CHAPTER 04

ETHICAL ESSENTIALS
“Doing Right When No One Is Watching”
LEARNING OBJECTIVES

As a result of reading this chapter, you will be able to

1. Articulate legitimate ethical dilemmas that arise with police, courts, and corrections practitioners
2. Explain the philosophical foundations that underlie and mold modern ethical behavior
3. Discuss the need for, and application of, ethical standards as they concern police
4. Explain the importance of ethics in the court system
5. Delineate the unique ethical considerations and obligations that exist with federal employees
6. Explain the interplay of ethics with the subculture and job-related stress in corrections practitioners
7. Evaluate the ethical decision-making process using a scenario
8. Apply ethical tests to decide what is and is not ethical behavior

Watch your thoughts, for they become words. Watch your words, for they become actions. Watch your actions, for they become habits. Watch your character, for it becomes your destiny.

—Unknown

ASSESS YOUR AWARENESS

Test your knowledge of ethics by responding to the following seven true-false items; check your answers after reading this chapter.

1. The term ethics is rooted in the ancient Greek idea of character.
2. The “ends justify the means” philosophy is typically a good, safe philosophy for the police and judges to follow.
3. Communities sometimes seem to tolerate questionable police behavior, if it is carried out to benefit the greater public good (such as dealing with violent gang members).
4. During an oral interview, applicants for policing jobs should never indicate a willingness to “snitch” on another officer whom they observe doing something wrong.
5. The receipt of gratuities by criminal justice personnel is a universally accepted practice.
6. Whistleblowers who expose improper acts of their coworkers now have no legal protection.
7. Because of their constitutional obligations, prosecutors and defense attorneys are not bound to the same ethical standards as other criminal justice employees.

<< Answers can be found on page 443.
A South Hackensack, New Jersey, municipal court judge held a unique part-time job—as a stand-up comedian on a major network’s hidden-camera program. But the judge was informed by the state’s judicial advisory committee that this part-time job conflicted with his judicial work and violated rules that judges are to follow. He appealed his case to the state’s supreme court. One of the ethical questions raised was whether or not people understand that the judge’s comedy program—which includes portraying racist and homophobic characters—is an act; in addition, the judge could meet defendants who are familiar with his comic routine and might not believe he’s a serious judge. The state also argued that municipal court judges are the face of the judiciary for most citizens, and it is vital that such judges maintain the confidence of the public and the impartiality, dignity, and integrity of the court.1

This situation raised several issues: Should the judge have been allowed to work as a comedian during his own time? Or, for the reasons stated above, was it unethical for him to do so? Must judges at all times “appear to do justice”? (The outcome is provided in endnote #1.)

INTRODUCTION

As regular practice is essential to being a renowned musician, and a perfect cake is essential to having a beautiful wedding, so too is ethics essential to being a criminal justice practitioner. A Latin term that might be used to describe this relationship is *sine qua non*—“without which, nothing.” A fundamental knowledge of ethics, as well as some guideposts concerning what constitutes unethical behavior, is an important topic in today’s society and for all criminal justice students—not only to guide their own behavior but also because unethical behavior at times appears to permeate contemporary U.S. politics/government, business, and sports.

What specific behaviors are clearly unethical for criminal justice employees? What criteria should guide these employees in their work? To what extent, if any, should the public allow criminal justice employees to violate citizens’ rights in order to maintain public order?

This chapter attempts to address these questions and examines many types of ethical problems that can and do arise in police departments, courts, and corrections agencies. The focus is necessarily on the police, who find themselves in many more situations where corruption and brutality can occur than do judges and corrections personnel.

This is not a black-and-white area of study; in fact, there are definitely “shades of gray” for many people where ethics is called into question. Also problematic is that some people who are hired into criminal justice positions simply are not of good character. Furthermore, as stated in Chapter 1, we cannot *train* people to have high ethical standards, nor can we infuse ethics intravenously. In sum, character and ethics are largely something that someone either has or does not have.

GOOD EXAMPLES OF BAD EXAMPLES

To frame the concept of ethics and demonstrate how one’s value system can easily be challenged in criminal justice work, consider the following scenarios, all of which are based on true events, and what you might deem to be an appropriate response and punishment (if any) for each:
• **Police:** Upon seeing a vehicle weaving across the center line of the highway, Officer Jones stops the car, approaches the driver’s door, and immediately detects a strong odor of alcohol. The motorist is removed from the car and joins Jones and you, a backup officer, on the roadside. Jones decides to employ a portable breath test device to confirm his suspicions of driving under the influence, or DUI, and he gives a sterile plastic mouthpiece to the driver to blow into. The driver attempts to thwart the test by appearing (but failing) to blow into the mouthpiece. Irritated by this behavior, Jones yanks the mouthpiece away, throws it on the ground, and arrests the driver for DUI. At trial, the driver claims the mouthpiece was flawed (blocked) so he was unable to blow through it. Jones, however, testifies under oath that it was not blocked, and as “evidence,” he takes a mouthpiece out of his pocket, stating it is the mouthpiece he used for the test that night. You, sitting in the courtroom, hear this testimony and know differently, having seen Jones impatiently throw the mouthpiece on the ground and leave it at the scene.2

• **Courts:** For several weeks, a wealthy divorcée receives menacing telephone calls that demand social dates and sexual favors. The caller’s voice is electronically disguised. The suspect also begins stalking the woman. After working several clues and surveillances at the victim’s home, you, a federal agent, finally make contact with a suspect, and determine that he is the chief judge of the state’s supreme court. Upon confronting him, you are told by the judge to “forget about it, or you’ll be checking passports in a remote embassy.”3

• **Corrections:** Pregnant women in correctional institutions are typically transferred to medical facilities for delivery. In 24 states, these inmates may be shackled with handcuffs, leg irons, and/or waist chains during transport, labor, delivery, and post-delivery, to prevent escape attempts and to protect correctional officers and medical personnel. You, a correctional officer, agree with the 18 states in which such treatment is banned, given the physical and emotional stress of labor and delivery—and the very low risk of escape. One evening an inmate in your custody goes into labor and you and she are enroute to the hospital in a prison van. Your captain radios you and says to restrain her in shackles now and throughout delivery, as she is an escape risk. What will you do? Assume you are accompanied by a new correctional officer. Is your decision any different? What if your prisoner had previously lost a child during childbirth?4

**PHILOSOPHICAL FOUNDATIONS**

The term ethics is rooted in the ancient Greek idea of character. Ethics involves doing what is right or correct, and the term is generally used to refer to how people should behave in a professional capacity. Many people would argue, however, that no difference should exist between one’s professional and personal behavior. In other words, ethical rules of conduct should apply to everything a person does.

A central problem with understanding ethics concerns the questions of “whose ethics” and “which right.” This becomes evident when one examines controversial issues such as the death penalty, abortion, use of deadly force, and gun control. How individuals view a particular controversy depends largely on their values, character, or ethics. Both sides of controversies such as these believe they are morally right. These issues demonstrate that to understand behavior, the most basic values must be examined and understood.
THE POLICE POT CONUNDRUM—TO SMOKE OR NOT TO SMOKE?

