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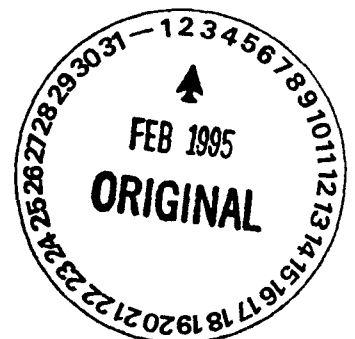
ETHICS AND  
LAW ENFORCEMENT TRAINING

A RESEARCH PROJECT  
SUBMITTED IN PARTIAL FULFILLMENT  
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THE GMI DESIGNATION

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## **INTRODUCTION**

### **ETHICS LAW ENFORCEMENT TRAINING**

One of the main problems found by law enforcement agencies today is a rising public interest in the credibility of government entities, especially in the field of Law Enforcement. Lawsuits are on the increase concerning officer conduct, morals and quality of ethics that are employed by individuals and departments.

Police agencies should be aware of the problems facing them today in their training requirements, specific duties, and the professional image it projects to the public. There is a dire need in establishing training programs which would be beneficial in reducing the probability of lawsuits being filed against individual officers and departments.

This is important in today's society due to pressures being placed on agencies to be equal opportunity employers. They must be fair and impartial to produce quality service which is expected of them by the public. Therefore, agencies must seek the most highly trained personnel that can be found. This points to applicants who have several years of college or a college degree. Agencies can no longer discriminate against racial or minority groups. Officers

are recruited from diverse cultures, meaning, they come from different back grounds, customs, and ethnic groups. Given these factors, an agency cannot assume that these applicants have been taught common ethics and morals. Ethics is an area of inquiry which is concerned with what is morally right and wrong, good and bad. Right and wrong are qualities associated with actions, conducts, and behaviors.<sup>1</sup>

Formal training should be established to insure that experienced officers and new applicants alike will have equal standards of ethical and moral training.

## **THE NEW POLICE OFFICERS**

### **WHO ARE THEY?**

Particular factors may account for the decline in traditional police values that has paralleled the collapse of public trust values in our growing society. In order to be completely fair to the public, formal ethics training should be implemented . This will insure that police officers and new recruits alike receive uniform training of acceptable conduct concerning ethical and moral issues. There are several reasons which may help to explain this position. Some of these reasons include: increased media attention regarding officer misconduct, civil rights violations and criminal activity of officers who are considered to be seasoned veterans. There is the increasing diversity in the type of people who join police departments. There are more women and minorities which include Hispanics, Asians, Mexican Americans, American Indians and Pacific Islanders. It would be unfair to say that all groups have the same ethical and moral backgrounds including veteran officers with many years on the job.

In the State of Texas today, German is the third most commonly spoken language. To give an idea of how diverse the Texas work force is, 300,000 residents are Asian and Pacific Islander; more

than 900,000 Texas residents were born in Mexico. In 1980 figures confirmed 2,500 persons had been born in San Salvador but, in 1990 the figure had risen to 50,000. Texas Indians number over 900,000. The Texas population makeup shows that 40 percent are minority and 11.5 percent are black. From 1980 to 1990 the Anglo population grew 10 percent, black expanded 17 percent, Hispanic expanded 45 percent, and the others expanded 78 percent.<sup>2</sup>

In all fairness to the public and applicants applying for law enforcement positions, ethics training would insure that each individual officer would receive equal instruction on acceptable or unacceptable conduct. Ethics training would also aid law enforcement agencies in avoiding the possibility of being involved in legal liability suits.

#### **WHERE DO THEY COME FROM?**

People who want to become police officers come from all walks of life. There are no two alike that have been raised with the same morals, religious background, or ethical training. Some may have come from abusive families and are abusers themselves. Some of the people may have been brought up in environments where drugs, alcoholism, violence, theft, and other violent crimes are a way of life. Therefore, these types of behaviors are not unexpected in their point of view. There may be no single set of rules about how persons perceive standard values, ethics, or morals, but, without ethics training, the range of acceptable behaviors may vary widely.

