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Ethics in Police Decisionmaking

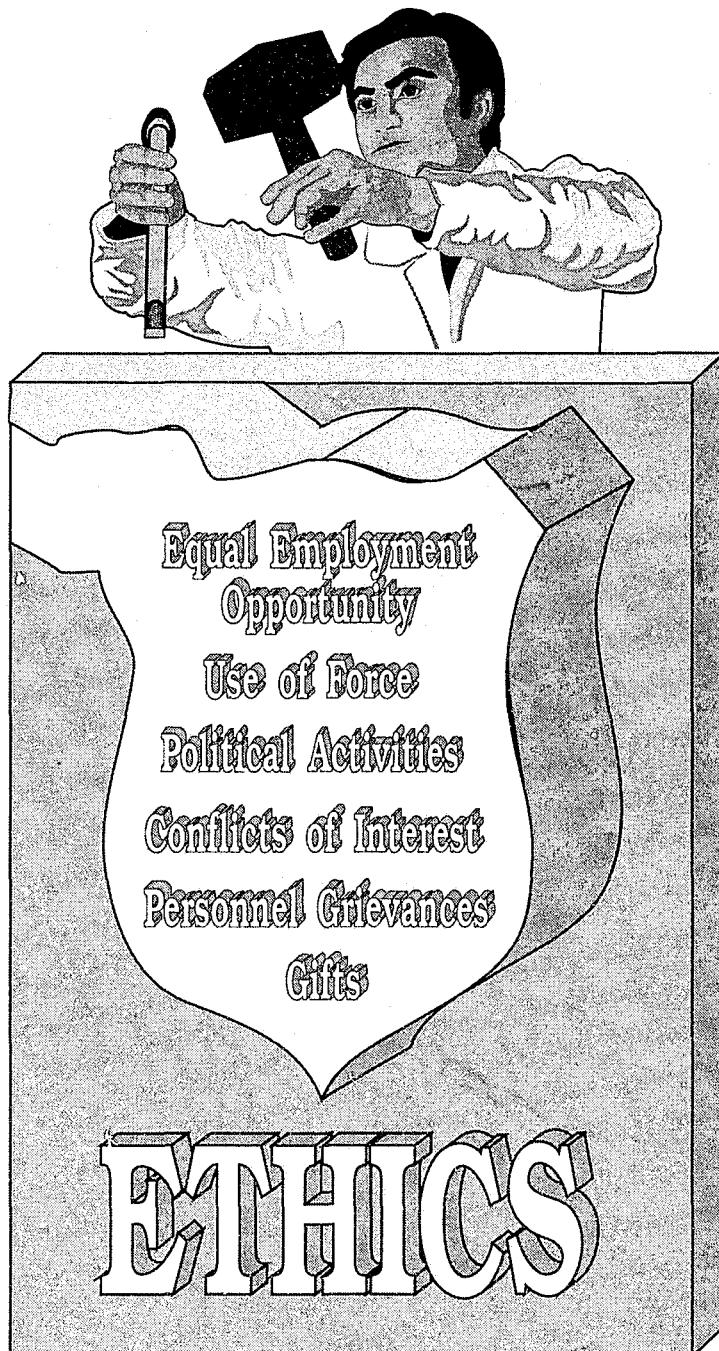
Modeling the Corporate Method

By
DENNIS M. PAYNE, Ph.D.

In the business community, when an unethical corporation hurts consumers, the government steps in and implements controls on the public's behalf. Private industry must practice self-regulation or risk government regulation. Many professions, such as physicians, bankers, and engineers, use codes of ethics as a means of self-regulation. Interestingly, in "Institutionalizing Ethics into the Corporation," noted ethicist James Weber does not mention police departments as an example of those entities having codes of ethics.¹

Yet, many police departments do have ethics codes. Unfortunately, without a means to institutionalize such codes, they have little operational significance. Indeed, a statement of moral standards or department values is one thing, and a workable code of ethics is quite another.