With the spread of legalized marijuana—for both medical and recreational purposes—a question that is already being posed is whether or not police officers should or will be permitted to use it when off-duty. This is a thorny issue, especially given that marijuana use has been one of the primary disqualifiers of police applicants for many years (some agencies disqualify would-be officers for using marijuana within the past five years; it is still common for agencies to bar applicants who have used marijuana over the past three years). How should police leaders view this matter, and how should agency policies be drafted? Following are some points to consider:

- Although officers might reside in a state where marijuana use is legal, marijuana remains a Schedule 1 substance under the Controlled Substances Act (which means it is determined by the Food and Drug Administration to have no medical use). Therefore, until its legal status is changed, officers would be violating federal law by using marijuana.
- Although officers could use marijuana without violating their state’s law, they could still be subject to their agencies’ conduct policies, which generally prohibit the use of illegal drugs, and thus be disciplined or terminated.
- Drug testing cannot distinguish between past and current use. Police officers must be able to prove at any time that they are not under the influence of any substance. However, today’s marijuana tests do not discriminate between current and past intoxication—tests of hair, urine, blood, and saliva indicate ingestion days, weeks, even months after usage; so even if an agency allowed its officers to use cannabis recreationally while off duty, contemporary testing protocol probably makes it difficult if not impossible to prove they were not intoxicated while on duty.

In sum, police leaders probably will continue to take a hardline approach against in-service officers’ use of cannabis at any time; however, agencies can always soften their requirements for applicants. Such was the case in Seattle, Washington, where the department’s former requirement that applicants not have used marijuana for three years has been reduced to one year before joining the force. The option of relaxing standards of past marijuana use may soon be spreading, as recruiting pools and positions become more difficult to fill and agencies begin to realize that societal attitudes are also relaxing. For example, the U.S. Drug Enforcement Administration bars those who have experimented with or used narcotics from becoming agents, but it can make exceptions “for applicants who admit to limited youthful and experimental use of marijuana.”


Another area for examination is deontological ethics, which does not consider consequences but instead examines one’s duty to act. The word deontology comes from two Greek roots, deos, meaning “duty,” and logos, meaning “study.” Thus, deontology means the study of duty. When police officers observe a violation of law, they have a duty to act. Officers frequently use this as an excuse when they issue traffic citations that appear to have little utility and do not produce any great benefit for the rest of society. For example, when an officer writes a traffic citation for a prohibited left turn made at two o’clock in the morning when no traffic is around, the officer is fulfilling a departmental duty to enforce the law. From a utilitarian standpoint (where we judge an action by its consequences), however, little if any good was served. Here, duty, and not good consequences, was the primary motivator.

Immanuel Kant, an 18th-century philosopher, expanded the ethics of duty by including the idea of “good will.” People’s actions must be guided by good intent. In the previous example, the officer who wrote the traffic citation for an improper left turn would
be acting unethically if the ticket was a response to a quota or some irrelevant motive. However, if the citation was issued because the officer truly believed that it would result in some good outcome, it would have been an ethical action.

Some people have expanded this argument even further. Richard Kania argued that police officers should be allowed to freely accept gratuities because such actions would constitute the building blocks of positive social relationships between the police and the public. In this case, duty is used to justify what under normal circumstances would be considered unethical. Conversely, if officers take gratuities for self-gratification rather than to form positive community relationships, then the action would be considered unethical by many.

Types of Ethics

Ethics usually involves standards of fair and honest conduct; what we call conscience, the ability to recognize right from wrong; and actions that are good and proper. There are absolute ethics and relative ethics. Absolute ethics has only two sides—something is either good or bad, black or white. Some examples in police ethics would be unethical behaviors such as bribery, extortion, excessive force, and perjury, which nearly everyone would agree are unacceptable behaviors by the police.

Relative ethics is more complicated and can have a multitude of sides with varying shades of gray. What one person considers to be ethical behavior may be deemed highly unethical by someone else. Not all ethical issues are clear-cut, however, and communities do seem willing at times to tolerate extralegal behavior if there is a greater public good, especially in dealing with problems such as gangs and the homeless. This willingness on the part of the community can be conveyed to the police. Ethical relativism can be said to form an essential part of the community policing movement, discussed more fully in Chapter 6.

A community’s acceptance of relative ethics as part of criminal justice may send the wrong message: few boundaries are placed on justice system employee behaviors and that, at times, “anything goes” in their fight against crime. As John Kleinig pointed out, giving false testimony to ensure that a public menace is “put away” or illegally wiretapping an organized crime figure’s telephone might sometimes be viewed as “necessary” and “justified,” though illegal.

This is the essence of the crime control model of criminal justice (discussed in Chapter 1). Another example is that many police believe they are compelled to skirt along the edges of the law—or even violate it—in order to arrest drug traffickers. The ethical problem here is that even if the action could be justified as morally proper, it remains illegal. For many persons, however, the protection of society overrides other concerns.

This viewpoint—the “principle of double effect”—holds that when one commits an act to achieve a good end and an inevitable but intended effect is negative, then the act might be justified. A long-standing debate has occurred about balancing the rights of individuals against the community’s interest in calm and order.

These special areas of ethics can become problematic and controversial when police officers use deadly force or lie and deceive others in their work. Police could justify a whole range of activities that others may deem unethical simply because the consequences resulted in the greatest good for the greatest number—the utilitarian approach (or utilitarianism). If the ends justified the means, perjury would be ethical when committed to

Absolute ethics: the type of ethics where there are only two sides—good or bad, black or white; some examples would be unethical behaviors such as bribery, extortion, excessive force, and perjury, which nearly everyone would agree are unacceptable for criminal justice personnel.

Relative ethics: the gray area of ethics that is not so clear-cut, such as releasing a serious offender in order to use him later as an informant.

Utilitarianism: in ethics, as articulated by John Stuart Mill, a belief that the proper course of action is that which maximizes utility—usually defined as that which maximizes happiness and minimizes suffering.
prevent a serial killer from being set free to prey on society. In our democratic society, however, the means are just as important as, if not more important than, the desired end.

As examples, citizens in some jurisdictions may not object to the police “hassling” suspected gang members—pulling them over in their cars, say, and doing a field interview—or telling homeless people who are loitering in front of a heavy tourism area or public park to “move along.”

It is no less important today than in the past for criminal justice employees to appreciate and come to grips with ethical essentials. Indeed, ethical issues in policing have been affected by three critical factors: (1) the growing level of temptation stemming from the illicit drug trade; (2) the potentially compromising nature of the organizational culture—a culture that can exalt loyalty over integrity, with a “code of silence” that protects unethical employees; and (3) the challenges posed by decentralization (flattening the organization and pushing officers’ decision making downward) through the advent of community-oriented policing and problem solving (the community era of policing is discussed in Chapter 6).

Noble Cause Corruption

When the police practice relative ethics and the principle of double effect, described earlier, it is known as noble cause corruption—what Thomas Martinelli, perhaps gratuitously, defined as “corruption committed in the name of good ends, corruption that happens when police officers care too much about their work.” It basically holds that when an act is committed to achieve a good end (such as an illegal search) but its outcome is negative (the person who is searched eventually goes to prison), the act might still be justified.

