perform police duties out of self-interest, despite lacking the required skills or aptitude for the work, may lack the confidence to make arrests when he or she ought to do so (Miller and Gordon 2014: 211).

### Institutional Explanations

The wide discretionary powers that police officers enjoy, as well as the difficulties in supervising that discretion, are aspects of policing as an institution, and it is argued that police discretion makes corruption more likely to occur. Police discretion can be used for illegitimate purposes, and while its existence does not make corruption inevitable, it does give a police officer scope to hide unethical decisions. The problems inherent in the task of supervising officers who have wide discretionary powers mean that corruption can be allowed to go unchecked and unrevealed. For example, in New York City in 1970, the Knapp Commission found that over half of all plainclothes officers in the New York Police Department (NYPD) were engaged in profit-motivated corruption (Kane and White 2013: xv). The pattern of police corruption included plainclothes officers collecting regular payments from each gambling establishment within their operational area, with each officer receiving a monthly payment of \$300 to \$400 in midtown Manhattan, rising to \$1,500 in Harlem. Supervisors involved received a share and a half. Investigation units within NYPD commonly conducted “shakedowns” of targets, and the largest narcotics payoff found by the commission was \$80,000 (p. 45).

The commission divided corrupt police into two groups: “Meat Eaters” and “Grass Eaters.” The former actively solicited opportunities for corrupt activities, and the latter comprised officers who accepted money for not reporting corruption but did not actually participate in the corruption themselves (Kane and White 2013: xvi). The NYPD has experienced cycles of corruption, with anticorruption commissions being established every 20 years since the mid-1800s (p. 19).<sup>3</sup> Two factors that may bear on corruption from the institutional viewpoint are the **low public visibility** of police and the issue of **secrecy** within the institution. The public has little knowledge or sense of what police officers do, and much police activity is shielded from the public. This low visibility can provide opportunities for corruption. In terms of secrecy, it is argued that the person most likely to observe corruption firsthand is another police officer. Frequently, however, he or she will not reveal the corruption to anyone due to fear of retaliation, bonds of

<sup>3</sup>The NYPD is the largest police force in the United States. Its police composition has been as high as 41,000, with the addition of 14,500 civilian employees. This is more than three times the size of the Chicago Police Department, the second-largest U.S. police force (Kane and White 2013: 39). As of 2023, there are 36,000 officers and 19,000 civilian employees in the New York City Police Department (<https://www.nyc.gov/site/nypd/about/about-nypd/about-nypd-landing.page>) and 14,058 officers in the Chicago Police Department (<https://www.civicfed.org/civic-federation/blog/chicago-police-department-staffing-analysis-2022>).

friendship, loyalty, or an institutional ideology that sets police against the public in an isolationist approach. It follows that information about corruption may be difficult to collect, and officers may refuse to testify against their colleagues.

This so-called *blue wall of silence* (sometimes referred to as *code of silence*), is also found in other nations, as well as among U.S. police forces. For example, in the Netherlands, a survey conducted to ascertain the views of police on the seriousness of ethics violations and on their willingness to report such violations (either self-reporting or reporting others)—that is, to break the wall of silence—found that receiving free meals and discounts was seen as serious or very serious (Huberts, Lamboo, and Punch 2003: 226). Comparing these results to a similar survey in the United States, the researchers found that police in the Netherlands were significantly more ready to report receipt of such benefits than were U.S. police officers.

A similar survey undertaken in Finland and Croatia revealed that while Croatian police regarded free meals and discounts as more serious than accepting occasional gifts, police in Finland took the opposite view, regarding receiving free merchandise as a serious wrongdoing (Ivkovic 2005b: 557). A similar survey conducted in the United Kingdom revealed that most officers surveyed believed that accepting free meals and gifts was contrary to police policy, but only 14% thought it was very serious behavior, and 11% considered it not serious at all (Westmarland 2005: 149). Similarly, accepting gifts during holiday periods such as Christmas was not regarded as very serious, but nevertheless, 36% of respondents said they knew that it was contrary to police policy (p. 149).

The wall of silence extends to civilians employed by police—in fact, a study in England found that police civilian staff were less likely to report misconduct by police than were police themselves. The traditional explanation for this is the shared group loyalty and solidarity between staff and officers (Wright 2010: 353); Kleinig (2000), in his ethical analysis of the code of silence, identifies this code as similar to the norms found in ideals of friendship and family. As Skolnick (2010: 37) points out, the code of silence can also operate to protect police who commit crimes and not simply acts of misconduct. Major investigations into police misconduct in the form of the Knapp (1972) and Mollen (1994) Commissions in New York and the Christopher Commission in Los Angeles (1991) have all highlighted the existence of the code of silence as an obstruction to investigations of corruption or excessive use of force.

Outside the United States, the same was found to be true in Australia in the Fitzgerald inquiry in Queensland (1989) and the Wood Royal Commission in New South Wales (1997). Also in Australia, in the state of Victoria, a survey of officers found strong support for reporting corruption by fellow officers (because it was required by law) but a perception that it might be disloyal to do so. A decision not to report police corruption might be based on police belief that internal investigations were unlikely to result in serious accountability and that in any event such investigations were likely to be “witch hunts” that attempted to penalize police for minor misbehaviors. Alternatively, police might not report corruption in the belief that officers were likely to be exonerated from wrongdoing and remain within the police force. The consequence of this might be that the honest officer’s career could be adversely affected for having reported a fellow officer who, having been exonerated, had to be treated as innocent or, at the most, guilty of a minor wrongdoing. These survey findings suggest there needs to be a high degree of success in conducting internal police investigations (Miller and Gordon 2014: 217, 219).

A final factor is **managerial secrecy**, suggesting that those in supervisory positions who were formerly patrol officers and who have risen through the ranks share police values and culture, including those values that ensure that corruption is hidden. This kind of secrecy extends to feelings of resentment about what is perceived to be interference by outsiders in police processes,

including formal inquiries like the Knapp Commission's investigation into corruption. In essence, managerial secrecy will be strengthened by the values fostered by police culture.

Recently, it has been suggested that pressure placed on officers by those in higher positions in the police chain of command, including even actual interference in investigations and media pressure, have the capacity to adversely affect the process of investigation. In these scenarios, police might act corruptly because of the pressure to produce results (Miller and Gordon 2014: 214).

In a study of 1,072 police recruits using survey data, Donner et al. (2018: 11) showed that recruits found to be more impulsive after having undergone a series of psychological tests, and in that sense lacking self-control, were more likely to adhere to the code of silence. It follows, then, that if police agencies enhanced their recruit screening to disqualify such applicants, the code of silence would more likely be broken.

Another study from England (Sweeting et al. 2022: 1) looked at whether police would be likely to report sexual misconduct despite the code of silence. The study asked 382 police officers to consider a series of sexual misconduct scenarios and assess whether they would report the officer involved in such scenarios. The results indicated that the chance of the conduct being reported increased significantly when the conduct was thought to be a breach of the code of ethics, when the conduct was considered serious enough to warrant formal discipline, and when it involved an officer who was not a colleague (2022: 4). Male officers appeared less likely to report sexual misconduct than female officers, and the principal reasons for nonreporting were loyalty to fellow officers and fear of retribution. The English code of ethics specifically explains behaviors that would amount to sexual misconduct. It is likely that English officers equate "serious" with criminality.

Interestingly, studies in the U.S. found that officers did not find behaviors that were likely criminal to be more serious (2022: 9). A similar study in England found that any misconduct that officers deemed "serious" would be reported. "Seriousness" was explained in terms of behavior for personal gain such as taking bribes or stealing property, whereas using excessive force and covering for a drunk driving colleague were less likely to be reported. Conduct such as accepting gifts was the least likely to be reported (Westmarland and Rowe 2018: 854).

### Systemic Explanations

This type of explanation looks at pressures placed on the police by society that might provoke police corruption and suggests that police corruption is rooted within police interaction with society rather than within the individual police officer. For example, legislation dealing with social behavior such as alcohol consumption, gambling, and prostitution is often regarded by the public as an attempt to impose moral standards and is therefore often resisted. Thus, underage persons purchase alcohol, and citizens gamble and engage in prostitution. This ambivalence in society about personal morality tends to encourage police reluctance to enforce the law and can ultimately result in those engaged in crimes of vice offering bribes and incentives to police to look the other way. From the police point of view, violations of vice laws often constitute victimless crimes, providing further encouragement toward corruption.

