The Police Role in Society: Crime Fighter or Public Servant

Chapter 7

Quote

“The only thing necessary for the triumph of evil is for good men to do nothing.”

Edmund Burke, 18th 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

---

**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 abuse
- Finality 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

- 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

---

### Cohen & Feldberg

- Proposed five ethical standards that can be derived from the social contract
  - Fair access
  - Public trust
  - Safety and security
  - Teamwork
  - Objectivity

---

### 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**

- Addresses 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 Subculture

- 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
“Themes” of the Police Subculture

- Force
- Territoriality
- Illicit coercion
- Guns
- Suspicion
- Danger
- Uncertainty
- Excitement
- Solidarity
- Masculinity
- “Maintaining the edge”


- “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 homogenous
    - Officers 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
Discretion & Discrimination
- Gender
  - Domestic violence
- Sexual orientation
  - Jeffrey Dahmer
- Socioeconomic status
- Race
  - Racial Profiling: Stopping an individual based solely on racial characteristics
    - “DWB”
    - Post 9-11

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 and 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

  - 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 and 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.

- 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.