Thus, like corporate executives, police managers must practice self-regulation or suffer the consequences. They must ensure that their officers make ethical decisions at every level of the department, in the day-to-day business of policing, or risk losing the public's trust. When citizens mistrust the police, whether this mistrust is real or perceived, they will eventually react and exert control by lodging complaints, filing lawsuits, or





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“Police managers must make ethics a top priority and establish a strong code that reflects the needs of the department.”

demanding external police review boards or new legislation.

Granted, ethical behavior has been implicit in policing for many years. However, the complexities of a pluralistic society with fluctuating values dictate more than ethical codes. They require that ethical behavior and decisionmaking be explicit. This article focuses on how police managers, like business leaders, can institutionalize ethics into their departments.

INSTITUTIONALIZING ETHICS

With the current emphasis on community and problem-oriented policing, police executives should seriously consider institutionalizing ethics. Though the term "institutionalization" may sound academic, it means, simply, getting ethics formally and explicitly into the daily business of the agency. It means making ethics a regular, normal part of policing. It requires putting ethics into department policymaking at the

top management levels and through formal codes.

Institutionalizing ethics also means integrating ethics into daily decisionmaking and work practices for all employees. Weber recommends three ways to accomplish this task: Develop and implement a code of ethics, establish a formally designated ethics committee, and offer a management development program that incorporates ethics into the curriculum.²

Develop a Code of Ethics

A code of ethics has three distinct advantages. It provides a stable, permanent guide to acceptable and unacceptable conduct; offers guidance to resolve ethically ambiguous situations and conflict-of-interest issues; and acts as a partial check on the autocratic powers of employers.

Police managers must make ethics a top priority and establish a strong code that reflects the needs of the department. While the code

should not supersede existing department regulations, managers can emphasize important regulations by including them in the code. For example, possible areas of concern include labor disputes, community relations, political activities, conflicts of interest, equal employment opportunity, gifts, use of force, and personnel grievances.

Once they establish the code, managers should make it available to the rest of the staff. They should also review it periodically, making revisions as needed.

Most importantly, managers must enforce the code. They may consider using incentives, such as recognition, commendations, and monetary awards, to encourage compliance. Conversely, they should investigate all cases of alleged unethical behavior. When unethical behavior occurs, managers should correct the situation and punish those officers involved. Punishment must conform to existing laws, collective bargaining agreements, and department disciplinary procedures. Management should also change the department's current disciplinary process where it fails to adequately address any issue.

Establish an Ethics Committee

In order to deal with ethics infractions, police managers should form an ethics committee. This committee would, among other duties, enforce the ethics code.

The size of the committee would depend on the size of the police department. A large department might have a 15-member committee, while a small department's committee might consist of only 3

members. Manageability of the group should take precedence over size.

A top department command team or a special committee appointed by the chief should choose the members of the ethics committee. Members should be open-minded, and of course, ethical. The chief would also sit on the committee but would not vote.

An ethics committee requires balance. To accomplish this, private industry uses both internal and external directors (i.e., members) on their committees. External members bring fresh ideas and objective opinions to the group. A police department can also choose external members from other law enforcement agencies, the business community, or the general public.

Corporations that use external directors have also found favor with the courts. For example, in *Fogel v. Chestnut*,³ a Federal appeals court upheld a decision of liability against the internal corporate directors of an investment firm. The court noted that it would have overturned the decision if the corporation had secured approval from external directors in advance.

The responsibilities of the ethics committee include attending meetings, at least semiannually, to discuss ethical issues, clarify grey areas of the ethics code, and communicate the code to all ranks of the agency. The committee also investigates possible ethical violations for the department, enforces the code through sanctions, rewards or disciplines code compliance or violation, and reviews and revises the code annually based on societal changes.

Above all, it is the committee's duty to keep the chief informed of all committee actions.⁴

The staff of the department can also assist the ethics committee in communicating, investigating, and enforcing the code of ethics. In addition, the ethics committee should work closely with the staff of department units related to the code, such as the affirmative action unit, the legal unit, and the training unit.

...ethics training programs assist managers by reviewing the ethical content of their daily decisions and discovering new or better ways to deal with those decisions.