In developing countries, low police salaries operate as a contributing factor to police corruption. For example, in Bosnia during the postwar period, police received low salaries and were not paid consistently, rendering them vulnerable to corruption (Ivkovic and Shelley 2005: 444). Examples of police corruption in Bosnia include taking bribes and looking the other way when cars are stolen and later handed back to their owners by the thieves in exchange for a kickback to the police officers concerned (p. 445).

In Ghana, forms of police corruption include police deciding not to arrest, investigate, or prosecute offenders because they have family or friendship ties to police; accepting bribes from suspects for overlooking offenses or not making an arrest or making a weak presentation of a case in court; and erecting roadblocks to collect bribes from drivers who violate traffic laws (Tankebe 2010: 302). Noting that in a nationwide survey published in 2000 of 1,500 households in Ghana, more than two-thirds of the respondents reported that they had paid bribes to police officers. Justice Tankebe suggests that in Ghana, police corruption is systemic.

### “Slippery Slope” Explanation

An important explanation for police corruption is termed the **slippery slope**. This notion was developed by Sherman (1985) and suggests that taking rewards and money begins on a small scale and is tacitly acknowledged by other police officers. Sherman suggests that officers who become accustomed to taking small rewards will eventually develop connections to other officers involved in corruption on a grander scale. In other words, officers become desensitized to the moral implications of their acts, and the acts themselves become addictive.

According to Sherman (1985), police officers find themselves on this slope as the result of social considerations that bind police together and because of the way in which police perceive their own behavior. He argues that young recruits learn early on that, as police officers, they are bound to one social group and are alienated from others. The pressures of the social group and the acceptance of minor perks alter the self-image of the young recruits to make them vulnerable to more substantial corruption. Sherman also suggests that the slide down the slippery slope is eased by the relatively small moral gap along the continuum of graft stages.

Sherman’s solution to this problem is to decriminalize those activities that most easily tempt police into graft, and his solution finds anecdotal support from those corrupt police officers who have described their lapse into corruption. However, Feldberg (1985) disagrees, claiming that police officers can make a distinction between accepting minor perks and bribes intended to affect the performance of their duties. Fundamentally, the dispute between Feldberg and Sherman rests on a moral basis in that Sherman believes that to accept a free cup of coffee constitutes a moral compromise, whereas Feldberg does not. Kleinig (1996) offers the opinion that people commonly offer each other cups of coffee as a gesture, not with the intention of creating any obligation, and that police supervisors who see the acceptance of such small rewards as morally compromising are likely to be seen as overreacting and risk losing the respect of their rank-and-file officers.

### Noble Cause Corruption

Crank and Caldero (2000: 74; also see Caldero, Dailey, and Withrow 2018: 109) offer an alternative slippery slope model, describing a process of **noble cause corruption** rather than simply economic corruption. This slope begins with encouragement to accept free meals, not to test the willingness to accept graft but to establish whether an officer’s loyalty to others in the squad can be relied on. This is followed by loyalty backup, where the officer is tested for his or her own willingness to back up other officers, which may involve giving false testimony or taking part in the shakedown of a suspect. The next stage is using physical violence against citizens, involving greater risks to the officer in terms of detection, risk of injury, or retaliation. Finally, “flaking” drugs is described as a much more serious form of noble cause corruption, in which police plant drugs to enhance the seriousness of the crime. In this model, therefore, police are able to justify their progress down the slippery slope by employing the justification of noble cause.

[The noble cause] is a profound moral commitment to make the world a safer place to live. Put simply, it is getting bad guys off the street. Police believe that they're on the side of angels and their purpose in life is getting rid of bad guys . . . it's something to which they are morally committed . . . the noble cause is practical and immediate. It's about an officer's conduct in day to day police work. It motivates an officer's behavior with citizens and mobilizes a great deal of police solidarity. (p. 35)

In England, in a case involving alleged Irish Republican Army (IRA) terrorist suspects, it seems that the English police justified their actions in the noble cause of jailing IRA terrorists (Punch 2003: 185–189). Six suspects were imprisoned for up to 16 years on the basis of false confessions and doubtful evidence before they were released because of this police wrongdoing. In the early 1970s, the IRA commenced a bombing campaign in Britain, and in 1973 in Birmingham, two explosions occurred in pubs, resulting in 21 deaths. This caused a national outrage, putting pressure on the police to secure convictions. A number of the suspects arrested were assaulted by police, intimidated with threats of violence, and assaulted by fellow prisoners while on remand. Doubts arose about the convictions, which were upheld by the court of appeal in 1977. Ultimately, another group of alleged terrorists was arrested and admitted to the bombings for which the Birmingham Six were jailed. It emerged that the confessions were fabricated by the investigating officers, important evidence was withheld from the courts, and forensic evidence turned out to be highly questionable. According to Maurice Punch, the concept of noble cause corruption applied to this case, and the police involved believed that the ends justified the means, having already satisfied themselves about the prisoners' guilt (p. 187).

Crank and Caldero (2000) argue that the idea of the noble cause represents a value imported into police work from broader American life. In this sense, the police are no different than others, and they reflect a particular cultural value, incorporating a concern for victims and the notion that no one should stand above the law. Other commentators (Delattre 1989; Klockars 1980; Muir 1977) have recognized the existence of noble cause thinking in police work.

In addition, Skolnick and Fyfe (1993: 89), in their discussion of police culture, argue that aspects of that culture, such as the police notion of suspicious persons, the Dirty Harry problem (see Chapter 3), the siege mentality (the idea that police emphasize crime control over all police work, this being the police concept of professionalism—a notion that tends to isolate the police from the community), and the code of silence within police departments, together with the police perception of themselves as soldiers engaged in a war on crime, shapes the worldview of the individual police officer on the street. This leads to the conclusion, for example, that “police brutality is inevitable” (p. 133). It is easy to see that such a worldview can be employed in justifying misconduct in pursuit of the noble cause.

Crank and Caldero (2000: 75) emphasize that when applying the justification of noble cause to corruption, police place personal morality above the law and act as if they are the law. In such an ethical environment, any efforts to control police behavior will be viewed as disloyal because, from their perspective, if police are the law, what they do must be right. Consequently, accepting free dinners to look after a restaurant is considered acceptable practice because “society owes it to them,” and mistreating suspects means suspects are “getting what they deserve” because police have already decided they are guilty.

In contrast to the rotten apple explanation for corruption, when corruption is justified on grounds of noble cause, officers who carry out acts of misconduct themselves are not considered rotten apples but are perceived to be dealing with crime efficiently and effectively. During the O. J. Simpson murder trial, the noble cause explanation came to light when it was revealed that Mark Fuhrman had once stated,



[If] you find a [needle] mark [on a drug suspect] that looks like three days old, pick the scab. Squeeze it. Looks like serum's coming out, as if it were hours old . . . that's not falsifying a report. That's putting a criminal in jail. That's being a policeman. (Dershowitz 1996: 55)

## Societal Stress as an Explanation for Corruption

Another, more sympathetic explanation for police corruption is offered by Johnston (1995: 301), who suggests that corruption is produced by the pressures society has imposed on police. Citizens place the police in a position of tension, where they are expected to enforce the law but also to obey regulations about how they may obtain information and gather evidence. They are also expected to enforce personal morality while respecting constitutional rights to privacy and due process. Johnston argues that as long as we continue to place these pressures on police, we are fated to endure a certain degree of police corruption and that we should move on to consider the sorts of social behavior we have no choice but to accept and consider questions such as how much police corruption we can tolerate. In essence, therefore, this argument sanctions a level of police corruption and leaves open the question of the extent to that level.