As stated previously, the work force ranges widely in the races, customs, and cultures. It is the agency's responsibility to ensure ethical standards are understood and met by all employees.<sup>3</sup>

#### **WHERE AND HOW DO THEY RECEIVE ETHICS TRAINING?**

One can only perceive that an officers receives the majority of his or her ethics training in the home. Ethics and morals could be taught through parental guidance, church activities, or from watching television. Some other forms may come from neighborhood peers or friends at school or college.

Ethics in American colleges are being taught more on social policies, rather than relevance being placed on private morality.<sup>4</sup> They are debating abortion, capitol punishment, and a variety of other issues, with little or no importance being placed on private decency, honesty, personal responsibility, or honor. There have been major cheating scandals reported in American colleges recently. A recent survey indicates that 75 percent of all high school students admit to cheating; the figure is 50 percent with college students. A U.S. News and World Report survey indicates that 34 percent of the students asked would steal from an employer. Of people forty-five years of age and older, 6 percent of the people said they would steal from an employer. This does not say that all college students are liars or cheaters, it does, however, indicate there is an immense moral drift.<sup>5</sup>



**COMMON ETHICAL PROBLEM AREAS  
IN LAW ENFORCEMENT WHERE  
TRAINING IS NEEDED**

There are four areas in law enforcement ethics, which should be major concerns to agencies in the State of Texas and across the nation.<sup>6</sup>

1. Excessive use of force
2. Abuse of authority
3. Criminal activity of officers
4. Deception by police

The importance of ethics training for police officers is to answer the public's need to trust the police for them to be effective in their work. Another is a moral imperative for police to use their enormous power and discretion fairly and responsibly. Police officers need to know and be constantly reminded of what that means. Finally, traditional standards and values must be reinforced to insure officers know and understand immoral and unethical conduct will not be tolerated.

**EXCESSIVE USE OF FORCE**

Excessive use of force is a critical area which draws more attention than any others. This is illustrated by media attention in the case of Rodney King. The case is high profile due to police officers being video taped during the act of using excessive force. All members of the public with a television set have had the golden

opportunity to witness the beating of Rodney King by several police officers with at least twenty others standing around watching in the background. The sad and most despicable part of the incident was the last two minutes of the beating when the blows continued and not one of the officers, including supervisors, intervened to stop it.

The Chief of Police of Los Angeles, Darrell Gates, was emphatic in his view that his officers had done nothing wrong. His statements to the press gave the impression that the officers' conduct was not only acceptable, but was a common practice of the department. The actions of Los Angeles officers created such a stir that the city will not be the same for many years to come. This episode probably set law enforcement back fifty years.

Although this is one major incident, there are many others in the United States which have not gained this type of attention. Nonetheless, agencies from across the nation suffered from it due to doubt placed in the minds of many Americans. These events have caused a mistrust of the citizens who law enforcement officers are sworn to protect and given them the feeling they will be abused if arrested by police. This is further enhanced by closer media scrutiny with more attention given to police standards and practices.

Excessive use of force is inexcusable in today's society, but is common among officers. They use it as a means to vent their frustrations with people who may question their authority. The most common are cases where an officer arrests someone for a

commonly used offense such as public intoxication. The person is usually drunk, disorderly, and basically uncooperative. Officers tolerate a lot of verbal abuse which tends to strike a nerve now and then. In these types of incidents, officers must realize that the suspect is not himself and under the influence of either alcohol or other substance.

The officer needs to remember, the suspect is a human being with feelings and rights, and deserves equal protection under the law. Officers without thinking, retaliate against such verbal abuse and lash out. It may be in the form of "group think" if more than one officer is present and one of the officers is hitting or kicking a restrained prisoner before or after placing the prisoner in his patrol unit. These incidents happen all too often, but may be prevented through appropriate training and the use of core values which indicate the conduct will not be tolerated by agencies. Officers should remember to treat each offender or citizen the same as they would want to be treated if placed in the same position.

