POLICE DEVIANCE & ETHICS

A thing won by breaking the rules of the game is not worth winning (Ida Tarbell)

Police work by its very nature involves the slippery slope (the potential for gradual deterioration of socio-moral inhibitions and perceived sense of permissibility for deviant conduct). In fact, the whole unspoken "dark" side of criminal justice work involves putting up with conditions that are at less than usual comfort levels; i.e., "slumming it". Police are routinely involved in undercover work which involves taking on false identities and inducing crime. Police are allowed to make false promises to hostage takers and kidnappers. Police feed disinformation to the media. Police are trained to be deceptive at interviewing and interrogation. Police make all kinds of excuses to get out of nuisance calls. Police trade or sell their days off and desirable work assignments. Police angle themselves into cases requiring court appearances and manipulate the overtime system to earn an average of $5000 more a year. Police strain the truth to protect loved ones and crime victims. Police routinely invade privacy via surveillance and other technological means. Police fighting the drug problem may encounter more loose cash than the gross national product of some small countries. And as with sting operations, there's something that's just plain sick about a system that condones the police making a product, selling the product, and then arresting people for buying the product.

Police deviance is a much broader term than corruption. It includes all activities which are inconsistent with norms, values, or ethics (from a societal standpoint or even from the police standpoint). A theorem in criminology is that it's always fruitful to study when people not only break society's norms, but the norms of their own social group too. The following definitions may be helpful:

- Deviance -- behavior inconsistent with norms, values, or ethics
- Corruption -- forbidden acts involving misuse of office for gain
- Misconduct -- wrongdoing violations of departmental procedures
- Favoritism -- unfair "breaks" to friends or relatives (nepotism)

Although this lecture is about deviance, it might be useful to take a brief look at a couple of these other terms. Corruption is criminal conduct that can involve underusing one's authority, overusing one's authority, or profiteering via one's authority. The key element is misuse of official authority; the gain can be personal or for the common good. Corruption is bad because it undermines integrity, the state of policing being whole or undivided. Corruption has been the target of numerous efforts at creating typologies. Here are three of the most popular typologies of corruption:

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<th>Knapp:</th>
<th>Larry Sherman:</th>
<th>Barker &amp; Carter:</th>
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<td>(1) Grass eaters</td>
<td>(1) Rotten apples/pockets</td>
<td>(1) All the wrong reasons (Type I)</td>
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<td>(2) Meat eaters</td>
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Police misconduct is impropriety of office, not misuse of authority. It's wrongdoing, the appearance of wrongdoing, or puzzling behavior that violates standards usually set down in departmental policies and procedures, for good reasons, that the employee may or may not be cognizant of. Misconduct is bad because it leaves the public free to speculate and draw sweeping generalizations about the
The different types of misconduct are often classified as follows:

- **Malfeasance** -- intentional commission of a prohibited act or intentional unjust performance of some act of which the party had no right (e.g., gratuity, perjury, use of police resources for personal use)
- **Misfeasance** -- performance of a duty or act that one is obligated or permitted to do in a manner which is improper, sloppy, or negligent (e.g., report writing, unsafe operation of motor vehicle, aggressively "reprimanding" a citizen, improper searching of arrestees)
- **Nonfeasance** -- failure to perform an act which one is obligated to do either by law or directive due to omission or failure to recognize the obligation (e.g., failure to file report, improper stop & frisk, security breach)

**THE MYTH OF THE ROTTEN APPLE**

According to the Knapp Commission (see boxed insert), which blew the whistle on the standard police explanation for corruption (he/she's a rotten apple in an otherwise clean barrel), "rotten apples" are either weak individuals who have slipped through the screening process or succumbed to the temptations inherent in police work or deviant individuals who continue their deviance in an environment that gives them ample opportunity. Police departments tend to use the rotten apple theory or some variation of the "rogue cop" story to minimize the public backlash against policing after every exposed act of corruption.

A functional explanation may be closer to the truth, and is indeed supported by almost every scholarly observer on the subject. A functional explanation is that corruption is inherent in society's attempt to enforce unenforceable laws. Another approach is the "occupational socialization" explanation, the polar opposite of rotten apple theory that is sometimes called "rotten barrel" theory. According to this view, the very structure of policing (exposure to unsavory characters, forgetting what you learned in the academy, clannishness, and overzealous, misguided approaches to crime control) provides plenty of opportunities to learn the entrenched patterns of deviant police conduct that have been passed down thru generations.

