

Noble-Cause Corruption

Chapter 9



Quote

■ "I would rather fail with honor than succeed by fraud."

■ Sophocles

Noble-Cause Corruption

- Involves officers employing unethical means to catch criminals because "it's the right thing to do"
 - Perceived by officers as fulfillment of their profound moral commitment to make the world a safer place to live
 - Officers will do what it takes to get an offender off the street
 - "Dirty Harry problem"
 - "Magic Pencil"



Noble-Cause Corruption

- Ends oriented thinking. Police behave this way because:
 - Police culture supports a “whatever it takes” approach
 - We hire those who have values that support such actions
 - We train and socialize them to internalize those values even more deeply
 - Police feel great responsibility to keep the world “safe”
 - Police discretion provides latitude to create and apply ends-oriented solutions



Noble-Cause Corruption

- Police Officers
 - “Dropsy” testimony
- Crime lab investigators
- Prosecutors
 - Suppress evidence
 - Allow perjured testimony
- 60% of rookies support mild lies to achieve a conviction (Crank and Caldero, 2000)
- 25% of officers surveyed admitted to having perjured themselves (Barker and Carter, 1991)



Noble-Cause Corruption

- “Noble cause” may be the underlying reason for much of an officer’s unethical behavior
 - Efforts to control corruption must recognize this



Noble-Cause Corruption

- Underlying questions:
 - Is breaking the law to catch a criminal a “good” act?
 - Does the “good” end of crime control justify “bad” means



Investigations

- Goal of investigative law enforcement is to collect evidence in order to identify and successfully prosecute a criminal



Reactive Investigations

- Attempts to reconstruct a crime after it occurs
- Consists of gathering evidence to identify and prosecute an offender
- Investigator(s) may develop early prejudice about likely perpetrator, which might cause them to:
 - Ignore exculpatory witnesses or evidence
 - Overstate existing evidence
 - Manufacture evidence
 - FBI lab
 - 13 implicated, 2 formally censured
 - Houston crime lab
 - 2,000 cases had to be reviewed



Proactive Investigations

- Attempts to document crime as it occurs
- Requires more active police role
- Often involves deception by police
- Whom do police target and why?
 - Requires “targeting” based on reasonable suspicion
- Changes police role from discovering who **has** committed a crime to discovering who **might** commit a crime



Typology of Lies

- **Placebos**
 - Lies that are in the best interest of those being lied to. Motive is benign, the effect relatively harmless
- **Blue Lies**
 - Used to control a person or make the job easier where force could be used
- **Accepted Lies**
 - Used during undercover or sting operations



Accepted Lies

- Must meet the following standards:
 - Must be in the furtherance of a legitimate organizational purpose
 - Must be a clear relationship between the need to deceive and the accomplishment of the organizational purpose
 - The deception must be one wherein officers and the management structure acknowledge that deception will better serve the public interest than the truth



Typology of Lies (cont. 'd)

- **Tolerated Lies**
 - "Necessary evils" such as:
 - Lying during interrogations
 - Lies about selective enforcement
 - Arrest threats to "troublemakers"
- **Deviant Lies**
 - False testimony in court to make a case
 - Covering up police wrongdoing



Proactive Investigations

- Are only bad people tempted?



Entrapment

- Occurs when an otherwise innocent person commits an illegal act because of police encouragement or enticement
- Two approaches used to determine if entrapment has occurred
 - **Subjective:** Looks at the defendant's background, character, and predisposition toward crime
 - **Objective:** Examines government's participation and whether it has exceeded accepted legal standards
 - State provides essential element or uses extensive or coercive pressure



Entrapment - Criticisms

- Allows police to tempt former offenders who might otherwise not have been tempted
- May rely on hearsay and rumor
- May stigmatize the individual charged
- Allows police to choose their own targets
- Degrades the criminal justice system through the use of deceit



Police and the Media

- Should the police intentionally lie to the media for a valuable end, such as if it might help them catch a criminal or prevent a crime?
- Should the media have complete power to publish or report crime activities regardless of the negative effect on the level of public fear or interferes with an investigation?
- How do the media affect an individual's ability to get a fair trial?