In October 1992, three Houston police officers were suspended indefinitely for the use of excessive force. The officers arrested a suspect at a local club for public intoxication in a small office area, one of the officers called for someone to close the door to the office, the club manager, honoring the officer's request, closed the door. However, while the door was being closed another officer on the scene witnessed one of the officers in the office take a swing kick at the suspect's head. The suspect ultimately was

hit two or three times with a night stick and three or four times with fists from the officer while he was seated in a chair.<sup>7</sup>

Headlines in the United States over the past few years are similar to these.

1. City of Houston and two police officers ordered to pay 1.4 million to parents of slain victim. Liability Reporter #103 July, 1991, P. 1.
2. Police brutality law suit results in 2.1 million reward. Houston Chronicle, June 15, 1983. P. 1.
3. California city loses police brutality suit: 3.0 million judgment to victims families may force cutbacks in services. Houston Chronicle, June 17, 1983. P. 22
4. Man files 20 million suit against city over shooting. Houston Chronicle, November 14, 1984, Section 2, P.7.<sup>8</sup>

Excessive use of force results in astronomical costs to officers, departments and cities alike. These costs may be reduced by proper training measures and swift corrective action being taken against officers who have tendencies to be overly aggressive.

#### **ABUSE OF AUTHORITY**

Police in today's society are entrusted with a great deal of authority which is reluctantly granted. Numerous forms we have obtained are to arrest, search, detain, and the use of force. These forms of authority are disruptive of freedom, invasive of privacy, and are sudden and direct upon the individual.<sup>9</sup> These powers are awesome and it is the responsibility of agency administrators and individual officers to insure they are not

violated. The strength of our society and quality of life enjoyed by our citizens depend on the ability of police to discharge their duties fairly and honestly.

An interesting historical example involving Willis, Jess, Dock, and Joe Newton of Uvalde, Texas demonstrates the abuse of authority in law enforcement. The brothers who robbed over sixty banks and six trains in their lifetime careers culminated June 12, 1924 in Rondout, Illinois with the biggest train robbery in U.S. history. Willis and Jess Newtons take was more than \$3 million in cash, negotiable bonds and diamonds. They were not famous outlaws for the simple reason they didn't kill anyone during any of there holdups. In recounting their story, they talked of stealing cash, diamonds, and jewelry. They also boasted openly of carrying the diamonds and cash on their persons to sway law enforcement officers who might arrest them. It was a common practice in the State of Oklahoma for police officers to be bribed easily and commonly turned their heads without making arrests. The same was true in that time in Texas and Illinois.<sup>10</sup>

Other examples include officers who compromise their integrity by supplying sensitive information to individuals under investigation for drugs, officers who commit theft in return for personal gain, agency administrators who borrow from petty cash boxes, or require a person to pay a certain amount of money in return for their employment and managers, or agency administrators who misdirect narcotics funds for personal benefit or gain. These practices are not widespread, but have occurred in some areas and

still do occur on occasion.<sup>11</sup>

There are common abuses of authority such as an officer taking twenty dollars from a citizen in return for not issuing a citation, badgeing or accepting gratuities because of the position which is held and accepting bribes or pay offs in return for sensitive information concerning criminal investigations against individuals.

Police agencies operate on the assumption that they are, in fact, the criminal justice system. They comprehend their role as the agency in charge of the whole system. Therefore, it is their duty to control the public, punish violators, defend the administration, and contain individual liberties as they see necessary or fit under the circumstances.

## **CRIMINAL ACTIVITY**

Criminal activity is an area that is increasingly prevalent in law enforcement and causes the most embarrassment to agencies and departments. No one likes to admit they have an officer who is on the take, engaging in drug trafficking, robberies, etc. Agencies want to portray the image that their officers are honest employees above reproach. While attending Modules One and Two of the LEMIT program, several incidents of officer indictments surfaced. The first being of particular interest, a Gilmer, Texas police officer who was attending Module One was indicted for aggravated kidnapping and murder.<sup>12</sup> In this incident, the Attorney General of the State of Texas dismissed the Indictment due to lack of evidence. The

officer was exonerated, but his career as a peace officer was ruined in the Gilmer Community. While attending Module Two, there was an incident where the Highland Village Police Chief was terminated for the alleged theft of evidence, building materials, and sexual harassment. Five other officers were also implicated with the chief of police which resulted in suspensions and officer resignations.<sup>13</sup> The media attention in these two incidents was totally negative toward the law enforcement. It is yet to be determined if allegations in either incident is true or false. However, news media coverage of both the Gilmer police officer and the Highland Village Police Chief lead readers to believe that both were guilty of the accusations which appeared in news articles.

