



### Quote

 "The only thing necessary for the triumph of evil is for good men to do nothing."
 Edmund Burke, 18<sup>th</sup> Century British Parliamentarian

# Abuse of Power by Police

- The majority of police officers are professional and ethical
  - However, a small minority abuse their power
  - This leads to close scrutiny by the public of all police

### Abuse of Power by Police

- Police have tremendous power in our society
  - The power to arrest
  - The power to mediate or to charge
  - The power to use force
  - The power of life and death

### *Crime Fighter or Public Servant: Two Perceptions of Police Mission*

- Police as Crime Fighters (crime control force) view:
  - Criminals are the "enemy" and are fundamentally different from the "good" people
  - Police are the "army" that fights the enemy
  - "Good" people accept that the police are in a "war" to fight the enemy
    - Police must be able to use any means necessary against the criminals
      - Must be given latitude in their decision making as only they "know the enemy"

# Quote

 "We sleep safely at night because rough men stand ready to visit violence on those who would harm us."

Attributed to George Orwell (unconfirmed)

### *Crime Fighter or Public Servant: Two Perceptions of Police Mission*

- Police perception of themselves as crime fighters leads to certain decisions in:
  - Their use of force
  - Their definition of duty
  - Their use of deception and coercion

### *Crime Fighter or Public Servant: Two Perceptions of Police Mission*

- Public perception of police as crime fighters leads to:
  - Willingness to accept certain definitions and justifications of behavior
    - Drug addicts are crazed
    - Individuals who are beaten deserve it
    - All defendants must be guilty

### *Crime Fighter or Public Servant: Two Perceptions of Police Mission*

Police as Public Servant view:

- Criminals are not a distinct group; they shop, pay taxes, have kids, etc. just like any other citizen
- Police have limited ability to affect crimes rates one way or another—order maintenance vice crime control
- Police serve *all* of the people, including criminals (no enemy)
- Since police are public servants, their ability to use force should be restricted

### *Crime Fighter or Public Servant: Two Perceptions of Police Mission*

- Public perception of police as public servants:
  - More restrictive view of use of force
  - Rejection of utilitarianism; more focused on due process
    - Ends justifies the means approach
    - Individuals who are beaten deserve it
    - All defendants must be guilty
    - Protect the rights of all

### *Crime Fighter or Public Servant: Two Perceptions of Police Mission*

- Crime Fighter/crime control view:
  - Preventing criminal conduct most important function
  - Failure of law enforcement means breakdown of order
  - Criminal process guarantees social freedom
  - Efficiency is top concern
  - Emphasis on speed and finality
  - There is a presumption of guilt

### *Crime Fighter or Public Servant: Two Perceptions of Police Mission*

- *Public servant/due process* view:
  - Protection of the process is as important as the protection of innocents
  - There is the possibility of error (Law and its enforcers may be mistaken)
  - Coercive power of the state is always subject to abuseFinality not a priority
  - There is an insistence on the prevention/elimination of mistakes
  - Efficiency is rejected if it involves shortcuts

### History of Police Professionalism

- Corruption was common in early police departments
- Move towards professionalism started in the 1920s
  - Prior to that, police were involved in social
  - programs, but were also used for social control
    Spurred by attempts to improve image of police as objective enforcers, vice tools of those in power
    - Shift of police loyalty from political bosses to the law

### History of Police Professionalism

- Concept of police as "crime fighters" arose professional soldiers in the war on crime
  - Implied objectivity, professional expertise, and specialized training
- De-emphasized social service role
  - Resulted in police detachment from the community
  - Became proactive vice reactive to public demands

# *Community Policing – Back to Basics?*

 Has come full circle w/*community policing* concept
 Direct engagement with community = greater info re: neighborhood problems

- Pro-active crime prevention
- More visible operations; increases police accountability
- Decentralized ops = greater familiarity in specific neighborhoods
- Encourages police to see citizens as partners
- Moves decision-making and discretion downward to the patrol officers who know neighborhood best
- Encourages citizens to take more initiative in preventing/solving crime

### Characteristics of Community Policing

- A different philosophy and structure of policing
- Problem-oriented approach to policing
- Working with the community
- Developing trust with the community
- Creativity and innovation
- A broader focus than just crime control
- A geographic focus on one neighborhood or community

### Ethical Problems in Community Policing

- Gratuities may be an issue for officers who are expected to create and maintain close ties with the community
- The officer's discretion in enforcing the law may be compromised by personal relationships
- Increased autonomy and decreased supervision may provide greater opportunity for misconduct

#### Klockars – Four elements of Police Control

#### Authority

- Unquestionable entitlement to be obeyed that comes from fulfilling a specific role
- The officer has power simply because he or she is a police officer
- Power
  - Similar to authority; inherent in the role
  - The term "power" implies
    - that there is resistance to be overcome
    - that if there is resistance, it will be crushed; power is a means to achieve domination