Although noble cause corruption can occur anywhere in the criminal justice system, we might look at the police for examples. Officers might bend the rules, such as not reading a drunk person his rights or performing a field sobriety test; planting evidence; issuing “sewer” tickets—writing a person a ticket but not giving it to her, resulting in a warrant issued for failure to appear in court; “testifying,” or “using the magic pencil,” whereby police officers write up an incident in a way that criminalizes a suspect—this is a powerful tool for punishment. Noble cause corruption carries with it a different way of thinking about the police relationship with the law. Here, officers operate on a standard that places personal morality above the law, becoming legislators of the law and acting as if they are the law. Some officers rationalize such activities; as a Philadelphia police officer put it, “When you’re shoveling society’s garbage, you gotta be indulged a little bit.” Obviously the kinds of noble cause behaviors mentioned here often involve arrogance on the part of the police and ignore the basic constitutional guidelines the occupation demands. Administrators and middle managers must be careful to take a hardline view that their subordinates always tell the truth and follow the law. A supervisory philosophy of discipline based on due process, fairness, and equity, combined with intelligent, informed, and comprehensive decision making, is best for the department, its employees, and the community.

ETHICS IN POLICING

Having defined the types of ethics and some dilemmas, next we discuss in greater detail some of the ethical issues faced by police leaders and their subordinates.

A Primer: The Oral Job Interview

During oral interviews for a position in policing, applicants are often placed in a hypothetical situation that tests their ethical beliefs and character. For example, they may be asked to assume the role of Officer Brown, who is checking on foot an office supplies retail store that was found to have an unlocked door during early morning...
hours. On leaving the building, Brown observes another officer, Smith, removing a $100 writing pen from a display case and placing it in his uniform pocket. What should Officer Brown do?

This kind of question commonly befuddles the applicant: “Should I rat on my fellow officer? Overlook the matter? Merely tell Smith never to do that again?” Unfortunately, applicants may do a lot of “how am I supposed to respond” soul searching and second-guessing with these kinds of questions.

Bear in mind that criminal justice agencies do not wish to hire someone who possesses ethical shortcomings; it is simply too potentially dangerous and expensive, from both legal and moral standpoints, to take the chance of bringing into an agency someone who is corrupt. That is the reason for such questioning and a thorough background investigation of applicants.

Before responding to a scenario like the one concerning Officers Brown and Smith, the applicant should consider the following issues: Is this likely to be the first time that Smith has stolen something? Don’t the police arrest and jail people for this same kind of behavior?

In short, police administrators should never want an applicant to respond that it is acceptable for an officer to steal. Furthermore, it would be incorrect for an applicant to believe that police do not want an officer to “rat out” another officer. Applicants should never acknowledge that stealing or other such activities are to be overlooked.

**Police Corruption**

“For as long as there have been police, there has been police corruption.”13 Thus observed Lawrence Sherman about one of the oldest problems in U.S. policing. Indeed, the Knapp Commission investigated police corruption in the early 1970s, finding that there are two primary types of corrupt police officers: the “meat-eaters” and the “grass-eaters.” Meat-eaters spend a good deal of their working hours aggressively seeking out situations that they can exploit for financial gain, including gambling, narcotics, and other lucrative enterprises.

Grass-eaters, the commission noted, constitute the overwhelming majority of those officers who accept payoffs; they are not aggressive but will accept gratuities from contractors, tow-truck operators, gamblers, and the like. Although such officers probably constitute a small percentage of the field, any such activity is to be identified and dealt with sternly.

**Police corruption** can be defined broadly, from major forms of police wrongdoing to the pettiest forms of improper behavior. Another definition is “the misuse of authority by a police officer in a manner designed to produce personal gain for the officer or for others.”14 Police corruption is not limited to monetary gain, however. Gains may be made through the acceptance of services received, status, influence, prestige, or future support for the officer or someone else.15

**To Inform or Not to Inform: The Code of Silence**

Let’s continue with the earlier scenario. Remember that Officer Brown witnessed Officer Smith putting an expensive ink pen in his pocket after they found an unlocked supply business on the graveyard shift. If reported, the misconduct will ruin Smith,
but if not reported, the behavior could eventually cause enormous harm. To outsiders, this is not a moral dilemma for Brown at all; the only proper path is for her to report the misconduct. However, arguments exist both for and against Brown's informing on her partner. Reasons for informing include the fact that the harm caused by a scandal would be outweighed by the public's knowing that the police department is free of corruption; also, individual episodes of corruption would be brought to a halt. Brown, moreover, has a sworn duty to uphold the law. Reasons against informing include the facts that, at least in Brown's mind, the other officer is a member of the "family" and a skilled police officer is a valuable asset whose social value far outweighs the damage done by moderate corruption. A person who is in charge of investigating police corruption would no doubt take a punitive view, because police are not supposed to steal, and they arrest people for the same kinds of acts every day. Still, the issue—and a common question during an oral interview when citizens are being tested for police positions—is whether or not Brown would come forth and inform on her fellow officer.

It is necessary to train police recruits on the need for a corruption-free department. The creation and maintenance of an internal affairs unit and the vigorous prosecution of lawbreaking police officers are also critical to maintaining the integrity of officers.

The Law Enforcement Code of Ethics and Oath of Honor

The Law Enforcement Code of Ethics (LECE) was adopted by the International Association of Chiefs of Police (IACP) in 1957 and has been revised several times since then. It is a powerful proclamation, and tens of thousands of police officers across the nation have sworn to uphold this code upon graduating from their academies. Unfortunately, the LECE is also quite lengthy, covering rather broadly the following topics as they relate to police officers: primary responsibilities, performance of one's duties, discretion, use of force, confidentiality, integrity, cooperation with other officers and agencies, personal/professional capabilities, and private life.

Recently the IACP adopted a separate, shorter code that would be mutually supportive of the LECE but also easier for officers to remember and call to mind when they come face-to-face with an ethical dilemma. It is the Law Enforcement Oath of Honor, and the IACP is hoping the oath will be implemented in all police agencies and by all individual officers. It may be used at swearing-in ceremonies, graduation ceremonies, promotion ceremonies, beginnings of training sessions, police meetings and conferences, and so forth. The Law Enforcement Oath of Honor is as follows:

On my honor,
I will never betray my badge,
my integrity, my character,
or the public trust.
I will always have
the courage to hold myself
and others accountable for our actions.
I will always uphold the constitution,
my community and the agency I serve.
Ethical Essentials: “Doing Right When No One Is Watching” • CHAPTER 4

Accepted and Deviant Lying

In many cases, no clear line separates acceptable from unacceptable behavior in policing. The two are separated by an expansive gray area that comes under relative ethics. Some observers have referred to such illegal behavior as a “slippery slope,” meaning that people tread on solid or legal ground but at some point slip beyond the acceptable into illegal or unacceptable behavior.

Criminal justice employees lie or deceive for different purposes and under varying circumstances. In some cases, their misrepresentations are accepted as an essential part of a criminal investigation, whereas in other cases they are viewed as violations of law. David

mexicos-efforts-to-tackle-police-corruption-are-failing; “More Than 3,000 
Mexican Federal Police Fired, Commissioner Says,” CNN World, March 10, 
police.fired/index.html; Anne Barrowclough, “Hundreds of Mexican Police 
Officers Sacked over Corruption,” The Times: U.S. & Americas, November 3, 
Dudley Althaus, “Despite Millions in U.S. Aid, Police Corruption 
corruption-1710872.php.