In the case of (CITY of SAN ANTONIO V. POULOS), 1967, a police detective was fired from the City of San Antonio for trying to sell a fellow investigator stolen guns, a Winchester model 21, and two pistols, he had obtained. The investigator was thinking of buying the guns, but requested a receipt for the weapons. The police detective refused to give a receipt and the investigator backed off of the deal. The prospective police investigator, becoming suspicious of the guns due to a piece of tape covering part of the breech on the model 21 Winchester, began searching the files of recent cases. Through his investigation, it was learned the weapons were stolen in a recent burglary.<sup>14</sup>

In (SULLIVAN V. THE STATE OF TEXAS), 1978, the Sheriff of El Paso County was indicted for two felony counts of official misconduct due to county employees doing work at his home. The

sheriff later entered a plea of guilty to lesser misdemeanor charges under section 39.01(a)(1) of The Texas Penal Code, which constitutes a Class A misdemeanor. The Sheriff was removed from office.<sup>15</sup>

Officers have also been implicated across the nation in charges of drug trafficking, burglary, theft, murder, and other crimes.<sup>16</sup> Officers are sworn to protect the public from such activities, not subject them to it.

## **DECEPTION**

Deception of the police is an area that can hurt the law enforcement image more than the use of excessive force, abuse of authority, or criminal activity. The term deception, as a general term, is related to the other terms discussed in this paper. But public deception leaves an organization or the individuals wide open for attack on their character and credibility. While the word "deception" may not sound as capable of causing agency damage as the others, what public deception does in relation to the image and the trust a professional public organization is trying to maintain cannot be estimated.

We appear to be encountering a sometimes perplexing barrage of information in recent years regarding sensationalized wrongdoing in public and private life. Whether there is more prohibited behavior than heretofore or just more attention given to unethical conduct, would be hard to say, since large scale wrongdoing is nothing new



and has always fascinated the public. But regardless of the degree of public captivation, there still is no question that unethical behavior is wrong and is thoroughly condemned by the public. In ethical dilemmas and critical situations, a law enforcement officer may feel personally that it is wrong to lie, but the ethics of his or her role or job may permit and even encourage such a deed. This leaves the public in a state of concern as to who they can trust.

Apparently, people have had enough. They don't believe in their politicians, employers, journalists, lawyers, bankers, and last but not least, the police that are sworn to protect them. A U.S. News and World Report poll in 1987 found that 70 percent of Americans were dissatisfied with the current standards of honesty,<sup>17</sup> and a Washington Post poll found that 44 percent of Washington area residents believe people are less honest than they were ten years ago.<sup>18</sup> The polls were conducted in 1987 and it is possible that the figures are even higher today. Satirist Mort Sahl captures the tenor of the times with a joke from the Reagan era: "George Washington couldn't tell a lie, Nixon couldn't tell the truth, and Ronald Reagan can't tell the difference."

Disgusted people may have concluded finally that they cannot trust anyone, not even the police. It is easier to lie to someone you don't know than someone you do. The chances of getting caught are very slim and even if you do get caught, your chances of ever seeing the person again are very unlikely. The cost of lying by the police destroys the public trust and character of the organization. Once trust is lost, it may be very hard to recover,

or never recovered. Honesty is the quality 94 percent of Americans say they value most in a friend and character reigns supreme in American policing today.<sup>19</sup>

For instance, a police officer comes in contact with less desirable individuals on a frequent basis, such as a burglar, thief, or gang member; the officer being frustrated falsifies a report to make the individual look worst in the courts' eyes than he really is. This action would cause the suspect to possibly draw a harsher sentence or a stiffer fine than he normally would. Another case would be an officer who had witnessed a fellow officer or partner assault or use excessive force on a prisoner or suspect. In order to keep the fellow officer or partner from being sanctioned, he could withhold information or facts concerning the incident.