#### Klockars – Four elements of Police Control

#### Persuasion

- The use of signs, symbols, words, and arguments to induce compliance
- May also be used to overcome resistance, often used to avoid using force

#### Force

- Is physical (different from the first three-authority, power, and persuasion are largely mental)
- When force is used, will of the person coerced is irrelevant

### **Police Power**

- Why does law enforcement have the right to employ these types of control?
- Because we give it to them

# Liberty for Protection -Social Contract Theory

- According to the social contract theory:
  - Each citizen gives up complete freedom in return for guaranteed protection of the society against others.
  - Police power is part of this quid pro quo.
  - Police power exists to provide protection
  - However that power can also be used against the persons who granted it

### Social Contract Theory – Corollary Principles

Each of us should feel protected

- If not, people may "renegotiate" the contract.Vigilantes
- Since police power may also violate protection if abused, it is limited to what is necessary for protection
  - If threshold exceeded, public objects
- Police ethics linked to their purpose
  - If social contract is basis for police power, it is also the basis for police ethics



# Characteristics of the Effective Public Servant

- James Madison stated that wisdom, good character, balanced perception, and integrity are essential to any public servant
  - Only if the person entrusted with public power has these qualities can we be assured that there will be no abuse of such authority and power
- "Granting authority without expecting public servants to live up to it would be unfair to everyone that they are expected to serve."
  - Delattre

### Formal Ethics for Police Officers – Professional Code of Ethics

- Addressees the unique issues and discretionary practices of that profession
- Three kinds of codes:
- Aspiration/Ideal
- Describes a perfect police officer
   Principles/Guidelines
- Relate to the value system of the organization
- Mandatory Rules of Conduct
  - Serve as the basis of discipline

# International Association of Chiefs of Police (IACP) Code of Ethics

- Four Major themes
  - Fairness
  - Service
  - Importance of the law
  - Personal conduct
- Has more in common with a public service paradigm than a crime fighter paradigm
  - Problem Police are, for the most part,
  - socialized and rewarded for the crime fighter role

# *Formal Ethics for Police Officers* –

### Professional Code of Ethics

- Argument against is that it specifies such perfect behavior that it is irrelevant to the realities of most officers
- Argument **for** is that it is a valuable because it provides an ideal for officers to aspire to
- A code is far more valuable as a motivator than as a discipline device
  - A symbol rather than a stick

# *Police Subculture: A Breed Apart*

Police . . .

- Typically form a homogeneous social group
   Leads to "groupthink"
- Have a uniquely stressful work environment
- Participation in a basically closed social system
- Have historically come from the white middle and lower classes in the US
  - Similar racial, culture, and economic backgrounds
- These factors can lead to *police subculture*

# *Police Subculture: Who Are They?*

- Police characteristics. . .
  - Cynical
  - Isolated, alienated
  - Defensive, distrustful
  - Authoritarian, dogmatic
  - More conservative than the general public
  - Value equality less than the general public
  - Value obedience over independence

# Characteristics of the Police

- Cynicism
- Use of Force
- "Attitude adjustment"
- Police as victims
- Rationalization of double standards
- Loyalty to colleagues is essential
- The public (or most of it) is the enemy



*Police Subculture – "The Cop Code"* 

 "The Cop Code": The informal code of conduct that new officers are taught through informal socialization

# "The Cop Code" : Other Cops

• Cover your men; don't let any officer take a job alone

- Keep a cool head
- Don't back door it (don't take certain gratuities)
- Watch out for your partner first and then the rest of the guys working your tour
- Don't give up another cop
- Show balls
- Be aggressive when you have, but don't be too eager
- Don't get involved in anything in another guy's sector

# "The Cop Code" : Other Cops

- Hold up your end of the work
- If you get caught off base, don't implicate anyone else
- Make sure the other guys know if another cop is dangerous or "crazy"
- Don't trust a new guy until you have checked him out
- Don't tell anybody else more than they have to know
- Don't talk too much or too little
- Don't leave work for the next tour

### "The Cop Code" : Bosses

- Protect your ass
- Don't make waves
- Don't give them too much activity
- Keep out of the way of any boss from outside your precinct
- Don't look for favors just for yourself
- Don't take on the patrol sergeant by yourself
- Know your bosses
- Don't do the bosses' work for them
- Don't trust the bosses to look out for your interests

# Is the police subculture weakening?

Police subcultures may be breaking down because of the following:

- Increasing diversity
  - Workforce no longer socially homogenousOfficers vary substantially in their social views
- Civil litigation
  - Has increased the risk of covering for another officer
- Police unions
  - Have become more formal with increased power

### Discretion

- Discretion: the ability or option to choose between two or more courses of behavior
  - Necessary element in law enforcement, *but* the need for discretion also leads to greater dependence on individual ethical codes in place of rules and laws
     When to enforce the law
    - How to enforce the law
  - The power to make a decision regarding an arrest creates the power to make a decision using unethical criteria
     Brown, 1981
- Officers must take care to exercise discretion based on ethical principles