“Slippery slope”: the idea that a small first step can lead to more serious behaviors, such as the receipt of minor gratuities by police officers believed to eventually cause them to desire or demand receipt of items of greater value.

Mexican police have long been known to engage in crime, graft, and corruption. In March 2015, relatives of 43 missing students demanded justice in Mexico City. Officials believe the students were abducted by corrupt police officers and handed over to a drug gang.

Four members of an elite federal law enforcement agency in Mexico were kidnapped by municipal police officers in the Mexican state of Tamaulipas. The kidnappers—police officers paid to work for the notorious Zetas drug cartel—took the four victims to a municipal police headquarters where they were stripped naked and tortured for three hours and interrogated by several masked men (known as halcones, or “hawks,” such men are paid by the Zetas to warn them of federal officials in town). Following the interrogation, the four victims were taken to a rural countryside, where one of the hawks opened fire and killed one of the agents.

The problem is real and goes beyond involvement in drug crime: Municipal officers have killed their own mayors, state jailers have assisted inmates who escape, federal agents are forced to rise up against corrupt commanders, and officers themselves have been murdered because they work for gangster rivals. Nor have substantial amounts of U.S. aid and training under the Mérida Initiative (a cooperative agreement between the governments of the United States and Mexico to combat drug trafficking, organized crime, and money laundering) worked; Mexico’s 32,000 federal police remain understaffed and replete with graft.
Carter examined police lying and perjury and found a distinction between accepted lying and deviant lying. Accepted lying includes police activities intended to apprehend or entrap suspects. This type of lying is generally considered to be trickery. Deviant lying, by contrast, refers to occasions when officers commit perjury to convict suspects or are deceptive about some activity that is illegal or unacceptable to the department or public in general.

Deception has long been practiced by the police to ensnare violators and suspects. For many years, it was the principal method used by detectives and police officers to secure confessions and convictions. Accepted lying is allowed by law, and to a great extent, it is expected by the public. Gary Marx identified three methods police use to trick a suspect: (1) performing the illegal action as part of a larger, socially acceptable, and legal goal; (2) disguising the illegal action so that the suspect does not know it is illegal; and (3) morally weakening the suspect so that the suspect voluntarily becomes involved. The courts have long accepted deception as an investigative tool. For example, the U.S. Supreme Court ruled in Illinois v. Perkins that, when investigating crimes, police undercover agents are not required to administer the Miranda warning to incarcerated inmates. Lying, although acceptable by the courts and the public in certain circumstances, does result in an ethical dilemma. It is a dirty means to accomplishing a good end—the police using untruths to gain the truth relative to some event.

In their examination of lying, Thomas Barker and David Carter identified two types of deviant lying: lying that serves legitimate purposes and lying that conceals or promotes crimes or illegitimate ends. Lying that serves legitimate goals occurs when officers lie to secure a conviction, obtain a search warrant, or conceal omissions during an investigation. Barker found that police officers believe that almost one-fourth of their agency would commit perjury to secure a conviction or to obtain a search warrant. Lying becomes an effective, routine way to sidestep legal impediments. When left unchecked by supervisors, managers, and administrators, lying can become organizationally accepted as an effective means of nullifying legal entanglements and remove obstacles that stand in the way of convictions. Examples include using the services of nonexistent confidential informants to secure search warrants, concealing that an interrogator went too far, coercing a confession, or perjuring oneself to gain a conviction.

Lying to conceal or promote criminality is the most distressing form of deception. Examples range from when the police lie to conceal their use of excessive force when arresting a suspect to obscuring the commission of a criminal act.

**Accepting Gratuities**

Gratuities are commonly accepted by many police officers as a part of their job. Restaurants frequently give officers free or half-price meals and drinks, and other businesses routinely give officers discounts for services or merchandise. While some officers and their departments accept the receipt of such gratuities as a legitimate part of their job, other agencies prohibit such gifts and discounts but seldom attempt to enforce any

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Accepted lying: police activities intended to apprehend or entrap suspects. This type of lying is generally considered to be trickery.

Deviant lying: occasions when officers commit perjury to convict suspects or are deceptive about some activity that is illegal or unacceptable to the department or public in general.

Gratuities: the receipt of some benefit (a meal, gift, or some other favor) either for free or for a reduced price.
relevant policy or regulation. Finally, some departments attempt to ensure that officers do not accept free or discounted services or merchandise and routinely enforce policies or regulations against such behavior.¹⁴

There are two basic arguments against police acceptance of gratuities. First is the slippery slope argument, discussed earlier, which proposes that gratuities are the first step in police corruption. This argument holds that once gratuities are received, police officers’ ethics are subverted and they are open to additional breaches of their integrity. In addition, officers who accept minor gifts or gratuities are then obligated to provide the donors with some special service or accommodation. Furthermore, some critics propose that receiving a gratuity is wrong because officers are receiving rewards for services that they are obligated to provide as part of their employment. That is, officers have no legitimate right to accept compensation in the form of a gratuity. If the police ever hope to be accepted as members of a full-fledged profession, then they must address whether the acceptance of gratuities is professional behavior.

Former New York police commissioner Patrick V. Murphy was one of those who believed that “except for your pay check, there is no such thing as a clean buck.”²⁵ He also noted that judges, teachers, doctors, and other professionals do not accept special consideration from restaurants, convenience stores, movie theaters, and so on.

Below is an example of a policy developed by a sheriff’s office concerning gratuities.

1. Without the express permission of the Sheriff, members shall not solicit or accept any gift, gratuity, loan, present, or fee where there is any direct or indirect connection between this solicitation or acceptance of such gift and their employment by this office.

2. Members shall not accept, either directly or indirectly, any gift, gratuity, loan, fee, or thing of value, the acceptance of which might tend to improperly influence their actions, or that of any other member, in any matter of police business, or which might tend to cast an adverse reflection on the Sheriff’s Office.

3. Any unauthorized gift, gratuity, loan, fee, reward, or other thing falling into any of these categories coming into the possession of any member shall be forwarded to the member’s commander, together with a written report explaining the circumstances connected therewith. The commander will decide the disposition of the gift.²⁶

**You Be the . . .**

**POLICE OFFICER**

Assume the county sheriff’s department prohibits personnel from soliciting or accepting gifts. A deputy sheriff has been using a variety of problem-solving approaches to address problems at a shopping mall where juveniles have been loitering, engaging in acts of vandalism, dumping trash, and generally causing traffic problems after hours in the parking lot. Now the mall manager, Mr. Chang, feels morally obligated to express his appreciation to the deputy. Mr. Chang has made arrangements for the deputy and his family to receive a 15 percent discount while shopping at any store in the mall. Also, as part owner of a toy store in the mall, Mr. Chang offers the deputy a bicycle for his young daughter. Knowing that the agency policy requires that such offers be declined, the deputy is also aware that Mr. Chang will be very hurt or upset if the proffered gifts are refused.

1. Are Mr. Chang’s motives honorable?
2. Should the deputy accept the offered discount? The bicycle?
3. Do you believe the department’s policy should be modified to accommodate such situations?
POLICE INTERNAL AFFAIRS INVESTIGATOR

Name: David Schofield
Current position: Investigator, Professional Standards Section
City, state: Cincinnati, Ohio
College attended/academic major: Bachelor of arts in economics from the University of Cincinnati; master of science degree in criminal justice from the University of Cincinnati

How long have you been a practitioner in this criminal justice position? Since May 2006

What are the primary duties and responsibilities of a practitioner in this position? I investigate allegations of criminal conduct, sexual misconduct, serious misconduct, excessive use of force, unnecessary pointing of firearms, improper searches and seizures, and discrimination by sworn and nonsworn department members of the Cincinnati Police Department.