Most police organizations are in some stage of perfecting, revising, or adopting codes of responsibility, codes of ethics or professional standards. Because of the complex roles we have constructed in society, we can no longer depend on the individual officer or bring adequate standards to the role. Instead, we must clearly define the duties and rights of the roles we are expected to maintain.<sup>20</sup>

## **LESSONS FROM NATIONAL EXAMPLES**

In recent years the Los Angeles Police Department has received national attention. First and foremost the Rodney King incident, and second, the Brown and Goldman murders by O. J. Simpson. Both

cases have had an over abundance of media coverage and brought close scrutiny to the Los Angeles Police Department. This case provides valuable lessons for other agencies.

To be brief, in the comparison of the two, officers involved with the Rodney King case had written reports, which did not accurately depict how or why Rodney King sustained his injuries in the beating. These reports, probably would have withstood court scrutiny, if someone hadn't been video tapping the incident. The officers were then caught lying or falsifying their information. Everyone is aware of the snowball effect these falsifications had on the officers, and on the police chief himself. In the second case, O. J. Simpson, Police investigators wanted the public to believe that one spot of blood, not enough for a good paper cut, gave them legitimate cause for concern that a mass murder had taken place in the Simpson home. Instead of making a notification of death, their original statement about why they entered the Simpson home, for, they pursued a full scale search without a search warrant. The search warrant for the Simpson premises was finally obtained some five to seven hours after entry was gained to the premises.

Many accusations have been made concerning evidence plants, and false statements given by the officers. In many minds, public deception was present and, there is doubt that the officers involved have not shaded the truth or tried to justify their methods. The very character of the Los Angeles Police Department was already at stake through the Rodney King case and they

proceeded to their actions in the Simpson case.

### **LESSONS FROM TEXAS EXAMPLES**

In July 1956, a police lieutenant in charge of the vice squad in San Antonio Police Department, was suspended for an indefinite time by the chief of police. The reason for the suspension was the lieutenant's order that vice detectives cease and desist from further enforcement of laws against gaming machines of the marble variety (commonly known as pinball machines). Basically the lieutenant had issued a selective enforcement measure. When confronted by the order by the Chief of Police, the lieutenant denied he had given the order. The Fireman's and Policeman's Civil Service Commission of the City San Antonio reduced the suspension to an eight month period, but removed the lieutenant from his present position. The police lieutenant had not properly tagged and logged evidence of twenty pinball machines, which were confiscated by the two vice detectives from a raid the day before his order was issued.<sup>21</sup>

Texas and national examples show police officers attempting to deceive the public and infringe on their protected rights. In each instance there was wide spread media attention that did not reflect solely on the officer but on the agency itself. It is imperative that police agencies protect themselves against this type behavior of its officers. Formal ethics training in police agencies could reduce the media attention, and give police officers

and departments the tools to aid in avoiding legal issues.

### LEGAL ISSUES STATE\FEDERAL

There are many ways administrators, managers, and officers, can get into more trouble than they can handle. Each day lawsuits are being filed in enormous numbers against law enforcement agencies. The cases listed below are some examples of what may be expected:<sup>22</sup>

1. "City of Houston and two police officers ordered to pay 1.4 million to parents of slain victim". Liability Reporter #103 July, 1991, P. 1.
2. "Police brutality law suit results in 2.1 million reward". Houston Chronicle, June 15, 1983. P. 1.
3. "California city loses police brutality suit: 3.0 million judgement to victims families may force cutbacks in services". Houston Chronicle, June 17, 1983. P. 22.
4. "5 million awarded to innocent bystander, who lost both legs when officer violated department policy during vehicle pursuit of bank robbers". Liability Reporter, #125, May, 1983, p. 1.
5. "Man files 20 million suit against city over shooting". Houston Chronicle, November 14, 1984, Section 2, P.7.

Figures show in 1981 over 325 million dollars in suits were filed against police officers in one state alone (Oregon).<sup>23</sup> There are reasons to believe lawsuits against public officials, particularly law enforcement suits, are becoming increasingly popular in America.