**The Knapp Commission (NYPD)** was formed in the early 1970s by Mayor Lindsay as a result of the publicity generated by renegade detective Frank Serpico. After months of hearings, the commission found widespread corruption in the NYPD, and made the following recommendations: (1) commanders should be held accountable for their subordinates' actions; (2) commanders should file periodic reports on key areas that would breed corruption; (3) field offices of the Internal Affairs division should be created at all precincts; and (4) undercover informants should be placed in all precincts. Commissioner Patrick Murphy was appointed to clean up the department, which he did by implementing proactive integrity checks, massive transfers of senior personnel, job rotation in key areas, ensuring sufficient funds to pay informants, and cracking down on citizen attempts at bribery.

Years later, in 1986, a scandal broke out in NYPD Brooklyn ("Alamo") precincts. Thirteen officers were indicted for stealing and selling drugs. It became known as the "Buddy Boys" scandal because all the officers stuck together and were tipped off in advance of any internal investigation. When the department tried to implement a job rotation plan in the patrol division, NYPD experienced a work slowdown which forced
administrators to abandon the plan. The 1993 Mollen Commission, which was assigned to investigate the scandal, exposed the "Dowd test", a rite of passage in which the rookies are placed into "in or out" predicaments, and basically affirmed the impossibility of ever winning the drug war because of its inherent potential for police corruption. Drugs became a "major" source of graft, as opposed to the Knapp Commission view of it as "minor" graft.

TYPES OF POLICE DEVIANCE
(for the latest research data, see Review Boards)

POLICE GRATUITY

A gratuity is the receipt of free meals, services, or discounts. Nonfederal police usually do not regard these as forms of corruption ("not another lecture on the free cup of coffee or police discount"). These are considered fringe benefits of the job. Nevertheless, they violate the Code of Ethics because they involve financial reward or gain, and they are corruption because the officer has been placed in a compromising position where favors (a "fix") can be reasonably expected in the future. When there is an implied favor (a "wink and nod"), it's called "mooching". When the officer is quite blatant about demanding free services, it's called "chiseling".

Gratuities often lead to things like kickbacks (bribery) for referring business to towing companies, ambulances, or garages. Further up the scale comes pilfering, or stealing (any) company's supplies for personal use. At the extreme, opportunistic theft takes place, with police officers skimming items of value that won't be missed from crime scenes, property rooms, warehouses, or any place they have access to. Theft of items from stores while on patrol is sometimes called "shopping".

POLICE SHAKEDOWN

A shakedown is when the police extort a business owner for protection money. The typical scenario involves gay bars, which are considered the most vulnerable. In some cities (like Boston for example), police are still charged with the power to inspect bars for compliance with liquor regulations. Officers are then in a position to threaten bar owners with violations if they do not make payoffs, and promise to intercept ("fix") any other violation reports processed through department channels. In other cities (like San Francisco, for example), officers would promise extra protection against gay-bashing in return for extra payments. In still other cities (like New Orleans, for example), moonlighting officers would make extra money from "details" in liquor establishments, and be paid extra for overlooking open sex or drug violations. In some cities, police officers have complete control over liquor licenses and even own nearby parking meters. To deal with the gay bar issue, many police departments have tried hiring openly gay recruits.

Shakedowns are also common with strip bars, prostitution rings, drug dealing, illegal gambling, and even construction projects. In each case, the approach and modus operandi are somewhat variable, because each officer subjects the business operator and/or patrons to the shakedown differently.

POLICE PERJURY

This is usually a means to effect an act of corruption, leaving out certain pertinent pieces of
information in order to "fix" a criminal prosecution. "Dropsy" evidence is typical, where the officer testifies untruthfully that he/she saw the offender drop some narcotics or contraband. Lies that Miranda warnings have been given, when they haven't, are also typical. Lying in court is called "testilying", and police can do it coolly; they're trained witnesses.

Other actors in the system, supervisors and even judges, are often aware of the perjury. They pretend to believe police officers who they know are lying. Everybody's happy with the system. The cop gets credit for a good bust; the supervisor's arrest statistics look good; the prosecutor racks up another win; the judge gets to give his little lecture without endangering his reelection prospects, the defense lawyer gets his fee in dirty money, and the public is thrilled that another criminal is off the street (Dershowitz 1996).