What qualities and characteristics are most helpful in this position? Honesty/integrity; high moral values; confidence; professionalism; accountability; strong work ethic; ability to read and write well; ability to speak well; ability to be readily available for various shifts; ability to work long, often stressful hours.

In general, what does a typical day looks like for a practitioner in this position? Interviewing citizens and police officers regarding allegations of officer misconduct. Decisions must be made on which investigative leads ought to be given priority and how best to pursue those leads. Investigators are given considerable freedom to pursue their investigations as they deem necessary. This requires self-motivation to stay on task and complete the assignment properly. Investigators also must find and develop witnesses for further investigation, while some investigative techniques require covert operations investigating fellow police officers.

Other investigative techniques may involve hours of mundane fact-finding. Honesty and integrity are crucial to conduct fair investigations and gain the public trust.

Investigators must be able to put the police department’s mission first, even when it involves sustaining serious allegations of misconduct by fellow officers. Investigators must also be able to present their findings in court, disciplinary hearings, the media, and other venues using verbal and written communication. Oftentimes, long hours are spent documenting the findings of an investigation. Information gathered must be documented fairly and concisely. Considerable time is also spent investigating erroneous complaints; however, investigations can be as important as legitimate complaints when the integrity of a police employee is called into question.

What advice would you give someone either wishing to study, or now studying, criminal justice and wanting to become a practitioner in this position? Research what type of employment you desire. Once that is determined, candidates ought to determine what actual practitioners did in order to get there. Uniform patrol is the backbone of policing. Most local sworn law enforcement positions require candidates to perform exceptionally well as patrol officers prior to attaining other duties such as investigations, canine, or special operations. If a candidate must be a patrol officer for several years before attaining the position of an investigator, the candidate must be willing to fulfill that requirement.

Prior to gaining employment with a police agency, candidates must protect their reputation and abstain from questionable behavior. Many dreams are lost due to a single bad decision.

Candidates must also do well in high school and college, as one’s academic standing is a strong reflection of his or her work ethic. The lack of a quality education and strong academic background can prevent candidates from achieving their goals.
Greed and Temptation

Edward Tully underscored the vast amount of temptation that confronts today’s police officers and what police leaders must do toward combating it:

Socrates, Mother Teresa, or other revered individuals in our society never had to face the constant stream of ethical problems of a busy cop on the beat. One of the roles of [police leaders] is to create an environment that will help the officer resist the temptations that may lead to misconduct, corruption, or abuse of power. The executive cannot construct a work environment that will completely insulate the officers from the forces which lead to misconduct. The ultimate responsibility for an officer’s ethical and moral welfare rests squarely with the officer.27

Most citizens have no way of comprehending the amount of temptation that confronts today’s police officers. They frequently find themselves alone inside retail businesses after normal business hours, clearing the building after finding an open door or window. A swing or graveyard shift officer could easily obtain considerable plunder during these occasions, acquiring everything from clothing to tires for a personal vehicle. At the other end of the spectrum is the potential for huge payoffs from drug traffickers or other big-money offenders who will gladly pay the officer to look away from their crimes. Some officers, like the general public, find this temptation impossible to overcome.

The organization’s culture is also important in this regard. The police culture often exalts loyalty over integrity. Given the stress usually generated more from within the organization than from outside and the nature of life-and-death decisions they must make daily, even the best officers who simply want to catch criminals may become frustrated and vulnerable to bending the rules for what they view as the greater good of society.

ETHICS IN THE COURTS

Although the public tends to think of criminal justice ethics primarily in terms of the police, certainly other criminal justice professionals—including the court work group—have expectations in this regard as well. The ethical standards and expectations—and some examples of failings—of those individuals are discussed next.

Evolving Standards of Conduct

The first call during the 20th century for formalized standards of conduct in the legal profession came in 1906, with Roscoe Pound’s speech “The Causes of Popular Dissatisfaction With the Administration of Justice.”28 However, the first canons of judicial ethics probably grew out of a professional baseball scandal in 1919, in which the World Series was “thrown” to the Chicago White Sox by the Cincinnati Reds. Baseball officials turned to the judiciary for leadership and hired U.S. District Court Judge Kenesaw Mountain Landis as baseball commissioner—a position for which Landis was paid $42,500, compared to his $7,500 earnings per year as a judge. This affair prompted the 1921 American Bar Association (ABA) convention to pass a resolution of censure against the judge and appoint a committee to propose standards of judicial ethics.29

In 1924, the ABA approved the Canons of Judicial Ethics under the leadership of Chief Justice William Howard Taft, and in 1972, the ABA approved a new Model Code of Judicial Conduct; in 1990, the same body adopted a revised model code. Nearly all states and the District of Columbia have promulgated standards based on the code. In 1974, the United States Judicial Conference adopted a Code of Conduct for United

States Judges, and Congress over the years enacted legislation regulating judicial conduct, including the Ethics Reform Act of 1989.

The Judge

Judges are discussed generally in Chapter 10; however, here the focus is on their ethical responsibilities. Ideally, our judges are flawless, not allowing emotion or personal biases to creep into their work, treating all cases and individual litigants with an even hand, and employing “justice tempered with mercy.” The perfect judge has been described as follows:

The good judge takes equal pains with every case no matter how humble; he knows that important cases and unimportant cases do not exist, for injustice is not one of those poisons which . . . when taken in small doses may produce a salutary effect. Injustice is a dangerous poison even in doses of homeopathic proportions.  

Not all judges, of course, can attain this lofty status, and find themselves succumbing to temptation and human faults and foibles. Judges can become embroiled in improper conduct or overstep their bounds in many ways: abuse of judicial power (against attorneys or litigants); inappropriate sanctions and dispositions (including showing favoritism or bias); not meeting the standards of impartiality and competence (discourteous behavior, gender bias and harassment, incompetence); conflict of interest (bias; conflicting financial interests or business, social, or family relationships); and personal conduct (criminal or sexual misconduct, prejudice, statements of opinion).  

Following are examples of some true-to-life ethical dilemmas involving the courts:

- A judge persuades jailers to release his son on a nonbondable offense.
- A judge is indicted on charges that he used his office for a racketeering enterprise.
- Two judges attend the governor’s $500-per-person inaugural ball.
- A judge is accused of acting with bias in giving a convicted murderer a less severe sentence because the victims were homosexual.
- A judge whose car bears the bumper sticker “I am a pro-life Democrat” acquits six pro-life demonstrators of trespassing at an abortion clinic on the grounds of necessity to protect human life.

Such incidents certainly do little to bolster public confidence in the justice system. People expect more from judges, who are “the most highly visible symbol of justice.”

Unfortunately, codes of ethical conduct have not eradicated these problems or allayed concerns about judges’ behavior. Indeed, one judge who teaches judicial ethics at the National Judicial College in Reno, Nevada, stated that most judges attending the college admit never having read the Model Code of Judicial Conduct before seeking judicial office.