Figures compiled by the Americans for Effective Law Enforcement show that from 1967 to 1971, cases against police rose

from 1,741 to 3,894. Estimates indicate by 1976 the number of suits filed will increase to 6,000 per year alleging police misconduct. In 1960 there were 247 cases filed in Federal District Courts for Civil Rights Violations. In 1970, 3,985 suits of this type suits were filed, an increase of 1,614 percent. In 1976 the figure was 12,329, an increase of 4,991 percent over 1960.<sup>24</sup> Legal liabilities may be linked to these type law suits and ethics training might avoid these type of law suits.

In 1982 there were 16,741 cases filed by state prisoners representing a 115.6 percent increase since 1977.<sup>25</sup> The figures continue to grow and show no signs of reduction. Most cases never reach the trial stage due to being settled out of court. The defendant however, is responsible for paying any damages or expenses. It is important for police administration and officers to have a working knowledge of legal liabilities. Court intervention, leading to accountability, has become a way of life for criminal justice personnel in this country.

## **CIVIL LIABILITIES**

Another major concern with law enforcement is the liabilities which fall under the state TORT laws.

A TORT is a wrong in which the action of one person causes injury to the person or property of another, in violation of a legal duty imposed by law.<sup>26</sup>

A tortious act may be against a person or property. It may be intentional or caused by negligence. There are four requirements

for liability to emanate under state Tort.

1. A duty on the part of the officer or department to act with care toward the plaintiff.
2. A failure to perform that duty.
3. Injury to the plaintiff as a result of that breach; and
4. The defendant's act must have been the proximate cause of the injury. (From W. Prosser, Handbook of the Law of TORTS. 143),(1971).

Police officers are held accountable for their actions as previously mentioned under state TORT Laws and federal civil rights laws. Officers are held accountable under Federal Laws: Civil Action for Deprivation of Civil Rights, (Title 42 of U.S. Code Section 1983) and Civil Action for Conspiracy to deprive a person of civil rights, (Title 42 of U. S. Code, Section 1985).

Approximately 80 percent of the civil rights cases filed against police officers fall under 42 U.S. Code Section 1983. The law was passed in 1871, but was given a broader interpretation in the case of Monroe v. Pape, 365 U.S. 167 (1961). The scope of the case applies to public officers who violate a person civil rights guaranteed by the Constitution. The law includes any citizen of the United States or other persons within it jurisdiction. This includes aliens and illegal aliens as well, who have successfully brought suits under the law.

The U.S. Supreme Court, in 1971, held that local units of government may be held liable if the alleged unconstitutional act was taken by an officer as part of an official policy or custom.

This means (i.e., if a policy or custom is left to varying interpretations by individuals in the department.) This ruling applies only to city and county governments.

In state cases, the defendant must be acting under "color of law". This means the misuse of power was possessed by virtue of state law and made possible only because the wrongdoer is clothed with the authority of state law and can be sued individually. Therefore in both local and state governments, a police officer who exceeds his or her authority, is still deemed to have acted under "color of law".<sup>27</sup> In all forms of government, agency administrators must be mindful of police officer actions and the ethical standards they employ. Even though a police officer may be off duty and moonlighting in a department store, he is still considered to be acting under "color of law".

## **CRIMINAL LIABILITIES**

Police officers must also be made aware of the seriousness of criminal liabilities they could encounter. Due to the nature of their duties, one should realize he or she is not exempt from criminal prosecution. There are several provisions under the Texas State Penal Code specifically aimed at public officers such as:

1. Official oppression
2. Official misconduct; and
3. Violation of the civil rights of prisoners.

Regular Penal Code provisions are aimed at punishing such acts



as:

1. Assault
2. Serious bodily injury; and
3. Homicide, etc.

Criminal liabilities may also be incurred under Federal Law through (Title 18 of U.S. Code, section 242) - Criminal Liability for Deprivation of Civil Rights and; (Title 18, section 245) - Violation of Federally Protected Activities.