## Drugs and Corruption

Seumas Miller, John Blackler, and Andrew Alexandra (1997: 105–106) single out illegal drugs as a major contributing factor to police corruption, arguing that police operate in an environment in which there is widespread use of illegal drugs and a vast amount of drug money. They describe the circumstances of enforcing antidrug laws as follows:

- There exists a large amount of money and a willingness on the part of drug users and dealers to bribe police.
- There are no complainants because the “victims” are not likely to report that they have been the victim of a criminal act.
- In light of this victimless crime, bribes can be accepted and drugs or drug money stolen with relative impunity.
- Sections of the public see drug addiction as a medical condition rather than as a crime and therefore see corruption as less morally damning.
- Younger police officers may well share the attitudes of their peers who are not police officers and regard the use and sale of illegal drugs as a minor matter.
- Police officers working in drug investigations may, out of fear, turn a blind eye to drugs or even take drugs themselves, entering a spiral of corruption, moving from moral compromise to covert corrupt activities.

The contention that there is a relationship between drug dealing and police corruption finds support in a 1998 government report that cites examples of drug-related police corruption in a number of cities and reports that one-half of all police officers convicted following FBI-led investigations into corruption cases between 1993 and 1997 were convicted for drug-related offenses. Particular forms of drug-related corruption identified in the report include stealing money or drugs from drug dealers, selling stolen drugs, and protecting drug operations (Government Accounting Office 1998). In New York City, the Mollen Commission (1990–1993) found that the most salient forms of police corruption included “groups of officers protecting and assisting drug traffickers for often sizeable profits—stealing drugs, guns and money—and often selling the stolen drugs and guns to or through criminal associates” (quoted in Kane and White 2013: 56).

The impact of such corruption can be seen in the “Officer Admits Planting Drugs” and “Officer Involved in Robbery Ring” Closer Look boxes.

In the United Kingdom, a notorious example of the linkage between police corruption and drug dealing occurred in the early 1990s; it highlights the temptations of drug dealing as a source of corrupt benefits for police as well as the dangers of consorting with informants without following police policies and procedures (see the “Corrupt Arrangements” Closer Look box).

## A CLOSER LOOK

### SHERIFF'S DEPUTY PLANTS DRUGS

A former Florida sheriff's deputy received a 12-year prison sentence for planting drugs inside drivers' cars during traffic stops and then arresting them. Former Jackson County deputy Zachary Wester, 28, was convicted in May 2021 of several offenses connected with his practice of keeping drugs in a *ready-to-plant* form in his patrol car. Wester's pattern was to make traffic stops and then plant drug evidence in the vehicles he had targeted. Body-camera video also revealed Wester surreptitiously holding what appeared to be baggies filled with drugs before searching cars after stopping them. In the case of one victim in 2018, Wester had stopped her for a defective brake light and asked for permission to search her truck. She agreed. He claimed he found a baggie of methamphetamine in her purse, but body-camera video showed him palming a bag before beginning his search.

Prosecutors had to drop charges in nearly 120 cases involving Wester that occurred between 2016 and 2018 because of the accusations made that he planted evidence.

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Source: AP News July 15, 2021.

## A CLOSER LOOK

### OFFICER INVOLVED IN ROBBERY RING

Officer Emmanuel Tavarez, 30, was arrested on May 6, 2010, and charged with conspiracy to commit robbery, conspiracy to distribute drugs, and use of firearms in a crime. He pleaded not guilty.

According to the prosecution documents, on at least two occasions, Tavarez provided his own police-issued firearm for use in a robbery and was also used as a lookout by the robbery crew. During one robbery, it was said he entered the house with other robbers, telling the occupants it was a police raid.

After a sting operation in March 2008, investigators found both real and fake law enforcement equipment, including a vehicle modified to look like a police patrol car. A two-year federal investigation discovered that a robbery crew was posing as police officers and had been robbing drugs dealers since 2002. The crew included four of the officer's in-laws and is thought to have stolen more than \$1 million in drug proceeds and a large quantity of cocaine over more than 100 robberies.

On April 6, 2011, Tavarez pleaded guilty to three charges. His lawyer described the evidence against him as “overwhelming.”

In a strikingly similar case, a former police officer, Jorge Arbaje-Diaz, pleaded guilty on May 13, 2010, to taking part in robberies of drug dealers set up to resemble police raids. There was no evidence suggesting a connection between the two cases or the two accused.

Arbaje-Diaz told the court that he frequently robbed drug dealers in Manhattan, Brooklyn, Queens, and the Bronx and later sold the drugs he seized. He admitted to sometimes committing the robberies while wearing his police uniform and badge, and sometimes, he would show his off-duty revolver and use his NYPD handcuffs to restrain victims of his crimes.

*Source:* Sultzberger 2010.

## A CLOSER LOOK

### CORRUPT ARRANGEMENTS WITHIN THE SOUTHEAST REGIONAL CRIME SQUAD, SOUTH LONDON, ENGLAND

Members of a particular team within the Southeast Regional Crime Squad, who called themselves The Groovy Gang, engaged in corrupt activities that were organized around Detective Constable Bob Clark. Clark maintained a close relationship with Evelyn Fleckney, an informant who regularly socialized with the police team. She not only joined the team for evening social occasions but also was romantically connected with Clark and took several holidays with him. Senior police officers failed to properly enforce policies regulating contacts between police and informants like Fleckney.

Fleckney was a drug dealer, and in return for police protection from investigation and prosecution, she passed on information about rival drug dealers to the team, who would then be able to claim successes in arresting and prosecuting Fleckney's drug-dealing competitors. Also, drugs seized in searches could be recycled back onto the streets by Fleckney, and team members stole cash discovered during drug raids.

*Source:* Miller 2003: 12.

## Combating Corruption

Some (e.g., Miller et al. 1997) suggest that corruption can be reduced through examining four basic aspects of policing—namely, recruitment, reducing the opportunities for corruption, detecting and deterring corruption, and reinforcing the motivation to act morally. With recruitment, it is clearly essential that only those with the highest moral character be recruited into policing (Delattre 1989), as well as those capable of becoming competent police officers, because the incompetent might easily become disaffected and open to corruption. Reducing opportunities for corruption, for example, by regularly rotating officers employed in drug squads, may be effective, but the very nature of police work, especially the wide discretion given to police at the street level, makes opportunity reduction a daunting task. Ultimately, legislative and other policies that promote decriminalization will reduce opportunities for corruption. Detection and deterrence are achieved through accountability, internal and external, and through tools such as investigation, auditing, surveillance, and the use of informants.

## Police Corruption in the United Kingdom

In the United Kingdom, a number of police forces have established professional standards units whose task is to “proactively cultivate and analyse information or ‘intelligence’ on unethical police activity from a range of sources, and mount formal investigations” (Miller 2003: 2). These

units are divided into an intelligence cell and a number of operational teams, with the intelligence cell staffed by analysts tasked to manage a central database of information relevant to anticorruption efforts. The operational teams then conduct formal investigations into individuals. Examples of corrupt activities in the English police forces have included accepting protection money from criminals, stealing and recycling drugs to criminals, stealing cash from crime scenes, and fabricating evidence to secure convictions (p. 6).

Contemporary corruption was found to be smaller in scale than that revealed by, for example, the Knapp Commission in 1972 and the Mollen Commission in 1994 in the United States or the Fitzgerald Commission in 1987 in Australia. According to the report, the level of staff identified as potentially corrupt amounted to between 0.5% and 1% of police staff, including both police and civilian staff (p. 6). The report suggests that corruption is, for the most part, committed by individuals, and the passing of sensitive information from police sources to those outside the force, including criminal informers, is a significant form of corruption in the United Kingdom (p. 10). Corruption was also found to arise from interactions between police and criminals in social networks outside of work involving, for example, friends or relatives of police staff or persons using the same gyms as police staff or the same pubs and clubs. Officers in the professional standards units believed that criminals involved in organized crime targeted police with the aim of gaining information to assist with their criminal activities (p. 21).