### *Types of Officers/Applications of Discretion*

- The professional: balances coercion with compassion
- The reciprocating officer: allows citizens to solve problems and may engage in deals to keep the peace
- The enforcer: uses coercion exclusively
- The avoider: cannot handle the power he/she must use or fears it and so avoids situations where he/she may be challenged
   Muir

# *Ethical or Unethical Criteria?*

- Number of miles over the speed limit
- Amount of danger posed by the speeding (work zone/school zone)
- Excuse (emergency/late to work)
- Sexual attraction (or not)
- Identity of the motorist (fellow officer, politician, celebrity)
- The offer of a bribe
- Attitude

### **Discretion and Dilemmas**

 Most ethical dilemmas faced by police officers involve the use of discretion

# Duty

- **Duty**: the responsibilities that are attached to a specific role
  - Discretion allows officers to choose different courses of action, depending on how they perceive their duty
  - Police officers are often in situations that do not involve crime control
    - Order maintenance
    - "social work" calls

# Discretion and Duty

- What are an officer's duties?
  - Enforce the law?
  - Providing service?
  - Ensuring medical treatment is provided?
  - Preventing crime altogether?

### Duty and Dilemmas – How involved do you get? (Discretion)

- Accident at end of shift
- Repeat unfounded 911 calls at the same location
- Young boy whose bicycle is stolen approaches you at dinner time
- Travelers robbed while passing through city
- Poor burglary victim

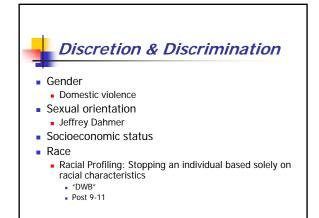
### Discretion and Duty

- Three questions to ask:
  - What must the police do under the law?
  - What does department policy dictate?
  - What do individual ethics dictate?

### Discrimination

 Discrimination: occurs when discretion allows a decision maker to treat a group or individual differently from others for no justifiable reason

- Individual prejudices and perceptions of groups may influence an officer's decisions
- When police act on personal prejudices while performing their jobs, they discriminate in the allocation of either services or enforcement of the law.
  - Enforce the law differentially
  - · Withhold the protections and benefits of the law



### Is US Law Enforcement Racist?

- There is a pervasive sense among minority groups in this country that law enforcement is fundamentally racist
  - Some say racism is endemic in police departments
- Racism is a pervasive and complicated issue
  - Research into the actual presence of racism in law enforcement has been inconclusive
- It is still perceived as problematic—and therefore a critical issue

### *Is US Law Enforcement Racist?*

- The Project on Policing studies, 1996-97
  - Found that police behavior is influenced by:
    - Disrespectful or resistant behavior
    - Intoxication
    - Mental illness

### Discretion & Discrimination – Racial Profiling

- Pretext Stop
  - Stopping an individual for a minor offense in order to look for evidence of a major wrongdoing

### Discretion & Discrimination – Racial Profiling

- Studying racial profiling is rife with problems
  - Determining the base rate is difficult
     E.g. Population vs number of drivers
  - Interpretation of data
  - No exploration of connection between officer attitudes and behavior
  - Lack of examination of suspects demeanor during the stop
  - Organizational influences
    - Do they implicitly encourage racial profiling through reward structures and training?

# Racial Profiling Problems

- Departments that use racial profiling are no more effective at crime control than those that do not
- Some forms of profiling are just "common sense—but terrorist organizations do not operate according to common sense
- Profiling and pretext stops may negatively affect public perception of police

### Crime Fighter <u>and</u> Public Servant?

- Police take their cue from the community that they serve
  - If the community emphasizes crime control over individual rights, it will be reflected in how the laws are enforced
- Police often get mixed messages
  - We want them to enforce the law--unless they enforce it against us
  - Enforce the law—but no too stringently

# Zero-Tolerance Policy

- Implemented in NYC by William Bratton, Chief, NYPD 1995-1999
  - Police took an aggressive stance against street people and minor criminals, especially those in the business area and subway system
  - New York City enjoyed a dramatic decline in crime
  - But citizen complaints against the NYC police rose by 75%
  - Crime rates fell throughout the country during this period, even in areas with zero-tolerance policies

## Crime Fighter <u>and</u> Public Servant?

- Extralegal means of taking care of problems are acceptable as long as they are not used against us
  - When we encourage such extralegal power in some situations, we shouldn't be surprised when it is used in other situations as well
- Justification for police power is that the police represent the public
  - "The police officer can only validly use coercive force when he or she represents the body politic." (Malloy, 1982)
  - If they do not represent all groups, their power is seen as repressive

### IACP Code of Ethics

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, 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 thought and deed in both my personal and official life, I will be exemplar 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 duty.

#### IACP Code of Ethics

I will never act officiously or permit personal feelings, prejudices, animosities or friendships to influence my decisions. With no compromise for crime and 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 the police service. I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession, law enforcement.

### Oath of Honor

- 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 and the community I serve.