According to the American Judicature Society, during one year 25 judges were suspended from office, and more than 80 judges resigned or retired either before or after formal charges were filed against them; 120 judges also received private censure, admonition, or reprimand.
The key to judicial ethics is to identify the troublesome issues and to create an “ethical alarm system” that responds. Ethical Essentials: “Doing Right When No One Is Watching” • CHAPTER 4

Perhaps the most important tenet in the code and the one that is most difficult to apply is that judges should avoid the appearance of impropriety—in other words, it is not enough that judges do what is just; they must also avoid conduct that would create in the public’s mind a perception that their ability to carry out responsibilities with integrity, impartiality, and competence is impaired.

Ethical requirements for the federal judiciary and other federal employees are discussed later in this chapter.

Prosecutors

Given their power and authority to decide which cases are to be prosecuted, prosecuting attorneys must closely guard their ethical behavior. It was decided over 75 years ago (in Berger v. United States, 1935) that the primary duty of a prosecutor is “not that he shall win a case, but that justice shall be done.”

Instances of prosecutorial misconduct were reported as early as 1897 and are still reported today. One of the leading examples of unethical conduct by a prosecutor is Miller v. Pate, in which the prosecutor concealed from the jury in a murder trial the fact that a pair of undershorts with red stains contained not blood but red paint.

JUDGES’ ETHICAL MISCONDUCT

A former county juvenile court judge in Pennsylvania was sentenced to prison for 28 years after being convicted on federal racketeering charges—specifically, sentencing juveniles to a detention facility for minor crimes while accepting more than $1 million in kickbacks from the private company that built and maintained the facility. One-fourth of this judge’s juvenile defendants were sentenced to detention centers, as he routinely ignored requests for leniency made by prosecutors and probation officers. Some of the nearly 5,000 sentenced juveniles were as young as 10. One girl, who described the experience as a “surreal nightmare,” was sentenced to three months of “hard time” for posting spoofs about an assistant school principal on the Internet. Some juveniles even committed suicide following their commitment. The judge was said to have maintained a culture of intimidation in which no one was willing to speak up about the sentences he was handing down. Although he pleaded guilty to the charges, he denied sentencing juveniles who did not deserve it or receiving remuneration from the detention centers. The matter also raised concerns about whether juveniles should be required to have counsel either before or during their appearances in court: It was revealed that more than 500 juveniles had appeared before the judge without representation. Although juveniles have long had a right to counsel, Pennsylvania, like at least 20 other states, allows children to waive counsel, and about half of these Pennsylvania youths had chosen to do so.

According to Elliot Cohen, misconduct works: Oral advocacy is important in the courtroom and can have a powerful effect. Another significant reason for such conduct is the harmless error doctrine, in which an appellate court can affirm a conviction despite the presence of serious misconduct during the trial. Only when appellate courts take a stricter, more consistent approach to this problem will it end.40

Defense Attorneys

Defense attorneys, too, must be legally and morally bound to ethical principles as agents of the courts. Cohen suggested the following moral principles for defense attorneys:41

• Treat others as ends in themselves and not as mere means to winning cases.
• Treat clients and other professional relations in a similar fashion.
• Do not deliberately engage in behavior apt to deceive the court as to truth.
• Be willing, if necessary, to make reasonable personal sacrifices of time, money, and popularity for what you believe to be a morally good cause.
• Do not give money to, or accept money from, clients for wrongful purposes or in wrongful amounts.
• Avoid harming others in the course of representing your client.
• Be loyal to your client, and do not betray his or her confidence.

Other Court Employees

Other court employees have ethical responsibilities as well. For example, an appellate court judge’s secretary is asked by a good friend who is a lawyer whether the judge will be writing the opinion in a certain case. The lawyer may be wishing to attempt to influence the judge through his secretary, renegotiate with an opposing party, or engage in some other improper activity designed to alter the case outcome.32 Bailiffs, court administrators,
WHISTLEBLOWING—AND HONESTY—IN PUBLIC SERVICE

Seven years after she was fired for telling the media that her department was understaffed and in need of more funding, Teresa Chambers was reinstated as chief of the U.S. Park Police. Chambers’s case, involving an award of back pay with interest, was celebrated as a major victory in the whistleblower community. Park Service officials initially suspended Chambers for three days after she told reporters that her department had been forced to scale back patrols so that officers could guard national monuments, that the agency had a budget shortfall of several million dollars, and that she lacked enough officers to carry out its mission. Two weeks later, she learned that a proposal had been made for her removal and possible criminal charges for releasing sensitive information, insubordination, and breaking the chain of command. Chambers was officially terminated some months later, but eventually the evidence against her was deemed to be weak and her actions found to be protected under federal whistleblower laws. She was reinstated to her former position in 2011. A watchdog group, Public Employees for Environmental Responsibility, represented Chambers in her case and stated that the “ruling is a wonderful ruling, not only for Chief Chambers but for thousands who believe that honesty is part of public service.”


Ethical Essentials: “Doing Right When No One Is Watching” • CHAPTER 4 103

Ethical Conduct of Federal Employees

The laws governing the ethical conduct of federal employees are contained in a variety of statutes, the two major sources of which are Title 18 of the U.S. Code and the Ethics in Government Act of 1978 (enacted following the Watergate scandal of the early 1970s to promote public confidence in government). The latter act has been amended a number of times, with its most significant revision occurring in the Ethics Reform Act of 1989 (Public Law 101-194). A brief general description of that law, as well as expectations of the federal judiciary, is provided next.

The Ethics Reform Act

The Ethics Reform Act addresses a number of areas of ethical concern, including the receipt of gifts, financial conflicts involving employees’ position, personal conflicts that may affect their impartiality, misuse of position (for private gain), and outside activities or employment that conflicts with their federal duties (such as serving as an expert witness or receiving payment for speaking, writing, and teaching).

In 1989, the Whistleblower Protection Act (Public Law 101-12) strengthened the protections provided in the Ethics Reform Act. These whistleblower protection laws prohibit reprisal against federal employees who reasonably believe that their disclosures show “a violation of law, rule, or regulation, gross mismanagement, a gross waste of funds, an abuse of authority, or a specific and substantial danger to public health and safety.”
The Federal Judiciary

Federal judges have the authority to resolve significant public and private disputes. Occasionally, however, a matter assigned to them may involve them or their families personally, or affect individuals or organizations with which they have associations outside of their official duties. In these situations, if their impartiality might be compromised, they must disqualify (or recuse) themselves from the proceeding.

Disqualification is required under Canon 3C(1) of the ABA’s Code of Conduct for United States Judges, if the judge

- Has personal knowledge of disputed facts
- Was employed in a law firm that handled the same matter while he or she was there
- Has a close relative who is a party or attorney
- Personally owns, or has an immediate family member who owns, a financial interest in a party
- As a government official, served as a counsel in the case

The above “Investigating Further” box shows the canons of ethical conduct for federal judges as set forth by the Administrative Office of the United States Courts.