### Reducing Corruption

Motivating police to do what is morally correct ought to reduce the temptations for corruption. Providing a just system of rewards and penalties within the police organization, rejecting systems of promotion that are unjust, and addressing police complaints about unfair workloads will assist in motivating police to resist inducements to illegality. The publication and dissemination of ethical standards and an emphasis on the ethical ends of policing can contribute to the development of proper motivation, especially if such statements of ethical standards are the subjects of ongoing discussion in training programs and supervision. Finally, an emphasis on the collective responsibility of police for controlling corruption will effectively assist in changing an attitude that only isolated individuals who heroically blow the whistle on others reveal corruption. Whistle-blowing is discussed in the next section.

### Ensuring Police Accountability

The question of how to make police accountable is a complex one. Most police departments employ a wide array of mechanisms like police boards and other structures that involve the community to provide oversight and accountability. Arguments in favor of citizen review include the following:

- Involving citizens in oversight is likely to result in more objective and thorough investigations.
- Involving citizens is likely to deter police misconduct; citizen involvement leads to a greater rate of conviction because police are less able to conceal wrongdoing.
- Individual complainants and the public will have a higher level of confidence in the integrity of police practice (Alpert and Dunham 2004: 33).

Citizen oversight of the police began in the 1920s and has seen steady growth despite consistent police resistance to the notion that outsiders should judge their conduct (Walker 2001). The heyday

of citizen oversight and review was during the 1980s and 1990s, when police ceased to be the sole judges of whether their conduct toward citizens reached an acceptable standard (Bayley 1994: 91).

More recently, President Obama’s Task Force on 21<sup>st</sup> Century Policing recommended “some form of civilian oversight of law enforcement is important in order to strengthen trust within the community. Every community should define the appropriate form and structure of civilian oversight to meet the needs of the community” (2015: 26).

As Karpiak et al. (2022: 648) point out, there are challenges in determining the scope of operation of oversight bodies and how best to evaluate their work. Some are staffed with lawyers and work independently of local police agencies and have executive and even subpoena powers. Others are established as advisory boards with limited powers. It is likely that local needs, resources, and the interests of the community will primarily determine how this form of police oversight will be structured.

### “New Police Accountability”

In his comprehensive exploration of the “new police accountability” in the United States, Samuel Walker (2005: 7) explains how police accountability refers both to holding law enforcement agencies accountable for services like crime control and also to the accountability of individual officers for the treatment they offer to the public in their use of force and discrimination. Ensuring police accountability involves setting up complex administrative arrangements, some of which have been introduced under pressure as a result of court proceedings and settlements secured by the Department of Justice (DOJ) in its mandate to ensure police accountability (p. 11). The *1994 Violent Crime Control and Law Enforcement Act* authorizes the DOJ to seek injunctions against policing agencies whose “policy or practices” violate federal law or effectively deprive persons of constitutional rights. The DOJ begins this process with an investigation in response to complaints made to it involving site visits, documents inspection, and interviews with stakeholders. These investigations generate “findings letters” which give valuable insight into how the DOJ constructs policing problems and solutions (D’Souza et al. 2019: 461). DOJ makes use of consent decrees, which typically include a set of procedures and practices that police and other stakeholders agree to follow. These decrees are closely monitored to ensure results and generally include a requirement that there be improvement in civilian complaint, investigation, and disciplinary mechanisms.

According to Walker, there are two elements in the new police accountability: specific strategies intended to enhance accountability and a framework that brings strategies and tools together into a program of reform (p. 12). Best practices within policing have focused on a set of strategies relating to the following:

- Reporting the use of force and other critical incidents
- Maintaining an open and accessible citizen complaint procedure
- Establishing an early-intervention system that systematically collects and analyzes data on police performance for the early identification of issues needing correction
- External citizen oversight, which may take various forms, including the new concept of the police auditor (pp. 12–13)

The conceptual framework within which these strategies operate comprises the following:

- Moving police organizations away from an emphasis on the rotten apple theory and in the direction of actual organizational change that addresses organizational and management issues related to police misconduct

- Controlling street-level officer behavior through devices such as use-of-force reporting systems
- Systematic collection and analysis of data (a process essential to police reform) so as to develop a fact-based depiction of officer activity, including the program known as COMPSTAT that collects and analyzes data on crime patterns
- Convergence of internal and external accountability so that these are seen as interrelated and not as alternatives (Walker 2005: 14–16)

In a study of DOJ investigations of police misconduct in New Orleans, Ferguson, Baltimore, and Chicago, D'Souza et al. (2019: 464) identified three principal policing issues found in the reports: improper stops, searches, and arrests; verbal abuse and inappropriate use of language; and use of force considered excessive or unnecessary. Unlawful arrests and public strip searches of persons were linked to problematic policies and deficient training and oversight.

### Police Auditors

As well as the typical civilian review board, a new form of oversight in the shape of the police auditor emerged in the 1990s. According to Walker (2005: 135), this office is likely to be more effective as a form of oversight than the civilian review board because of the auditor's focus on organizational change. Unlike civilian review boards, which are concerned with investigating individual complaints against police, the auditor scrutinizes organizational problems that generate such incidents. This opens up examination of systemic issues within the organization that affect training and policy making. For example, if the department provides insufficient training on a policy or procedure, this can lead to inadvertent violations. As of 2005, there were 12 police auditors within the United States, basically clustered in the western half of the country (p. 136). According to Walker (2005)<sup>4</sup>, they perform five functions:

1. Auditing the department's citizen complaint process, including the procedures and records relating to complaints.
2. Auditing police operations such as narcotics enforcement, personnel selection for particular policing activities, and specific training.
3. Conducting policy review as an outcome of auditing citizen complaints and police operations. Policy is crucial because recommendations for change in organizational structures and practices are designed to prevent future misconduct. Thus, the auditor will produce a set of policy recommendations for police chiefs and managers.
4. Community outreach, which includes the auditor meeting with community groups and providing information about the complaints procedure and related activities.
5. Creating transparency. The auditor exposes issues and concerns within the police department to the public gaze, rejecting the historically closed and secretive nature of American policing organizations (pp. 139–142).

<sup>4</sup> An example of police auditors can be found in Fairfax County, Virginia, in the Independent Police Auditor (<https://www.fairfaxcounty.gov/policeauditor/about-us>).

## External Citizen Review of Police

External citizen review takes a number of forms, and Samuel Walker and Betsy Wright Kreisel (1996) analyzed 65 citizen review procedures and structures that existed in January 1995. Among the various structures, many lack full independence because police rather than citizens conduct the initial fact-finding investigations (p. 71). Some have no role in the investigation of individual complaints, while others are empowered to review police policies. A multimember board conducts the vast majority of review procedures, but a small percentage comprises administrative agencies headed by an executive director (p. 75). Boards may range in size from 3 to 24, with an average of 10 members, and some include police representatives. According to the authors, Black and Hispanic communities are represented on almost all citizen review boards, reflecting the conception that the review body directly involves all elements of the community, especially minorities, in the review process (p. 77). The authors found that 27% of the 65 review boards include police officer members, and this membership raises questions about the degree of independence of the boards.

The procedures adopted by these citizen review bodies center on four processes: independent investigating power, the power to issue subpoenas, public hearings, and legal representation. Collectively, these elements produce a criminal trial model of complaint investigation. The alternative is an administrative investigation model that is closed to the public and closely resembles an organizational personnel procedure (Walker and Kreisel 1996: 78–79).

The authors found that 34% of all citizen review bodies possess independent investigative power, 38% have subpoena power, about half conduct public hearings, and 32% allow legal representation. However, only about 10% possess all four elements. There are questions about the appropriateness of the criminal trial model, because in practice in the criminal field, few cases actually go to trial (p. 80).

As well, in only a handful of cases do the citizen review bodies have the power to impose discipline on police, and most may only make recommendations to the head of the police department. If the criminal trial model is considered inappropriate, other possibilities are the administrative process, which is more inquisitorial in nature, and forms of mediation that are provided by about 19% of review bodies (p. 80).

## Accountability in Other Countries

From a comparative perspective, in many countries, police accountability is lacking because the administrative response to police wrongdoing is deficient. For example, in Argentina, Ecuador, and Paraguay, police fabricate or destroy evidence for disciplinary proceedings (Mendes 1999: 16). In these countries, police forces tend to be militarized, and the police culture reflects an attitude of isolation and animosity toward citizens. Thus, a crime control approach based on the notion of combat has produced torture and extrajudicial violence (p. 17).