Most perjury is committed by decent cops who honestly believe a guilty defendant will go free unless they lie about something.

POLICE BRUTALITY

Brutality has been defined as excessive force, namecalling, sarcasm, ridicule, and disrespect (President's Commission 1967). Other commissions have simply used a vague definition as "any violation of due process". Kania and Mackey's (1977) widely-regarded definition is "excessive violence, to an extreme degree, which does not support a legitimate police function." When a citizen charges police brutality, they may be referring to a number of things, including:

- profane or abusive language
- commands to move or go home
- field stops and searches
- threats of implied violence
- prodding with a nightstick or approaching with a pistol
- the actual use of physical force

Only the last one of these (unreasonable and unnecessary actual use of physical force) can be considered police brutality. This is commonly expressed as "more than excessive force". Police perjury and police brutality go hand in hand, as officers who commit brutality will most likely lie on the stand to prevent the possibility of a lawsuit or departmental charges. The reasons why an officer might engage in this kind of conduct are many:

- a small percentage may have been attracted to police work for the opportunity to enjoy physically abusing and hurting somebody
- an officer may come to believe "it's a jungle out there"
- an officer may be provoked and pushed beyond their endurance

The most common reason is occupational socialization and peer support. One common belief is that it's necessary to come down hard on those who resist arrest because they may kill the next police officer who tries to arrest them (so you have to teach 'em a lesson). Another practice is the "screen test", police jargon for applying the brakes on a police vehicle to that the handcuffed prisoner in back will be thrown against the metal protective screen.
Police brutality has been found to be closely associated with riots ever since the Kerner Commission of the 1960s which practically blamed every riot in that decade on the police. Significant police-initiated riots since then include:

- December 17, 1979 -- Arthur McDuffie, an African American, was riding his motorcycle in Miami, when according to police reports, he popped a wheelie, gave a cop the finger, and sped away. More than a dozen Miami patrol cars gave chase. When caught, at least six white officers jumped him, splitting open his skull. He died four days later. It came out at trial that the police fabricated an explanation that he fell, splitting his head, of his own accord, but an all-white jury acquitted the officers. Three days of racial rioting erupted.

- March 3, 1991 -- Rodney King, an African American, was detected speeding on a Los Angeles freeway, and apparently refused to pull over for fear a ticket would revoke his probation. Over eleven LAPD units, including a helicopter, gave chase. When stopped, there were two passengers who exited and were taken into custody, but Rodney refused to exit the vehicle. He was savagely dragged out, tasered twice with fifty thousand volts, and kicked or beaten with nightsticks at least fifty-six times by four white officers while twenty-seven other officers stood around watching. Rodney suffered sixteen broken bones and permanent brain damage. The following day, an amateur photographer tried to surrender his videotape of the beating to officials, but instead sold it to KTLA television which aired the tape. The four white officers were acquitted of charges by a Simi Valley jury of ten whites, one Asian, and one Hispanic on April 29, 1992. Five days of racial rioting erupted. A federal trial in 1993 resulted in convictions for two of the four officers.

Criminal justice experts are divided over whether racial differences exist with respect to police use of force (Weisburd et. al. 2000). On the one hand, the Christopher Commission (1991) stated that white officers were somewhat more likely to use excessive force against African-Americans, and watchdog groups like the ACLU, Amnesty International, and Human Rights Watch have stated a pattern exists, but on the other hand, respected researchers like Adams (1996) and Tonry (1995) as well as the U.S. government itself have never unveiled a pattern.

POLICE PROFANITY

There are many reasons why a police officer would use obscene and profane language. Effective use of verbal communication is one of the skills expected in police work. Concepts such as "command voice" and "command presence" are routinely taught at police training academies. The FCC specifically condemns certain words on radio and television that are "patently offensive", but there's no such mechanism for determining what's offensive with interpersonal communication. The following typology exists:

- words having religious connotations (e.g., hell, goddamn)
- words indicating excretory functions (e.g., shit, piss)
- words connected with sexual functions (e.g., fuck, prick)

Generally, words with religious connotations are considered the least offensive and words connected with sexual functions are considered the most offensive. It's commonly the case, however, that use of such language by police officers is purposive and not a loss of control or catharsis.

