



Chapter One

Morality, Ethics, and Human Behavior



Quote

“Character is much
easier kept than
recovered.”

- Thomas Paine



Why study ethics?

- Many justice topics have ethical implications
- An act may be legal, but it is not necessarily ethical
- Laws are often justified using an ethical rationale
 - Some laws are concerned with public safety
 - Others are based solely on moral or ethical grounds



“Doing the Right Thing”

Learning how to determine the “right thing to do” is the central purpose of this class.




Criminal Justice Professionals: Entrusted with power over others

- Police Officers
 - Have the greatest power
 - Power of discretion
 - Power to arrest
 - Power to investigate
 - Power to take a life




Criminal Justice Professionals

- Prosecutors
 - Power to determine who to prosecute
 - Power to seek certain punishments
 - Have an ethical duty to pursue justice vice conviction




Criminal Justice Professionals

- Judges
 - Denying or accepting plea bargains
 - Decisions regarding rules of evidence
 - Decisions about sentencing



Criminal Justice Professionals

- Correctional Officials
 - Probation officers
 - Make recommendations in pre-sentence reports and violation reports
 - Prison officials
 - Award and take away good time
 - General administration of facilities
 - Type of confinement
 - Parole officials
 - File violation reports



Common Elements – Criminal Justice Professionals

- 1) All have some degree of **discretion**-the power to make a decision.
 - While the particular decisions are different, they all involve power over others and potential deprivation of life, liberty, or property.

Common Elements – Criminal Justice Professionals

- 2) Each has the ***duty to enforce the law.***
 - Each of the professionals in criminal justice has a basic duty to uphold and enforce all laws; they serve the law in their professional lives.

Common Elements – Criminal Justice Professionals

- 3) The obligation to provide ***due process*** and ***equal protection*** for all.
 - ***Due process*** protects each of us from error in governmental deprivation of life, liberty, or property.
 - *We expect that the government's power will be used fairly and in an unbiased manner.*
 - ***Equal Protection*** should ensure that what happens to us is not determined by the color of our skin, our gender, nationality, or our religion. Laws are for everyone, and the protection of the law extends to all of us

Common Elements – Criminal Justice Professionals

- 4) A commitment to ***public service***
 - They are public servants--their salaries come from the public purse.
 - They have taken on special duties involving the public trust.
 - ***They have taken an oath – AND MUST BE HELD TO A HIGHER STANDARD!***

Why are ethics necessary for CJ professionals?

- Justice Officials:
 - Have the opportunity to abuse power
 - Have a duty to serve the public
 - Need tools to resolve the many ethical dilemmas they may face

Why should CJ professionals study ethics?

- Professionalism depends on effective and morally responsible administration of policy
- Ethics training helps to develop analytical skills needed to understand the pragmatic and theoretical aspects of the justice system

Why should CJ professionals study ethics (cont.'d)?

- CJ professionals need to recognize the ethical consequences of actions and the moral principles involved
- Ethics are central to decisions about discretion, force, and due process
- Ethics are germane to policy decisions about issues such as rehabilitation, deterrence, and just desserts

Goals of the study of ethics (Braswell)

- Become aware of and open to ethical issues
- Begin developing critical thinking skills
- Become more personally responsible
- Understand the coercive element of the justice system
- Develop *wholesight* (the ability to explore with one's heart as well as one's mind)

Defining Terms

- **Morals:** The capacity to make value judgments and discern right from wrong
- **Ethics:** The study and analysis of what constitutes good or bad conduct

Defining Terms (cont.)

- **Applied ethics:** The application of ethical principles to a specific issue.
- **Professional ethics:** An even more specific type of applied ethics relating to the examination of the behavior of certain professions or groups.



Defining Terms (cont.)

- **Duties:** Moral obligations that one must perform in order to be considered moral/ethical
 - Duty to obey the law
 - Duty to support one's parents
- **Superogatory:** An act that goes beyond duty, but is not required
 - Good Samaritan



Defining Terms (cont.)