Paul Chevigny (1999: 74) reports that in Brazil, where criminal prosecution may often be the only viable method of enforcing police accountability, police often resist the prosecution or interfere in investigations. For example, in Sao Paulo, it is common for military police to remove forensic evidence by taking already deceased suspects whom they have murdered to a hospital “as though they are still alive” for the evidence removal. Similarly, police will plant a weapon in the hand of a victim they have killed in a shootout.

In Canada, a media focus on wrongdoing by provincial police departments has resulted in a number of public inquiries that have generated a demand for effective police accountability. Thus, in 1987 in Manitoba, in 1989 in British Columbia, and in 1990 in Quebec, provinces

created structures of civilian oversight, and in 1986, the Royal Canadian Mounted Police Public Complaints Commission was established (Mendes 1999: 25). The Canadian model of civilian oversight leaves it to the police department concerned to make the initial investigation of a complaint and, where appropriate, to conduct any disciplinary proceedings. Civilian oversight arises only if there is a complaint concerning the internal police process (p. 26).

An Australian study on police accountability suggests a number of criteria that need to be satisfied to establish a viable civilian oversight of policing. These include the following:

- Capacity to conduct independent investigations
- Direct access to the legislature in the form of regular reporting
- An independent resource base so that government cannot thwart efforts to ensure accountability
- Political and moral support to the oversight body and links between government and the oversight body
- Decentralizing the operations of the civilian oversight body so that it has the capacity to capture all valid complaints rather than being isolated in one or two large cities (Goldsmith 1999: 54–61)

Police anticorruption measures in Australia have been classified in terms of three models: the minimalist, the intermediate, and the advanced (Prenzler and Ronken 2003: 149). Tim Prenzler and Carol Ronken suggest that the **minimalist model** gives primary responsibility to the internal police disciplinary mechanisms. Associated with this model is judicial scrutiny of police misconduct and political oversight through reports to the legislature. The authors judge this minimalist model to be inadequate in terms of preventing police misconduct.

The **intermediate model** adopts the establishment of internal affairs departments as the key to a more aggressive anticorruption approach. This allows police to develop specialist anticorruption skills and provides a stronger focus for anticorruption efforts. This model emphasizes stricter processes of recruitment and increased stress on ethics in training. As well, this model includes the establishment of independent review bodies. The problem with this approach is that it remains essentially passive and relies substantially on recruitment, on rejecting undesirable potential police officers, and on compliance with codes of ethics and conduct.

In the advanced model, there is recognition that police misconduct can take multiple forms. For example, different sections or units of a police department may experience different problems, and systems must be able to cope with a multiplicity of issues (p. 152). In this model, there is a much more proactive approach to corruption. Technology and covert methods of investigation are employed, and integrated ethics training is considered essential. There may be random integrity testing, and there is a system of external review that is independent and may adjudicate alleged wrongdoing (p. 153). Prenzler and Ronken found that within the eight Australian police departments (there are six state police departments, the Northern Territory Police, and the Australian Federal Police), none had adopted the advanced model, and many had hardly advanced beyond the minimalist model.

In Latin America, accountability for wrongdoing is said to be exceptionally deficient, with police accountability structures lacking resources and constrained by corruption (Eijkman 2006: 414). Members of the public are reluctant to complain about police because of fear of retribution and because the lack of political will to eradicate corruption tends to generate police impunity in the region.



In Costa Rica, police regard accountability as an activity that interferes with the task of policing, and being held accountable is regarded as something hindering police work (p. 415). The majority of police are never involved in charges of misconduct; nevertheless, internal disciplinary mechanisms do impose accountability—for example, in 2002, eight police officers were dismissed for illegal use of force (p. 419).

## Whistle-Blowing

Two general types of whistle-blowers have been identified: *internal whistle-blowers*, who report misconduct to another person within the organization, who in turn may take corrective action, such as a supervisor or union representative; and *external whistle-blowers*, who expose abuse to outside agents such as police, lawyers, and the media (Miethe 1999: 15). Both external and internal whistle-blowers blow the whistle because they themselves lack the power to directly change organizational practices.

Kleinig (1996: 184) suggests that within police departments, whistle-blowing is often defined as involving any reporting outside an immediate circle of officers. The term *whistle-blowing* is a substitute for derogatory terms such as *snitch*, *fink*, and *sneak* and was developed in response to the recognition that although citizens have become more vulnerable to the acts of large organizations, many of those same organizations demand a loyalty of their employees that can conflict with the public trust they seek to foster.

Whistle-blowers may have to pay a heavy price for blowing the whistle, and some have been dismissed, demoted, ostracized, and even assaulted and their families threatened because they have violated organizational loyalty (see Case Study 2.1). Terance Miethe (1999: 227) reports that for many whistle-blowers, the experience of whistle-blowing is a transformation of their lives, and the process permanently scars many because the whistle-blowing event overpowers all other aspects of a person's life.

Kleinig (1996) argues that whistle-blowers should be offered protection and suggests anonymity and legislation to protect them against harassment or discrimination. According to Miethe, whistle-blowers are protected by the Constitution, by federal and state statutes, and by common law (1999: 212). However, protection focuses on the disclosure of particular information to particular sources, and so its extent in a particular case may be unclear. For example, under federal and state law, protection is often restricted to *particular* types of workers who disclose *particular* violations of conduct in a *particular* sequence to *particular* agents.

## When Is Whistle-Blowing Morally Justified?

Bowie (in Kleinig 1996: 185) suggests that moral justification exists if the following conditions have been satisfied:

1. It is done in good faith with the intention of exposing wrongdoing that violates human rights, causes harm to third parties, or violates the purpose of the organization. In other words, it should not be motivated by personal revenge, advancement, or other self-interested reasons.
2. Except in special circumstances, the whistle-blower has exhausted all other internal avenues before going public.
3. The whistle-blower has ensured that there is a proper evidential basis for his or her allegation of misconduct.

4. The whistle-blower has carefully analyzed the seriousness of the misconduct, its immediacy, and its definition.
5. The action of the whistle-blower is consistent with the general responsibility of a citizen to avoid or expose moral violations.
6. It has some chance of success, because if it is unlikely to accomplish any significant change, the act of blowing the whistle lacks credibility.

According to Kleinig, these considerations apply equally to police officers who become aware of corruption; however, he warns that any act of whistle-blowing should be regarded as a last resort because it indicates that a department has failed to look after its own affairs. His view seems to apply primarily to Miethe's (1999) category of external whistle-blowing.

Thus far, corruption has been explained in terms of the receipt of goods and services and the performance of acts that generally involve some kind of financial or other benefit to a particular individual. However, there are other forms of corruption that have their source in discriminatory practices by police.

## CASE STUDY 2.1

### JURY AWARDS POLICE WHISTLE BLOWER ALMOST \$1 MILLION

On Tuesday, December 13, 2022, a jury in Cook County, Chicago, awarded nearly \$1 million to a Chicago police detective who claimed to have been demoted when he objected to his superior's orders to alter reports to cover for a fellow officer who shot an unarmed teenager.

Sgt. Isaac Lambert said he was "dumped" from his job as a detective supervisor on the South Side after he filed reports on the case nearly two years after off-duty Sgt. Khalil Muhammad shot and wounded 18-year-old Ricardo Hayes. Lambert testified that he clashed with fellow officers and his supervisors the night of the shooting, even refusing to send officers to interrogate Hayes after learning that the teen had autism and had been reported missing just hours before the shooting.

The evidence revealed that police officials dropped the case against the unarmed kid after the presentation of the video showing Sgt. Muhammad shooting from his car while the unarmed boy stood on the sidewalk, contrary to the city attorneys' claims that Lambert was fired for poor case management.