Informants

- Individuals who are not police officers, but assist police by providing information about criminal activity
- Reasons informants cooperate:
 - Money
 - Revenge
 - Dementia
 - Kicks/attention
 - Repentance
 - Coercion



Use of Informants

- Informants typically are not middle-class, upstanding citizens
 - Often have been or are probably engaged in criminal activity
 - Not uncommon for informants to continue to commit crimes while helping police, sometimes with police approval
 - Whitey Bulger/John Connelly



Use of Informants

- Advantages of using informants:
 - Can get into places that undercover officers can't
 - Can operate with fewer restrictions (legal or departmental)
- Disadvantages of using informants
 - Can be dangerous for the informant
 - Reliability is questionable



Ethical Issues with Informants

- Getting too close and/or becoming romantically involved
- Overestimating the veracity of the information
- Being a pawn of the informant who is taking advantage of the system for money or other reasons
- Creating crimes by letting the informant entrap people who would otherwise not have committed the crime
- Engaging in unethical or illegal behaviors for the informant, such as providing drugs
- Letting the informant invade one's personal life
- Using coercion and intimidation to get the informant to cooperate



Use of Undercover Officers

- Undercover officers may play a variety of roles in order to collect evidence of crime
- They have to observe and may even participate in illegal activities to protect their cover
- Can be a difficult assignment with adverse effects
 - May lose their identity
 - May have to sacrifice personal integrity
 - Drug addiction
 - Psychological problems



Relationships and Police Deception

- Two extremes of intimacy
 - Brief buy-bust
 - Situation in which an undercover officer pretends to be romantically involved with a target in order to maintain his/her cover
- Does the latter violate a trust?
- How can the police best minimize harm yet still obtain some utility from the action?



Justifications For Undercover Operations

- Citizens grant the gov't the right to use means that they have individually forsaken
- Undercover work (UW) is ethical when its targets are persons who freely choose to commit crimes that they know are subject to UW
- UW is ethical when used for a good/important end
- UW is ethical when there are reasonably specific grounds to suspect that a serious crime is planned or carried out
- UW is ethical when directed against persons whom there are reasonable grounds to suspect

Justifications For Undercover Operations (cont'd.)

- When citizens use questionable means, gov't agents are justified in using equivalent means
- Special risks justify special precautions
- UW is ethical when it is the best means
- Convict the guilty
- UW is ethical when it is undertaken with the eventuality of being made public and judged in court
- UW is ethical when it is carried out by persons of upright character in accountable organizations

Justifications Against Undercover Operations

- Truth telling is moral; lying is immoral
- Gov't. should not make deals with criminals
- Gov't. should neither participate in, nor be party to crime, nor break laws in order to enforce them
- The gov't. through its actions should reduce, not increase crime
 - May create markets for illegal goods and services
 - May generate ideas/motive for crime
 - May provide a missing resource
 - May provide a covert opportunity for undercover agent to commit crimes

Justifications Against Undercover Operations

- The gov't. should neither tempt the weak, nor offer temptation indiscriminately, nor offer unrealistically attractive temptations
- Do no harm to the innocent
 - May lead to retaliatory violence
- Respect the sanctity of private places
- Respect the sanctity of intimate relations
- Respect the right to freedom of expression and action
- The gov't. should not do by stealth what is prohibited from doing openly

Undercover Operations – Suggested Limitations

- Require a probable cause-based warrant for any interaction longer than 24 hours
- Ban officer's engagement in intimate relationships
- Evidence obtained by violating the first two limitations should be excluded at trial

Undercover Operations – Police Objections to Limitations

- There is no need for an undercover operation if probable cause exists
- It is often impossible to get a warrant
- Most undercover operations exceed 24 hours

Guidelines for the Use of Undercover Officers & Informants

- Some Ethicists support the use of a test before police use deceptive practices
 - The end must be good
 - The means must be a plausible way to achieve the end
 - There must not be a better alternative
 - The means must not undermine some other equal or greater end



Police Deception

- It is clear that norms support police deception during the investigative phase
- If norms support deception during the investigation, it is not surprising that some officers may protect themselves with deception when their methods are legally questioned
 - This is one of the problems of deceptive practices—they may lead to more deception to cover up illegal methods



Deception and Interrogation

- Deceptive interrogation techniques
 - Interview/non-custodial questioning
 - Presenting Miranda in a way to negate its effect
 - Misrepresenting the seriousness of an offense
 - Using manipulative appeals to conscience
 - Misrepresenting the moral seriousness of the offense
 - Using false promises of lesser sentences or non-prosecution
 - Misrepresenting identity (lawyer/priest)
 - Using fabricated evidence to deceive suspect
- What should be the limits on such deception?