- to gain the attention of citizens who may be less than cooperative
- to discredit somebody or something, like an alibi defense
to establish a dominant-submissive relationship
- to identify with an in-group, the offender or police subculture
- to label or degrade an out-group

Of these, the last is of the most concern, since it may reflect the transition of prejudice to discrimination, especially if racial slurs or epithets are involved. On the other hand, profanity for innocuous purposes may very well be something that it is unrealistic to expect will go away in policing or many other contexts.

SEX ON DUTY OR DUTY-RELATED

Contacts with promiscuous females and minimal supervision are part of the job. Sooner or later, every police officer will be propositioned. There are a number of women who are attracted to the uniform or the aura of the occupation. Every police officer will be able to tell you stories about police "groupies". These are women who make the rounds by waving at officers, getting them to stop or pull over, and then set up meetings to have sex with them, or sometimes right then and there. A woman such as this typically has sex with whole departments and hundreds of police officers. Other situations involve:

- traffic stops -- to get a closer look at the female or information about her
- fox hunting -- stopping college girls to get the I'll do anything routine
- voyeurism -- window peeping or interrupting lovers lane couples
- victim recontacts -- consoling victims who have psychological needs
- opposite sex strip searches -- touching and/or sex with jail inmates
- sexual shakedowns -- letting prostitutes go if they perform sex acts

On occasion, one hears about "rogue" officers who coerce women into having sex on duty, "second rapes" of crime victims, and school liaison officers involved with juvenile females, but such instances are rare because of the penalties involved. When police sex cases come to the public attention, the department reaction is usually to reemphasize the code of ethics. Such was the case in the 1985 Rathskellar incident in San Francisco, where at a police academy graduation party, one bashful recruit was handcuffed to a chair, and a prostitute was brought in to perform oral sex on him.

SLEEPING ON DUTY

On the night shift, the police car is sometimes referred to as the "traveling bedroom". In police argot, a "hole" or "coop" is where sleeping takes place, typically the back room of someplace the officer has a key to and can engage in safe "cooping". Police officers who attend college during the day or moonlight at other jobs in order to make a decent living are often involved in this kind of conduct. Numerous court appearances during the day can also be a factor, along with the toll of shift work.

Sleeping on duty, of course, is just an extreme example of goldbricking, the avoidance of work or performing only the amount minimally necessary to satisfy superiors. Goldbricking can take many forms: from ignoring or passing on calls for service to someone else; overlooking suspicious behavior; or engaging in personal business while on duty.

DRINKING & ABUSING DRUGS ON OR OFF DUTY
There are endless opportunities to drink or take drugs while on duty (e.g., victim interviews, shakedowns, contraband disposal), and the reasons for it are many: to get high, addiction, stress, burnout, or alienation from the job. However, even in cases of recreational usage (which doesn't exist, since officers are never off-duty or have any of their "own time"), the potential is there for corruption. The officer must obtain the drugs from some intermediary, involve others in transactions, and open the door to blackmail, shakedowns, ripoffs, and coverups. It sets a bad example for public relations. It will affect judgment, and lead to the greater likelihood of deadly force or traffic accidents. Alcohol and drug use tends to become a systemic problem; others become involved, either supporting or condemning the user. Alcohol and drugs tend to be mixed by police officers because there's more subcultural support for alcoholism; thus the abuser covers up the drug use with alcoholism.

More intriguing is when the police become sellers or dealers of drugs. One occasionally hears stories of officers selling drugs at rock concerts. The motivation here appears to be monetary gain and greed, although there have been some attempts to claim stress or undercover assignment as a defense. In cases were such officers have been disciplined, plea bargained, or arbitrated, the courts have not upheld a job stress/drug connection, although there is some precedent in rulings that job assignment may be a factor in alcoholism.

With the exception of a few places (like Hawaii), police officer associations (POAs) have opposed random drug testing. They especially oppose drug testing after a shooting incident because it taints the officer. They are not generally opposed to drug testing of applicants or probationary employees. They do, of course, support strict discipline of any employee who is involved in dealing drugs.

**MISUSE OF CONFIDENTIAL INFORMATION**

This normally involves the jeopardization of ongoing investigations by "leaking" information to friends, relatives, the public, the press, or in some cases, directly to the criminal suspects or members of their gang. The officer may be unaware that they are even engaging in this kind of conduct which may involve "pillow talk" in some instances. Failed raids, for example, are often due to a leak in the department.