*Source: Andy Grimm, Chicago Sun Times, December 13, 2022.*

## DISCRIMINATION AS A CORRUPT PRACTICE IN POLICING: RACIAL BIAS, RACIAL PROFILING, AND SELECTIVE LAW ENFORCEMENT

This discussion is concerned with two aspects of discrimination: racial discrimination in the form of police discrimination against minorities through racial bias and racial profiling and discrimination that the police may exercise in the enforcement of the law, either as individuals or as a result of department policy. In general terms, discrimination based on race is deeply embedded in U.S. society and culture, with Blackness being associated with criminality. While overt and explicit racism has been replaced by a shift to color blindness and claims that racism is over,

systemic structures, including law enforcement, continue to sustain it (Heitzeg 2015: 4; April, Cole, and Goldstein 2019). As Alexander (2010) expresses the issue in terms of criminal justice,

[i]n the era of color-blindness, it is no longer socially permissible to use race, explicitly, as a justification for discrimination, exclusion, and social contempt. So we don't. Rather than rely on race we use our criminal justice system to label people of color "criminals" and then engage in all the practices we supposedly left behind. Today, it is perfectly legal to discriminate against criminals in nearly all the ways that it was once legal to discriminate against African Americans. (p. 11)

The media constantly disseminates and reinforces racial stereotypes (see Chapter 9); it frames white criminality as sickness and not badness and as calling for understanding rather than condemnation, while Black criminality is framed as "black on black crime" or "violence among black youth" (Heitzeg 2015: 5).

Police racism and discrimination against minorities refer to the process through which police stigmatize, harass, criminalize, or otherwise discriminate against certain social groups on the basis of cultural markers or national origin (Chan 1997: 17). Police racism can arise in various situations, can take different forms and levels of intensity, and can reveal itself in the form of acts ranging from prejudicial attitudes and discriminatory law enforcement practices to the use of excessive violence against minority groups. Police, like other citizens, may show insensitivity to language and cultural diversity, and while this may not amount to racial discrimination as such, it may well have an influence on police attitudes toward certain minority groups.

### Racism and Racial Bias

Studies have shown evidence of prejudicial attitudes and the regular use of racist language among police officers (Skolnick 1966). The Christopher Commission in Los Angeles, formed after the Rodney King incident, found abusive language by police officers to be prevalent and identified many computer messages between patrol officers that contained racially offensive language, such as, "I'm back here in the project, pissing off the natives," and, "Just got mexercise for the night." White, Cox, and Basehart (in Walker, Spohn, and DeLone 2000: 105) argue that the employment of general profanity by police serves the function of labeling, dominating, and controlling citizens.

In relation to prejudicial attitudes, a study comparing the attitudes of Denver police officers with those of the public found that police officers were only slightly more prejudiced than the community as a whole. This may suggest that police are essentially ordinary citizens and not significantly different from the general population in their attitudes. However, police have a fundamental desire to be respected, and their inclination when they perceive a community as showing a lack of respect is to react by increasing police activity in that community. It is significant that officers assigned to racial or ethnic minority communities, high-crime areas, and poor neighborhoods in the Denver study believed they received less respect from the public than officers working in other areas.

In February 2015, the director of the FBI, James Comey, stated that police officers working in Black neighborhoods where there is a high crime rate develop a cynicism that shades their attitudes about race. The director noted there was considerable research that showed that all persons have unconscious racial biases and that tensions between police and residents in Black neighborhoods could be eased if police got to know those they were tasked to protect (Schmidt 2015).

## Racial Profiling

Racial profiling uses racial characteristics as indicators of possible criminal activity. Skolnick (in Walker et al. 2000) argues that the tendency of police to stereotype people (racial profiling) is an intrinsic aspect of police work because officers are trained to be suspicious and to search for criminal activity. Consequently, they develop a “perceptual shorthand” that they believe allows them to pick out suspects among the general population. They identify suspects by relying on visual signs such as dress, demeanor, gender, and age (see Case Studies 2.2 and 2.3). Additionally, Robert Reiner (1985) found that young, low-income, ethnic males were more likely to be stopped and questioned by the police, and minorities were also more likely to be arrested, although there is some discussion that this might be due to factors such as perceived disrespect shown by suspects to police. The same study noted that while police used excessive force against white citizens twice as much as against Blacks, the findings were reversed in cases of the use of deadly force.

Racial profiling has become a source of major concern to the Black community, particularly in light of the Rodney King incident and others, where police are alleged to have used excessive force and to have racially profiled Black citizens. Studies show that in the 1960s and early 1970s, police fatally shot seven Black people for every white person (Walker et al. 2000: 95), but following the Supreme Court’s decision to declare unconstitutional the fleeing felon rule (allowing police to shoot to kill any fleeing suspected felon), the racial disparity between persons shot and killed has narrowed to about three to one (p. 96). The fact remains that while police continue to profile minority groups in law enforcement activities, there is a greater likelihood that disparity between whites and Blacks in shooting incidents will continue. Case Studies 2.2 and 2.3 provide examples of racial profiling.

Racial profiling is not confined to the police; other government agencies have also been accused of the same practice. For example, in 2000, the General Accounting Office revealed that even before the war on terror commenced in 2001, Black women traveling by air into the United States were being disproportionately targeted for customs searches (Newsome 2003: 32). The report found that these women were more likely than members of other groups to receive intrusive searches, including X-rays and strip searches.

## The Morality of Racial Profiling

The question raised by racial profiling is whether it is morally right to use a person’s race as an indication of increased likelihood of criminal conduct. Should police stop Blacks simply because there is official statistical evidence that young Black men are disproportionately involved in drug or gang activity? In philosophical terms, the argument from the proponents of racial profiling is that members of some races are more likely to commit specific offenses than are members of other races. This means that such proponents believe it is morally justifiable for police agencies to adopt policies enabling them to apprehend a larger number of offenders. Atenasio (2020: 183) counters that this argument assumes that criminality is evenly distributed among a racial group. To the contrary, data shows that criminality is manifested by only a small group of members of a racial group operating in so called “crime hot spots” (p. 189).

Randall Kennedy (in Walker et al. 2000: 104) argues that race should be used as the basis for a police action only in extraordinary circumstances. Prohibiting arrest by reference to racial profiling reduces the possibility of police harassment and the perception among minorities that police harbor racial attitudes toward them. Additionally, the hostility created by profiling tends to form barriers in those communities where police find it most difficult to operate, and profiling may also support segregation in the sense that Blacks become reluctant to venture into white

neighborhoods for fear of police harassment. Most recently, the U.S. Department of Justice (December 2014) issued new guidelines to federal law enforcement agencies on racial profiling that set standards covering routine or spontaneous decisions, such as traffic stops, and nonroutine activities. The fundamental principle stated is that “profiling by law enforcement based on a listed characteristic is morally wrong and inconsistent with our core values and principles of fairness and justice” (p. 3). The guidelines prohibit the use of pretexts to target minorities, as often occurs under the practice known as “driving while black” (p. 5).

## CASE STUDY 2.2

### “LOOKING MEXICAN”

In July 1997, the city of Chandler, a suburb of Phoenix, Arizona, with a population of 143,000 at the time, began Operation Restoration, which was intended to revitalize the town and construct a new civic center, including police headquarters, municipal court, and library. Since its founding in 1912, Chandler had become two cities: one affluent, the other the old, impoverished downtown area.

Seeking a cause for the city center’s decay, city officials fixed on illegal immigration and focused on alleged criminal activity by illegal immigrants. The city police and the border patrol collaborated on a plan linked to Operation Restoration, and on the first day of the operation, two dozen police officers and five border patrol agents moved through the downtown area, chasing suspected illegal immigrants from work sites and filling up buses with those they captured. In all, police eventually removed 432 illegal immigrants, all but 3 from Mexico.

However, the illegal immigrants in Chandler coexist with a large, well-established Mexican American community, with Latinos making up about 15% of the population. As police questioned those leaving markets favored by Latinos, they encountered U.S. citizens, from whom they also demanded identification and immigration papers. The police operations targeted legal residents and U.S. citizens who “looked Mexican.”

Four months later, the Arizona attorney general revealed the results of his inquiry into this raid. These included that Chandler police had stopped residents, questioned them, and entered their homes without warrants, relying only on skin color, Mexican appearance, or use of Spanish language to identify them as suspected illegal immigrants. Moreover, the city officials had not requested formal permission from the U.S. attorney general to act against illegal immigrants, as is required by federal law.