Torture: The “Dirty Harry” Problem

- Kocklars says that there are situations where one knows that a “dirty act” will result in a good end, but there are no other means to achieve the good end
- Obviously, it is an immoral act, but there is no solution to the problem
 - If the policeman behaved in a professional manner, the girl will die
 - If he behaved in an immoral manner, there is a chance that he could save her life
- He concludes that by engaging in the immoral behavior, the officer has tainted his innocence and must be punished
 - The danger exists that the officer may lose his sense of moral proportion if he is not punished

Torture: **The "Dirty Harry" Problem**

- Delattre does not agree with Kocklars that the officer must be tainted
 - Such an act may be unjustifiable by an unconditional principle, but it also may be excusable
 - *An ethical person may commit an unethical act and still be ethical*

Kocklars

- There are those that perform despicable acts that benefit the rest of us
- We are comfortable in our ignorance and our judgments as long as we don't have to look too closely at our own role in the events
- The police then become the "*sin eaters*" of our society
 - Shady characters on the fringe of society who absorb evil so that the rest of us may remain pure

Interrogation

- The use of deception in interrogation has taken the place of physical coercion
 - Physical coercion is now considered an illegal means to obtain a confession
 - Confessions obtained as a result of torture are considered to be unreliable



For & Against Physical Coercion

- Mental coercion can also result in untrue confessions
- Officers must strive to maintain a balance between justification for coercive methods and respect for human dignity



Loyalty & Whistle Blowing

- One of the most difficult ethical dilemmas that officers confront is when faced with the wrongdoing of another officer.
 - Informing or testifying against one's peers has always been negatively perceived by any group, whether it be doctors, lawyers or cops. The **code of silence** is present in every occupation.
 - In law enforcement, it has been called the "**blue curtain of secrecy**", a form of noble cause corruption



Loyalty & Whistle Blowing

- The culture of loyalty first among police officers has negative consequences
 - When corruption is uncovered it results in distrust of all police officers, even the honest ones
 - The "cost" of police cover-ups eventually becomes public distrust of police testimony
 - In addition, silence about corruption within the police force also causes the public to distrust the criminal justice system as a whole



Loyalty & Whistle Blowing

- Loyalty is an internal moral argument that is central to the discussion of whistle blowing
 - Loyalty to fellow officers is an essential aspect of an effective police force
 - Decisions that are made based on loyalty are not rational, they are emotional
 - Loyalty is by definition preferential, it excludes some in favor of others
 - Any perceived violation of loyalty to another officer comes with severe consequences from other officers



Loyalty & Whistle Blowing

- Loyalty is an internal moral argument that is central to the discussion of whistle blowing
 - Loyalty to fellow officers is an essential aspect of an effective police force
 - Explained by officer's dependence on one another, sometimes in life-or-death situations
 - Loyalty is a personal relationship, not a judgment
 - Therefore, decisions made based on loyalty are not rational, they are emotional
 - Loyalty is by definition preferential; it excludes some in favor of others
 - Any perceived violation of loyalty to another officer comes with severe consequences from other officers



Loyalty vs. Blind Loyalty

- The concept of loyalty is a valued, essential commodity in policing. Few other professions, after all, place their members in circumstances where they depend upon one another as completely as the police, sometimes for the very protection of life and limb. Unfortunately, those intense bonds can obscure the line between "loyalty and blind loyalty," and that is where the problem lies. At the end of every day, every police officer should be sensitive to multiple loyalty relationships in life that include, patrol partner, department, Constitution of the United States, community and **family**.
 - Dan Carlson