In other cases, department resources, such as computer systems, may be used to produce criminal history reports for "friends" of the department such as private detectives, consulting firms, or area employers. Passwords can also slip out, granting access to computer network information. In rare cases, police resources are put to use in blackmailing political figures. In general, however, cracking down on secrecy violations has produced more problems than it has solved. Part of the reason for the current fragmented condition of American law enforcement rests upon a false sense of security derived from overdone needs for secrecy.

**POLICE ETHICS**

Every criminal justice profession and association has "codes" of ethics, "canons" of professional responsibility, "statements" of values, "principles" of conduct, "standards" of practice, and "oaths" of office, along with "pledges", "vows", "maxims", "credos", "prayers", "tenets", and "declarations". Some are directed to God; others to superiors or the profession; and still others to society as a whole. Some are regulatory; others are aspirational; some adhere to utilitarianism; others to deontological ethics; but they all make promises that people commit to keeping as a standard of performance. A code
of ethics, if it is to be used for occupational purposes, must set a standard above ordinary morality. Otherwise, there's no need for a code of ethics at all. This is especially relevant to police work, where it's going to take more than just a commitment to being an ordinary, decent human being. Further, it's going to take being a user of the code, not just being a promiser.

A VISION OF ETHICAL POLICING

The ethically ideal police system would be one with integrity and nothing puzzling about it (i.e., there would be no corruption nor misconduct). There would be no us-against-them and no disrespect for the limits of the law or how it's enforced. Everything done in private would be just as if it was done in public. Mistakes would be treated as learning opportunities, but there would be less of them because of widespread adherence to the values of probity, propriety, restraint, reasonableness, and caution. Recruitment, selection, and training mechanisms would be flawless, with promotion on the basis of merit, no one being without ample supervision, and the organization giving its personnel whatever resources they need to perform their work better. There would be "open door" policies to the public, academics, and the media. Nothing the police do or how they do it would come as a surprise to anyone. They would conduct themselves, as August Vollmer once said, in ways that make it impossible for anyone to make a joke about them.

Besides having the public on their side, the police desperately need to have politicians who care more about the public interest than their own political survival or advancement. Ethical policing works best in an ethical climate. However, even if the political leaders are a bunch of bunglers, and even if all society becomes a Sodom and Gomorrah, this is no excuse for the police to abandon their ethics. Their commitment to a code of ethics is unconditional. You don't lower your ideals (or revise your mission statement) just because circumstances in the environment have changed. The true test of character is keeping your faith in the face of adversity.

THE POLICE CODE OF ETHICS

There are few professions that demand so much moral fiber as policing. Police stand in "harm's way" not so much against enemies with bullets, but against enemies skilled in every form of trickery, deceit, feigned ignorance, and deception. That's why the Law Enforcement Code of Ethics, published by the International Association of Chiefs of Police, stands as a spirited reminder to the higher order of this calling:

As a law enforcement officer, my fundamental duty is to serve mankind; to safeguard lives and property; to protect the innocent against deception; the weak against oppression or intimidation; and the peaceful against violence or disorder; and to respect the Constitutional rights of all men to liberty, equality, and justice.

I will keep my private life unsullied as an example to all; maintain courageous calm in the face of danger, scorn, or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in my thought and deed in both personal and official life, I will be exemplary in obeying the laws of the land and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duties.
I will never act officiously or permit personal feelings, prejudices, animosities, or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill-will, never employing unnecessary force or violence, and never accepting gratuities.

I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of police service. I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession - law enforcement.

[Class assignment/discussion: Take a look at my Police Humor page, follow some of the links, read the jokes, find and explain why some jokes would, in August Vollmer's words, have a deteriorative effect on police ethics and the profession as a whole.]

INTERNET RESOURCES
ACLU Fighting Police Abuse
A Page Devoted to Police Ethics
CopCrimes Database
Law Enforcement Ethics
Human Rights Watch
OICJ's Ethics Online
Police Ethics Network
Police Integrity: New Orleans-style
Police Use of Excessive Force against Black Males
Stop American Police Corruption

PRINTED RESOURCES

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Syllabus for JUS 205
Instructor Home Page