ETHICS IN CORRECTIONS

Most correctional officers (COs)—like police officers and judges—who work in jails and prisons are dedicated, honest, and law-abiding in nature. Occasionally, however, COs are also found to have engaged in inappropriate behaviors. Some of those behaviors involve a variety of inappropriate relationships that can develop between inmates and staff members, to include such activities as bringing in contraband (such as drugs or tobacco) or physical or sexual abuse (generally involving male officers and female inmates).44

The strength of the corrections subculture can also contribute to ethical problems in correctional facilities; it correlates with the security level of a correctional facility and is strongest in maximum-security institutions. Powerful forces within the correctional
system have a stronger influence over the behavior of correctional officers than the administrators of the institution, legislative decrees, or agency policies. Indeed, it has been known for several decades that the exposure to external danger in the workplace creates a remarkable increase in group solidarity. Some of the job-related stressors for correctional officers are similar to those the police face: the ever-present potential for physical danger, hostility directed at officers by inmates and even by the public, unreasonable role demands, a tedious and unrewarding work environment, and dependence on one another to effectively and safely work in their environment. For these reasons, several norms of corrections work have been identified: Always go to the aid of an officer in distress; do not "rat"; never make another officer look bad in front of inmates; always support an officer in a dispute with an inmate; always support officer sanctions against inmates; and do not wear a "white hat" (participate in behavior that suggests sympathy or identification with inmates). Security issues and the way in which individual correctional officers have to rely on each other for their safety make loyalty to one another a key norm.

The proscription against ratting out a colleague is strong. In one documented instance, two officers in the Corcoran, California, state prison blew the whistle on what they considered to be unethical conduct by their colleagues. Officers were alleged to have staged a gladiator-style fight among inmates from different groups in a small exercise yard. The two officers claimed that their colleagues would even place bets on the outcome of the fights, and when the fights got out of hand, the officers would fire shots at the inmates. Since the institution had opened in 1988, eight inmates had been shot dead by officers, and numerous others had been wounded. The two officers who reported these activities were labeled by colleagues as "rats" and "no-goods" and had their lives threatened; even though they were transferred to other institutions, the labels traveled with them. Four correctional officers were indicted for their alleged involvement in these activities, but all were acquitted in a state prosecution in 2001.

In another case, a female correctional officer at a medium-security institution reported some of her colleagues for sleeping on the night shift. She had first approached them and expressed concern for her safety when they were asleep and told them that if they did not refrain from sleeping, she would have to report them to the superintendent.

You Be the . . .

**CORRECTIONAL OFFICER**

Correctional Officer Ben Jones has worked for one year in a medium-security housing unit in a state prison and has gotten on friendly terms with an inmate, Stevens. Known to have been violent, manipulative, and associating with a similarly rough crowd while on the outside, now Stevens appears to be a model inmate; in fact, Officer Jones relies heavily on Stevens to keep him informed of the goings-on in the unit as well as to maintain its overall cleanliness and general appearance. Over time, the two address each other on a first-name basis and increasingly discuss personal matters; Jones occasionally allows Stevens to get by with minor infractions of prison rules (e.g., being in an unauthorized area or entering another inmate’s cell). Today Stevens mentions that he is having problems with his fiancée—specifically, that he has received a "Dear John" letter from her, stating that she is dating other men and is “moving on.” Upon arriving home from work that evening, Jones finds a case of wine on his porch. There is no card left on the case of wine, but at work the next morning Stevens winks at Jones and asks if he “ventured into the vineyard last night.”

1. Should Officer Jones report the incident?
2. Has Jones’s behavior thus far violated any standards of ethics for correctional officers? If so, what form of punishment (if any) would be appropriate?
3. What should be the relationship between Jones and Stevens in the future?
4. What could Jones have done differently, if anything?
They continued sleeping, and she reported them. The consequences were severe: Graffiti was written about her on the walls, she received harassing phone calls and letters, her car was vandalized, and some bricks were thrown through the windows of her home. Obviously, she deserved better, both in terms of protection during these acts, and with the investigation and prosecution of the parties involved.

It would be unfair to suggest that the kind of behavior depicted here reflects the behavior of correctional officers in all places and at all times. The case studies do demonstrate, however, the power and loyalty of the group, and correctional administrators must be cognizant of that power. It is also noteworthy that the corrections subculture, like its police counterpart, provides several positive qualities, particularly in crisis situations, including mutual support and protection, which is essential to the emotional and psychological health of officers involved; there is always the “family” to support you.

THE ETHICAL DECISION-MAKING PROCESS

Sometimes criminal justice practitioners are confronted with a situation—a dilemma—where they simply do not know the right course of action to follow. The situation may not even be covered in the agency policy or procedures/general orders manuals. Or perhaps the course of action that appears to be the proper one is simply difficult (or even painful) to carry out, or some improper course of action is very tempting or would seem to be the easiest and most trouble-free approach to take.

In such cases, the following ethical decision-making process may be used to work through an ethical quandary. After reading the process, consider the ethical problem presented in the next “You Be the Police Officer” box.

INVESTIGATING FURTHER

FOOD FUELS A FIGHT

A correctional officer finds inmate Wilson possessing extra food in his cell that he pilfered while working at his job in the prison cafeteria. The CO chooses to ignore the violation, given that this is a minor infraction, Wilson asserts that this is his first time doing so, and the CO hopes that Wilson will be a source of inmate information in the future. That evening, however, Wilson’s cellmate discovers the cache of food and attempts to steal it; a violent fight ensues, eventually involving several other inmates and resulting in Wilson’s hospitalization. Other outcomes include the prison having to activate its Correctional Emergency Response Team, arrange for outside medical transport, launch a criminal investigation, and bring related charges—all of which led to additional related expenses. Clearly, the CO’s decision not to take the proper action in hopes of favorable returns had serious and costly ramifications, a classic case of noble cause corruption (discussed earlier in the chapter) that went bad.
Assume you perceive that an ethical problem has surfaced:

1. **Consider your alternatives:** What are existing options in the situation you are facing? Try to devise three or more options, even some that may not appear, on the surface, to be the best courses of action.

2. **List the stakeholders:** Which people and organizations will be affected by your decision and your actions? Including yourself, also consider your coworkers, supervisors, agency, any affected neighborhoods, and the community-at-large (some options may even involve a criminal justice agency internal affairs investigation or explanation).

3. **Consider the consequences of each alternative:** What are the potential pros and cons of pursuing each option? Which people and organizations will likely favor and oppose each option, and why? Remember that the best option is not always the one with the best or fewest negative outcomes. Also remember that for each action there is a reaction. After thinking through the consequences, choose an alternative that appears best suited to the situation.

4. Finally, after selecting an option, consider how would you feel about explaining your ethical decision to the aforementioned stakeholders. How will your decision be received when you are forced to defend it to the public? The media? The internal affairs office? To your family? Is this an action that you will be proud of or one you will be ashamed to talk about?

A table like the one shown here may be helpful as you work through this process:

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**ETHICS TESTS FOR THE CRIMINAL JUSTICE STUDENT**

Following are some tests to help guide you, the criminal justice student, to decide what is and is not ethical behavior:

- **Test of common sense:** Does the act make sense, or would someone look askance at it?
- **Test of publicity:** Would you be willing to see what you did highlighted on the front page of the local newspaper?
- **Test of one's best self:** Will the act fit the concept of oneself at one's best?
- **Test of one's most admired personality:** What would one's parents or minister do in this situation?
Other questions that a criminal justice practitioner might ask are “Is it worth my job and career?” and “Is my decision legal?”