- **Values:** Defined as elements of desirability, worth, or importance.
 - Value judgments cannot be scientifically proven
 - Indicate relative importance
 - Individual values form value systems.
 - All people prioritize certain things they consider important in life.
 - Behavior is generally consistent with values. (Some individuals may believe that financial success is more important than family or health)



Criminal Justice System Values

- Privacy
- Freedom
- Public Order
- Justice
- Duty
- Loyalty



Are Ethics Relative?

- **Point of view #1**
 - Values and ethics cannot be scientifically proven
 - Values and ethics are merely opinions
 - *Therefore*, ethics are **relative** to each individual or society




Are Ethics Universal?

- **Point of view #2**
 - Ethical systems are based on fundamental values
 - Some beliefs (e.g., that murder is wrong) are **universal** among "civilized" societies
 - *Therefore*, if a person believes that murder is permissible and commits a murder, the act is **still** unethical regardless of the individual's belief




Making Moral Judgments

- Some behaviors can be judged; others cannot
- Most behaviors are ethically neutral (neither ethical nor unethical)




Criteria - Making Moral Judgments

- **1) Acts:** We must have an act to judge
 - Thinking about doing something not enough
 - Motivation behind an act may be important in judging an act moral or immoral, but in the end, it is the act that is judged



Criteria - Making Moral Judgments (cont.)

- **2) Only involves human behavior**
 - Animals behavior or acts of nature cannot be judged
 - Must have the capacity to reason
 - Only humans have the capacity to be "bad"



Criteria - Making Moral Judgments (cont.)

- **3) Free will:** Action is result of free will and free action
 - The person acting is rational and not under duress

Criteria - Making Moral Judgments (cont.)

- **4) Affects others**
 - The act has an impact on other humans or (in some definitions) animals or nature

Morality and the Law: Is there a difference?

- **Some laws have an implied moral basis**
 - Example: Laws against acts like murder, which is generally considered immoral
- **Some laws address issues that some consider immoral and others do not**
 - Example: Laws against marijuana possession

Morality and the Law: Then and Now

- **Some laws have are now considered immoral but were once legitimate**
 - Example: Laws permitting slavery
- **Some laws redefine previously acceptable behavior as illegal**
 - Example: Laws against cocaine possession



Morality and the Law

- Laws govern many aspects of our behavior
- Do not define all moral behavior
- Focus on bad behavior vice good behavior
- Can be immoral
 - Can someone be a good person while obeying a bad law?




Elements of a Crime

- A crime is composed of **three** elements
 - **Actus reus:** The act itself
 - Must be the result of one's own volition
 - **Mens rea:** Intent to commit the crime
 - The level of culpability required for each crime in order to find guilt
 - **Causation:** It must cause harm
 - Causation is when the actus reus creates the result prohibited or described by the law




Criminal/Moral Culpability

- Levels of **mens rea:**
 - **Negligence:** Should have known the danger of the act
 - **Recklessness:** Did know the danger of the act
 - **Knowing:** Was aware of performing the act
 - **Intentional** (aka - Purposeful): Intended for the act to cause harm




Excused from Culpability

- The mentally ill
 - Considered incompetent to stand trial
- Juveniles
 - Age of reason has trended downward in recent years
 - Younger children are now being held responsible for criminal acts
 - In the *parens patriae* (aka – *in loco parens*) model, the state substitutes for the parents
- Legal culpability is **not** synonymous with moral culpability



Regulations, Standards, and Guidelines

- Regulations
 - Govern the activities of certain occupations
 - Usually come from a governmental authority
 - Often specify sanctions for non-compliance
- Standards
 - Usually come from private or public bodies
 - Often used as a basis for accreditation
- Guidelines
 - Usually come from a professional group
 - Typically recommendations vice direction
- Rules are developed to control behavior but are **not** synonymous with ethical systems



The American Paradox

- **American morality** stresses integrity, compassion, and fair play
- **American culture** often emphasizes violence, aggression, and greed
- America has an extremely high crime rate and many examples of corruption
- Americans are consistently some of the most generous people in the world



Morality and Behavior

- Why do we engage in behavior that we know or believe to be wrong?