Sanctions Against Whistleblowers

- There has been an informal practice of punishing whistleblowers
 - Fellow officers
 - Administration
- Most states and the federal government now have laws designed to protect whistleblowers

Reducing Corruption – Possible Solutions

- Increase pay
- Eliminate unenforceable laws
- Establish civilian review boards
- Improve leadership
- Improve training

Reducing Corruption - Education & Training

- Education & training can be important to improving police ethics
 - Studies support hiring more educated officers (less instances of use of force), but this is not the only or best solution for corruption
 - Ethics training may also have a positive effect, but positive results are not guaranteed either
 - Character usually already formed; may be hard to change, but can be useful in reinforcing good character and illustrating ethical behavior
 - Can be used by departments to avoid “failure to train” lawsuits



Reducing Corruption – Integrity Testing

- Integrity testing involves setting up situations where officers have to choose to behave ethically or unethically
 - Random Integrity Testing
 - Targeted Integrity Testing
- These tests are criticized by police officers using some of the same rationales used by those who argue against deceptive tactics used by police against criminals



Reducing Corruption – Two Models of Misconduct Review

■ Internal Affairs Model

- Does not use an external monitoring body
 - Police investigate themselves and discipline is taken care of within the policy hierarchy
- Widely seen as ineffective
 - Citizens are discouraged from reporting
 - Police are seen as ineffective
 - Approach seems to not bring out corruption/misconduct, but rather to hide it



Reducing Corruption – Two Models of Misconduct Review

■ The Civilian Review/Complaint Model

- Involves an independent civilian agency that audits complaints and investigations
- The board may also respond to appeals and act in an advisory role in investigations
- Police still investigate and conduct the disciplinary hearings
- Receives more citizen complaints; easier to complain

Reducing Corruption – Internal Affairs & Civilian Review Boards

- Both models seem to have about the same substantiation rate—about 10% of all complaints
- Critics contend that neither model is truly independent as the police still conduct the investigations in both models

Reducing Corruption – Early Warning or Audit Systems

- Small % of officers account for a disproportionate number of complaints
- Early warning or audit systems can identify such officers
 - Department can then:
 - Supervise more closely
 - Reassign officer
 - Retrain
 - Transfer
 - Refer to an employee assistance program
 - Evaluate fitness for duty
 - Dismiss

Others Methods to Reduce Police Corruption

- | | |
|------------------------------|------------------------------|
| ■ Video cameras in cars | ■ Integrity reviews |
| ■ Covert surveillance | ■ Mandatory reporting |
| ■ Drug & alcohol tests | ■ Whistleblower protection |
| ■ Quality assurance tests | ■ Compulsory rotation |
| ■ Internal informants | ■ Asset/Financial reviews |
| ■ Police procedures | ■ Surveys of Police & Public |
| ■ Decriminalizing vice | ■ Personnel diversification |
| ■ Risk analysis (Corruption) | ■ Ethics training |
| ■ Supervisor accountability | ■ Complaint resolution |



Ethical Leadership

- Mistrust of police administration is pervasive among the rank and file
 - The division between “management cops” and “street cops” may contribute to a distrust of management and the alienation of the street cop



Ethical Leadership

- Despite divisions, most agree that supervisory behavior has greater influence on employee behavior than directives or ethics
 - Even managers who are not corrupt may implicitly support tolerance for unethical behavior among officers they supervise



Ethical Leadership

- Florida Police Officers believed strict and fair discipline was the best response and deterrent to misconduct
- 95% felt that supervisors should be moral examples
- 70 % felt that unethical supervisors contributed to problems
- Only 42 % agreed with Citizen review Boards



Ethical Leadership

- "One cannot espouse ethical ideals, act unethically, and then expect employees to act ethically. Thus, regardless of formal codes, police are influenced by the standards of behavior they observe in their superiors."
 - Pollock
- **Bottom line – Leaders lead most effectively by example**



Management Issues

- Efforts to change the ethics of police must involve changing police subculture
 - Strong ethical standards need to be established and internalized by officers
 - The informal police subculture is a barrier to internalizing ethical standards
 - Police management has an important role to play in influencing the value system of rank and file officers