The city manager officially reprimanded the police chief for the raid, and a group of Latinos launched a \$35 million lawsuit against the city. Latinos commented that it would take 10 or 15 years for people to feel comfortable again in the town.

Source: Tobar 1998.

## CASE STUDY 2.3

### RACIAL PROFILING: WHEN COLOR SIGNALS DANGEROUSNESS

*Case 1.* In Phoenix, Arizona, police questioned a man sitting in his car outside an apartment building. Why was he questioned? Police said he appeared nervous, he moved his car when a marked police car approached, and most of all, as one police officer reported, he was a Mexican male just sitting in his car in a mainly white neighborhood.

*Case 2.* At the Kansas City airport, a Drug Enforcement Agency agent stopped and questioned a young man. Why was he stopped and questioned? The agent reported that the man was young and not well dressed and had arrived on a direct flight from Los Angeles, known to be a source for drugs. He had no checked luggage, only two carry-on bags, and he walked rapidly to a taxi after his flight. He appeared also to be nervous. The fact that he was Black was a factor in the agent's decision to stop him.

*Case 3.* In California, officers of the border patrol questioned the driver of a vehicle at the highway checkpoint some 30 miles north of the United States–Mexico border. They also searched his vehicle. Why was he questioned? They were prompted to do so because he was of Mexican ancestry.

*Case 4.* In Boston, over a period of several weeks, police stopped, questioned, and searched young Black men at random, following a report that a white man's pregnant wife had been shot and killed in that neighborhood by a Black man.

*Case 5.* In New York City, police stopped and searched a young Black man who alighted from a commuter train. He was clean-shaven, was carrying a briefcase, and was 6 feet 4 inches tall. Why was he stopped and searched? Police were investigating a report that a Black man who regularly rode the train carried a gun. The report came in the form of an anonymous letter, and the man described in the letter was 5 feet 10 inches tall and had a mustache.

*Case 6.* After police received a tip that a white man with a bomb was inside an office building, they surrounded the building and entered. They examined white men more closely than nonwhite men.

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*Source:* Kennedy 1991.

*Case 7.* Complaints by Arab Americans against racial profiling by airlines have reportedly increased since 9/11, according to the American–Arab Anti-Discrimination Committee. The committee is aware of passengers with a Muslim or Middle Eastern appearance who have been removed from planes. For example, an Iranian-born U.S. citizen who was a software developer living in Dallas was on his way home from Seattle and, while reading his paper on an American Airlines plane, was approached by an airline employee holding a passenger manifest. He was told to leave the plane because the pilot did not feel comfortable with him aboard. Reportedly, the pilot did not like how he looked. Three airport police questioned him about where he lived, his marital status, his religion, and where he worked, and he was treated as a suspect. He was allowed to board the next flight to Dallas, and when the plane landed, apologies were offered by an airline official.

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*Source:* CNN 2001.

### “Driving While Black”

The public associates racial profiling with traffic stops, and some have argued that the police practice of stopping a disproportionate number of minority citizens for their driving infractions is so pervasive that it should be termed the crime of “driving while Black.” According to the Bureau of Justice Statistics (Smith and Durose 2006), in 2002, police stopped an estimated 8.7% of drivers aged 16 or older, and 11% of young male drivers were physically searched or their vehicle was searched. Among these, Blacks (22%) and Hispanics (17%) were searched at higher rates than whites (8%). A number of studies suggest that targeting minority motorists does occur at least in some jurisdictions, and a number of police departments are now recording traffic stop information to establish whether stops are racially biased (Warren, Tomaskovic-Devey, Smith, Zingraff, and Mason 2006: 710).

Racial profiling is less likely to be a factor in a routine speeding stop by a highway patrol officer because it is often difficult to identify the driver's race because of the speed of the

vehicle, and also, such stops are usually the result of speed detectors rather than sighting the race of the driver (Warren et al. 2006: 714). In one study conducted in 2000 in North Carolina that compared race disparities in highway patrol stops and in local police stops, researchers found only slight evidence of racial disparity in the highway patrol stops but stronger evidence in stops by local police (p. 709). However, the time of the day can be a factor in racial disparities. A study by Pierson et. al (2020: 736) based on a dataset of almost 100 million traffic stops across the country, found that Black drivers were less likely to be stopped after sunset when a “veil of darkness” conceals a person’s race. The study uncovered “persistent racial bias” in police stops.

One analysis of police stops of drivers in Kansas City in 2003 and 2004, based on a survey of about 2,300 drivers and interviews with some, has shown how it is necessary to differentiate between *investigatory stops* and *traffic-safety stops*. Epp, Maynard-Moody, and Haider-Markel argue that there is an institutional police practice of making investigatory stops (the procedure to be followed is taught in police training courses and discussed in police educational material) and that such stops constitute the main source of racial disparities in police stops (2014: 7). The investigatory stop is “a police stop where the intent is not to sanction a driving violation but to look for evidence of more serious criminal wrongdoing” (p. 30). Thus, police identify traffic offenses, such as a broken taillight, as a pretext to stop drivers and make a search of the vehicle for drugs or unlicensed firearms. The investigatory stop is an instance of proactive policing—a shift from random to aggressive patrolling—thought by police to be a crime reduction measure (p. 31).

In 1996, the U.S. Supreme Court in *Whren v. United States* ruled that investigatory stops did not violate Fourth Amendment and other protections. In that case, police pulled over the driver of a pickup in a Black neighborhood in Washington, D.C., for making a turn without signaling and, after a search of the vehicle, found illegal drugs. The Court held that stops are not a constitutional violation if the stop is based on an objective violation of the law, regardless of how minor. It also suggested that a stop would only be constitutionally discriminatory if the defendant was able to show that police had intentionally used race as the primary reason for selecting that person to stop.

In *Knowles v. Iowa* in 1998, the Court expanded police powers by authorizing police to conduct pat-down searches of the occupants of a vehicle as long as they were necessary to guard against a perceived risk of attack. Later, in 2002, *United States v. Arvizu* authorized police to stop and search a vehicle if the “totality of the circumstances” supported reasonable suspicion of criminal activity even where no part of the circumstances amounted to probable cause. These cases offer police wide scope to conduct investigatory stops without any concerns about violation of rights (Epp et al. 2014: 35).

A study by Epp and others found that Blacks were stopped for investigatory purposes at much higher rates than whites. Whites tended to experience normal traffic stops, such as for speeding, as do Blacks, but whites are less likely to be subjected to investigatory stops (Epp et al. 2014: 8). In addition, Blacks perceive such stops through a racial lens based on personal and shared experiences of their interactions with police. Police use investigatory stops to check on those they regard as suspicious, and Epp and others suggest that their study reveals that police racial biases are activated in these stops because officers target the stereotypical criminal, namely the young Black male (p. 53).

In traffic stops, on the other hand, police are focused on violations of traffic laws and therefore target safety violators, Black or white. Thus, while traffic safety stops tend to be brief and to the point for both Blacks and whites, during investigatory stops, officers ask questions, inspect the vehicle’s interior, and, if still suspicious, ask to search the vehicle (Epp et al. 2014: 78). These

stops are intrusive and tense and sometimes result in conflict; they are viewed by Blacks as less legitimate than traffic-safety stops and as treating them as second-class citizens (p. 129). Research now indicates that investigatory stops raise questions about police legitimacy, professionalism, and racial bias and arguably constitute a form of racial subordination (p. 135).

### “Stop and Frisk”

Similar to investigatory stops of drivers discussed previously, police may act on their stereotypical images of suspicious conduct by stopping, questioning, and frisking people on the street, and this practice is a source of tension between police and the community. A study in San Diego found that nearly half of those stopped and questioned were Black, despite the fact that Blacks made up only 17.5% and 4.8%, respectively, of the populations of the two precincts covered by the study (Walker et al. 2000). Moreover, all those stopped and questioned were male, and about 60% were juveniles. The practice has become “synonymous with racial profiling” (White and Fradella 2016: 7).