Ethical Issues

- Sex offender registries
- Death penalty
- Decriminalization of marijuana
- Law enforcement corruption
- "Three Strikes" legislation
- Treating juveniles as adults



Ethical Dilemmas

- Ethical dilemmas are those situations in which one person **must make a decision about what to do.**
 - Either the choice is unclear, or the "right choice" will be difficult because of the costs involved
 - Ethical dilemmas involve the individual struggling with personal decision making.

Steps for Analyzing Ethical Dilemmas


- 1) Review all the facts that are known
 - No future predictions
 - No suppositions
 - No probabilities

Analyzing Ethical Dilemmas

- Review all the facts that are known
 - Was the inmate hurt?
 - Did the injuries occur during the time the two other officers were in his cell?
 - Did it go unreported?
 - Would the inmate testify if someone else came forward or would he deny the assault?


Analyzing Ethical Dilemmas

- 2) Identify all the relevant values of each party
 - Additionally, identify all concepts (things that cannot be empirically proven)
 - Note – many arguments surrounding ethical issues are really arguments about concepts rather than values or moral judgments



Analyzing Ethical Dilemmas


- Identify all the relevant values of each party
 - Duty
 - Legality
 - Honesty
 - Integrity
 - Safety
 - Loyalty
 - Self-preservation
 - Trust



Analyzing Ethical Dilemmas

3) Identify all possible moral issues for each party involved

- Should the other officers have entered the cell?
- What did the prisoner do to warrant it?
- Should the officer have let off-duty officers into the cell in the first place?
- What should the officer do now that he believes that an injustice has taken place?



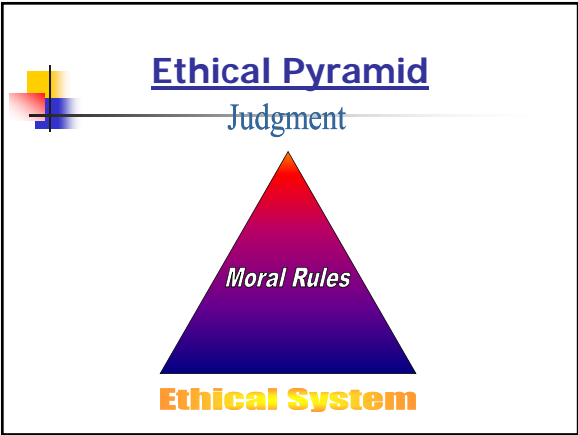
Analyzing Ethical Dilemmas

4) Identify the most immediate moral issue facing the individual

- Need to decide on an ethical system
 - In this case, should the officer report what happened?

Analyzing Ethical Dilemmas

5) Resolve the ethical or moral dilemma using an ethical system or some other means of decision-making



Prosecutors Dilemma – Whitey Bulger

- “The only thing more distasteful than signing this agreement was not signing this agreement. If we didn’t go forward with this agreement there would always be the lingering suspicion that part of the reason for not going forward with this agreement was to protect the FBI.”
 - US Attorney Donald K. Stern



Prosecutor's Dilemma - Green River Killer

- Uttering the word "guilty" 48 times, killer Gary Leon Ridgway admitted he is the Green River Killer
 - "Choking is what I did and I was pretty good at it. I wanted to kill as many women as I thought were prostitutes as I possibly could. I killed so many women I have a hard time keeping them straight."



Prosecutor's Dilemma - Green River Killer (cont.)

- County Prosecutor Norm Maleng said his first reaction to striking a deal that would take the death penalty off the table was no.
 - "If any case screams for the death penalty, this was it."
- Investigators had sufficient evidence for only 7 cases. As part of the agreement Ridgway will aid investigators in recovering more of the victims.
 - "Justice and mercy for the victims, the family and our community is why we entered into the agreement."