Offer Ethics Training

To institutionalize ethics further, the department should establish an ethics training program for management. The ethics committee should determine the framework for the program, and a training coordinator should then organize the program. Management might consider recruiting a coordinator from outside the agency to enhance the program's objectivity and insight. In any case, the coordinator should be well-versed in ethical theory and ethical values pertinent to the daily business of the agency.

The participants, selected from lower and middle management, should delineate ethical dilemmas they face on the job. Next, the training coordinator should review and evaluate their concerns. Finally, the group should meet to discuss the issues and to develop ethical guidelines other officers may consider when confronted with similar issues. Participants in the ethics training program may also evaluate the training sessions and make recommendations for revisions in the code.

In short, ethics training programs assist managers by reviewing the ethical content of their daily decisions and discovering new or better ways to deal with those decisions. They also benefit the ethics committee by noting areas of the code that need revision.

OTHER CONSIDERATIONS

When attempting to institutionalize ethics, police managers should avoid certain pitfalls. They should not view the integration of ethics into the department as short-term or as the sole criterion for agency decisionmaking. Managers should also consider such criteria as agency size, structure, budget, mission, labor relations, legal constraints, and the community's political environment. Today's police leaders may wish to think about adopting an industry-wide code, enforced by an interdepartment ethics board.

In addition, police departments must measure the results of their ethics programs by tasking the ethics committee to assess the moral health of the police community.⁵ Basically, this involves reviewing

Police Practices

past disciplinary cases and their dispositions. An effective ethics program would begin to eliminate unethical conduct cases, while meting out consistent punishment in all cases. A successful program should also create better community relations; consequently, a department could request feedback from the public to gauge the effectiveness of the program.

CONCLUSION

Institutionalizing ethics requires more than developing and adopting a code of ethics. Such codes need continuous review and revision. An ethics committee, with the authority to enforce the code, can succeed in accomplishing these tasks.

Above all, police managers must not expect immediate results. The integration of ethics into a department's decisionmaking is a slow and often subtle process. The chief and the ethics committee should stand by their convictions and allow the institutionalization to take place.

In the private arena, major corporations are beginning to view ethical issues as a recognized part of doing business. Some are incorporating ethics into the decision-making structure. Should the public safety community do any less? ♦

Endnotes

¹ James Weber, "Institutionalizing Ethics into the Corporation," in *Ethical Theory and Business*, eds. Tom L. Beauchamp and Norman E. Bowie (Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1983), 526-538.

²Ibid.

³ *Fogel v. Chestnut*, 533 F. 2d 731 (2d Cir. 1975), cert. denied, 997 S. Ct. (1976).

⁴ Supra note 2.

⁵Ibid.

Project EARS

By Michael D. Giacoppo

In the early-morning hours, a mother and her children sleep in their apartment. The woman's husband was removed from the home because of violent, intoxicated behavior, and a restraining order was issued against him. Unfortunately, the restraining order means nothing to the husband, who returns at will. Subsequently, he forces entry and holds his family hostage in an attempt to see his children or force himself physically on his wife. The family, which lives at the poverty level, does not have a telephone to call for police assistance, leaving them totally helpless as the abuse escalates.

A phone call to the police may have prevented this assault. Even more tragic is that many such incidents end in homicides that the law enforcement community could have possibly prevented by providing their at-risk citizens with an alarm device that they can carry with them.

The Problem

When the Cambridge, Massachusetts, Police Department experienced a high number of assault cases involving citizens with no telephone service, department administrators looked for ways to combat the problem. They recognized that many of these assaults occurred between estranged husbands and wives. In addition, officers occasionally worked assaults involving individuals who were experiencing obsessive relationships.

Because many of these victims were in low-income brackets, they could not afford to have phones in their apartments. This allowed abusive individuals to stalk their victims without fear of police intervention.

To combat this problem, officials implemented Project EARS (Emergency Abuse Response System). This program addresses those high-risk abuse situations where victims cannot easily contact the police.

The Solution

The Emergency Abuse Response System involves the use of easily installed portable alarm devices that send silent emergency alarm signals to the police. When an alarm unit is installed, usually in homes