A “stop and frisk” law permits police to carry out brief detentions for investigatory purposes (“stops”) and to pat down those stopped for weapons (“frisks”; White and Fradella 2016: 18). The legal basis for stop and frisk was provided by the U.S. Supreme Court in 1968 in the case of *Terry v. Ohio*; the case is so well known to police that stop-and-frisk actions are referred to by police as “Terry stops” (Clemons 2014: 700). Before *Terry*, it was generally accepted that police could not stop and search a person unless they had a warrant or there existed probable cause to believe that a person was engaged in criminal actions. In *Terry*, the Court decided that if and when police observe unusual conduct by a person whom they believe to be dangerous and engaged in criminal activity, an officer may “for the protection of himself and others in the area” conduct a limited search “to discover weapons that might be used against the officer.”

Therefore, a police officer need only have “reasonable articulable suspicion” of criminal activity and dangerousness in order to stop and frisk (Alexander 2010: 63). Since *Terry* was decided, federal courts have consistently accepted police explanations of what constitutes “reasonable suspicion” and thereby increased the possibility that a person will be stopped based on a police “hunch” or “gut feeling” that he or she is acting suspiciously. These kinds of police reactions are often based on implicit racial biases that stem from the stereotypical association between a Black person and danger, violence, and criminality (Clemons 2014: 701).

The furor concerning racial profiling has spread to Canada, and in 2003, the police in Kingston, Ontario, conducted the first racial profiling survey, in which police officers were asked to record data on pedestrians and drivers they interrogated, suspected, questioned, searched, or detained (Closs and McKenna 2006: 144). The study found that Black male residents of the city between the ages of 15 and 24 were three times more likely to be stopped and questioned by police than people from other racial backgrounds (p. 149). Police justify stopping and questioning on the street as an effective crime-fighting measure, intended to deter potential offenders through police scrutiny of them and to provide reassurance to the general public that patrol officers are protecting ordinary citizens.

In New York City, the use of the “stop and frisk” law peaked in 2011 when there were more than 685,000 stops. Between 2003 and 2011, the number of stops more than quadrupled (White and Fradella 2016: 91). Researchers found that the percentage of “innocent” stops in which no arrest or summons followed the event consistently reached between 86% and 90% and that stops that resulted in the seizure of a gun were only 0.15% in 2008. In this city, many stops were never documented by police (White and Fradella 2016: 5).



In 2013, Shira Scheindlin, a federal judge, ruled that the city's "stop and frisk" law was unconstitutional because Blacks and Hispanics had been disproportionately subjected to the practice over a 10-year period: 52% of those stopped were Black and 31% Hispanic. The judge ruled that the NYPD had, over time, developed a policy of "indirect racial profiling," as it had increased its number of stops in minority parts of the city. The judge said of the practice that stop and frisk was "a demeaning and humiliating experience" and that "no one should live in fear of being stopped whenever he leaves his home to go about the activities of daily life" (quoted in Stanford 2015: 71). Evidence demonstrates that the "reasonable suspicion" believed by police to warrant a stop and frisk is commonly justified by reference to a person's "furtive movements"—cited in 42% of stops from 2004 to 2009—and location in a "high-crime area"—cited in 55% of stops over the same period (Clemons 2014: 707). Other factors include unprovoked flight, nervous or evasive behavior, observing a bulge in a pocket that could be a weapon, and knowledge that a person has a criminal record or is known to associate with known criminals (White and Fradella 2016: 75).

Stop and frisk was justified as a crime control measure in New York City by Mayor Bloomberg. While violent crime declined by 29% in the city from 2001 to 2010, other large cities experienced similar declines without any stop-and-frisk policy in place. For example, there were declines of 59% in Los Angeles, 56% in New Orleans, and 49% in Dallas (New York Civil Liberties Union n.d.). Stop and frisk was stopped in New York in 2015 by Mayor Bill de Blasio, who succeeded Mayor Bloomberg. By 2014, the number of stop and frisks had dropped to 45,788, a decrease of 91% since 2012 (White and Fradella 2016: 113).

Overall, in the cities in which it was extensively employed, the power to stop and frisk was overused, violated citizens' rights, adversely impacted police and community relations, and caused citizens to experience physical, psychological, and emotional consequences (White and Fradella 2016: 7).

### Confidence in the Police

From the point of view of the public, race and ethnicity play a major part in shaping public attitudes toward police. For example, in a 1998 survey, 61% of white Americans surveyed reported "a great deal" or "quite a lot" of confidence in the police, whereas only 10% had "very little" confidence. However, of the Black people surveyed, only 34% fell into the first category, and 25% had "very little" confidence in the police (Walker et al. 2000: 91). Police tend to be negatively evaluated by residents in high-crime neighborhoods and by those who fear the incidence of crime in their neighborhoods (Schafer, Huebner, and Bynum 2003: 447), especially when they use aggressive policing techniques designed for zero-tolerance policing, which have resulted in disproportionate arrest rates for Blacks (Eck and Maguire 2005: 228). In the case of Hispanics, attitudes fall somewhere between those of whites and Blacks. As already noted, age can be a factor in police profiling, and age also factors into the views of young people toward the police because young people, regardless of race, consistently have a more negative view of police than their elders. This can be explained by their more active presence on the street and their greater level of contact with police (Walker et al. 2000: 92).

### Selective Law Enforcement

Police selectivity in enforcing laws may have the effect of discriminating against certain groups in society. For example, police treatment of domestic violence cases has historically

involved a pattern of noninterference, based on the assumption that such violence was not a proper subject of crime control unless it involved injury that could be defined as felony assault. Additionally, police gave priority to family solidarity and acted or failed to act in accordance with that goal (Fyfe in Kleinig 1996: 184). Thus, women who were battered by their partners received discriminatory treatment by police because whether action was taken against the batterer depended on whether the crime was considered a felony or a misdemeanor. Similarly, selective enforcement by the police can offer less protection to rape victims because most rape victims are victimized by known intimates, and police enforcement practice focuses on stranger rapists.

## SUMMARY

In the past, effective policing in the United States depended on the police being able to physically dominate the streets. Police were seen as an arm of whichever political party was in power, and there was little or no conception that police needed to observe ethical standards and norms. Police corruption and police abuse of power are inextricably linked to the nature of policing and to police culture. The policing model may be that of the officer as the crime fighter, the emergency operator, or the social peacekeeper, and the type of model chosen by a police department influences relations between the police and community, police culture, and the overall ethical standards employed in policing. Police culture is enormously important in determining the level of police corruption or misconduct, because if the culture adopts the characteristics of cynicism, the use of force in all situations, and the notion that police themselves are victims, ethical standards will take second place to the noble cause of fighting the war against crime.

The police have extensive discretionary powers that can be used for good or ill, and some argue that this discretion is too wide and should be curtailed by the law and by departmental rules and regulations. Others argue that placing limits on discretion is the only feasible option but acknowledge that enforcing these limits can be problematic. Public opinion seems to accept that police should have wide discretion to counter crime, but individual members of the public complain when that wide discretion is directed at them.

Codes of ethics may be one way of limiting police discretion, but there are problems with codes of ethics being rhetorical instruments directed toward a vaguely defined “public.” In any event, the evidence seems to show that police mostly depend on their personal notion of ethics.

## DISCUSSION QUESTIONS

1. Discuss the ways in which the noble cause argument explains and helps police rationalize police misconduct and involvement in corruption.
2. Are codes of ethics important in guiding police practices and minimizing police misconduct? Explain.
3. How does police culture influence police perceptions about their role and about the means they should use to carry out their duties?
4. Is there any relationship between the style of policing chosen by a department and the ethical practices it feels are legitimate for its officers to use in carrying out their duties?

5. Is it possible or desirable to limit police discretion, and would this step have the effect of minimizing ethical misconduct by police officers?
6. Why do some argue that it is correct to describe racial profiling as a form of police corruption? Explain the effects of this practice.
7. Compare systemic and individualistic explanations of police corruption with examples.

### WEB RESOURCES

Bureau of Justice Statistics, U.S. Department of Justice: <http://www.bjs.gov/>

International Association of Chiefs of Police (IACP): <http://www.theiacp.org>

Police Executive Research Forum: <http://www.policeforum.org>

Vera Institute of Justice: <http://www.vera.org>

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