Another tool is that of “the bell, the book, and the candle.” Ask yourself these questions: Do bells or warning buzzers go off as I consider my choice of actions? Does it violate any laws or codes in the statute or ordinance books? Will my decision withstand the light of day or spotlight of publicity (the candle)? In sum, all we can do is seek to make the best decisions we can and be a good person and a good justice system employee, one who is consistent and fair. We need to apply the law, the policy, the guidelines, or whatever it is we dispense in our occupation without bias or fear and to the best of our ability, being mindful along the way that others around us may have lost their moral compass and attempt to drag us down with them. To paraphrase Franklin Delano Roosevelt, “Be the best you can, wherever you are, with what you have.”

In closing, it might be good to mention that ethics is important to all criminal justice students and practitioners, not only because of the moral/ethical issues and dilemmas they confront each day, but also because they have a lot of discretion with the people with whom they are involved—such as the discretion to arrest or not arrest, to charge or not charge, to punish or not punish, and even to shoot or not shoot.
Ethics involves doing what is right or correct in a professional capacity. Deontological ethics considers one’s duty to act. Immanuel Kant expanded the ethics of duty by including the idea of “good will.” People’s actions must be guided by good intent.

There are two types of ethics: absolute and relative. Absolute ethics has only two sides—something is either good or bad. Relative ethics is more complicated and can have varying shades of gray. What is considered ethical behavior by one person may be deemed highly unethical by someone else.

The “principle of double effect”—also known as noble cause—refers to the commission of an unethical act in order to achieve a good outcome.

The Knapp Commission identified two types of corrupt police officers: the “meat-eaters” and the “grass-eaters.” The branch of the department and the type of assignment affect opportunities for corruption. Officers’ code of silence can interfere with the efforts of police leadership to uncover police corruption.

The Law Enforcement Code of Ethics (LECE) was adopted in 1957; recently a separate, shorter code was adopted, which is easier for officers to remember when they come face-to-face with an ethical dilemma; it is the Law Enforcement Oath of Honor.

Accepted lying includes police activities intended to apprehend or entrap suspects. This type of lying is generally considered to be trickery. Deviant lying occurs when officers commit perjury to convict suspects or are deceptive about some activity that is illegal or unacceptable.

There are two basic arguments against police acceptance of gratuities. First is the slippery slope argument, which proposes that gratuities are the first step in police corruption. In addition, when officers accept minor gifts or gratuities, they may then be obligated to provide the donors with some special service or accommodation.

The first call for formalized standards of conduct in the legal profession came in 1906, with Roscoe Pound’s speech “The Causes of Popular Dissatisfaction with the Administration of Justice.” In 1924, the ABA approved the Canons of Judicial Ethics, and in 1972, the ABA approved a new Model Code of Judicial Conduct; in 1990, the same body adopted a revised model code. Nearly all states and the District of Columbia have established standards based on the code.

In 1974, the United States Judicial Conference adopted a Code of Conduct for federal judges, and Congress over the years has enacted legislation regulating judicial conduct.

Judges can engage in several types of abuses of judicial power, such as showing favoritism or bias, not being impartial, engaging in conflicts of interest, and being unethical in their personal conduct.

Prosecutors and defense attorneys, too, must be legally and morally bound to ethical principles as agents of the courts.

Federal employees are governed by the Ethics Reform Act of 1989, which addresses the receipt of gifts, financial and personal conflicts, and outside activities or employment that conflicts with their federal duties.

Corrections personnel confront many of the same ethical dilemmas as police personnel.

The strength of the corrections subculture correlates with the security level of a correctional facility and is strongest in maximum-security institutions.

The ethical decision-making process can assist criminal justice practitioners in analyzing and working through an ethical quandary.
KEY TERMS & CONCEPTS

Absolute ethics, 91
Accepted lying, 96
Deontological ethics, 90
Deviant lying, 96
Ethical decision-making process, 106
Gratuities, 96
Model Code of Judicial Conduct, 99
Noble cause corruption, 92
Police corruption, 93
Relative ethics, 91
“Slippery slope,” 95
Utilitarianism, 91
Whistleblower Protection Act, 103

REVIEW QUESTIONS

1. How would you define ethics?
2. What are examples of relative and absolute ethics?
3. What specific examples of legitimate ethical dilemmas arise with police, courts, and corrections practitioners in the course of their work?
4. How would you describe the codes and canons of ethics that exist in police departments, courts, and corrections? What elements do they have in common?
5. How does the principle of double effect pose problems for criminal justice and society?
6. Why was the Law Enforcement Oath of Honor developed recently, and how does it differ from the Code of Ethics?
7. What constitutes police corruption? What are its types, and what are the most difficult ethical dilemmas presented in this chapter? Consider the issues presented in each dilemma.
8. Do you believe criminal justice employees should be allowed to accept minor gratuities? Explain your reasoning.
9. In what ways can judges, defense attorneys, and prosecutors engage in unethical behaviors?
10. What forms of behavior by correctional officers in prisons or jails may be unethical?
11. What are the steps of the ethical decision-making process?
12. What are some of the ethics “tests” for criminal justice students?

LEARN BY DOING

Following are several brief case studies (based on real events) involving criminal justice employees. Having read this chapter’s materials, determine for each case the ethical dilemmas involved and what you believe is the appropriate outcome.

1. You are sitting next to a police officer in a restaurant. When the officer attempts to pay for the meal, the waiter says, “Your money is no good here. An officer just visited my son’s school and made quite an impression. Plus, I feel safer having cops around.” Again the officer offers to pay, but the waiter refuses to accept payment. The police department has a policy prohibiting the acceptance of free meals or gifts.

2. A municipal court judge borrows money from court employees, publicly endorses and campaigns for a candidate for judicial office, conducts personal business from chambers (displaying and selling antiques), directs other court employees to perform personal errands for him during court hours, suggests that persons appearing before him contribute to certain charities in lieu of paying fines, and uses court employees to perform translating services at his mother’s nursery business.

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3. A judge often makes inappropriate sidebar comments and uses sexist remarks or jokes in court. For example, a woman was assaulted by her husband who beat her with a telephone; from the bench the judge said, “What’s wrong with that? You’ve got to keep her in line once in a while.” He begins to address female lawyers in a demeaning manner, using such terms as sweetie, little lady lawyer, and pretty eyes.54

4. (a) An associate warden and “rising star” in the local prison system has just been stopped and arrested for driving while intoxicated in his personal vehicle and while off duty. There are no damages or injuries involved, he is very remorseful, and he has just been released from jail. His wife calls you, the warden, pleading for you to allow him to keep his job. (b) One week later, this same associate warden stops at a local convenience store after work; as he leaves the store, a clerk stops him and summons the police—the individual has just been caught shoplifting a package of cigarettes. You have just been informed of this latest arrest.

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- Author Video 4.1  Ethical Dilemmas
- Career Video 4.1  Internal Affairs Investigator
- SAGE News Clip 4.1  Prosecutor Under Fire
- SAGE News Clip 4.2  Arizona Sheriff Joe Arpaio
- Journal Article 4.1  Deconstructing Correctional Officer Deviance
- Journal Article 4.2  Misconduct in the Prosecution of Severe Crimes: Theory and Experimental Test
- Journal Article 4.3  Lies, True Lies, and Conscious Deception
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