Officers can also fall under federal TORT acts as well. Law enforcement officers are particularly susceptible due to their high public exposure and responsibilities. Several illustrations are as follows:

1. FALSE IMPRISONMENT - An officer who makes and arrest without probable cause.
2. MALICIOUS PROSECUTION - A criminal case filed by an officer; which resulted in favor of the defendant. A TORT action may be filed by the defendant due to insufficient probable cause on the part of the officer.
3. USE OF EXCESSIVE FORCE - The officer uses more force than what is necessary to effect a lawful arrest.
4. WRONGFUL DEATH - The use or misuse of deadly force by an officer while shooting at a fleeing suspect and kills him; or hitting an innocent bystander while shooting at a fleeing suspect.

There are many other areas in which TORT cases may be filed against police officers over the course of their careers. The types of cases filed are left up to the imagination of the lawyers and the plaintiffs who file them.

The violation of a Constitutional or a Federally protected right. Under this element, the right violated must be guaranteed

by the United States Constitution or a right given by Federal Law. Most violations of constitutional rights fall under the following amendments to the Constitution under 1983, as follows:

1. THE FIRST AMENDMENT:
  - A. Freedom of religion.
  - B. Freedom of Speech.
  - C. Freedom of press.
  - D. Freedom of Assembly.
  - E. Freedom to petition the government for redress of grievances.
2. THE SECOND AMENDMENT:
  - A. The right to bear arms.
3. THE FOURTH AMENDMENT:
  - A. Unreasonable searches and seizures.
  - B. Unreasonable arrest.
4. THE FIFTH AMENDMENT:
  - A. The right of a grand jury indictment for capitol or otherwise infamous crime.
  - B. The right against double jeopardy.
  - C. The right against the taking of private property for public use without just compensation.
  - D. The right against self incrimination.
  - E. The prohibition of the taking of life, liberty, or property without due process of law.
5. THE SIXTH AMENDMENT:
  - A. The right to a speedy and public trial.
  - B. The right to an impartial jury.
  - C. The right to be informed of the nature and cause of the accusation.
  - D. The right to be confronted with any witnesses.
  - E. The right to have compulsory process for obtaining witnesses in defendants favor.
  - F. The right to have the assistance of council.
6. THE EIGHTH AMENDMENT:
  - A. Prohibition of excessive bail.
  - B. Prohibition against cruel and unusual punishment.
7. THE FOURTEENTH AMENDMENT:
  - A. The right to due process of law.
  - B. The right of equal protection under the law.

It must be remembered that in order to fall under a violation

of any of the above rights, the violation must be of a constitutional level. The officer may also fall under the state penal code or TORT Laws as well. Although this study does not try to give a definitive treatment of the subject in these constitutional areas, it does suggest legal problem areas that ethics and self-control can either avoid or mitigate.

Lawsuits under 1983 are popular for various reasons. The plaintiff can always seek damages from the officer, in which the officers or agency pays if the court finds against them. The mere fact that the suits are intimidating due to the officers inability to defend them with insurance or other resources. The cases are filed on a federal level where laws governing discovery are broader. This enables plaintiffs' attorneys to acquire access to agency records and other important documents needed for the trial. The most important reason lawsuits are filed in federal court since 1976 are that federal law permits the plaintiff to recover attorney's fees. This makes the plaintiff's attorney more accommodating considering the merit of the case. The attorney's fees awards act of 1976, 42 U.S.C., sec. 1988, (1976). The cases are settled on preponderance of the evidence. Roughly more than 50 percent is needed to find a defendant guilty. This is much lower than what is considered beyond a reasonable doubt.

There are two common defenses police officers use in these type suits. the (first) being probable cause; when the officer has siphoned knowledge of the circumstances and facts, that would lead a reasonable person to conclude the suspect probably committed the

crime, or, the item sought was in the place to be searched. The (second) is the "good faith" defense. This defense is the officer acting with honest intentions under the law and in the absence of fraud, deceit, or gross negligence. The officer must prove he sincerely believed that his or her act was lawful, but he or she may still be held liable if it is not proven the act was reasonable.<sup>28</sup>

**MANAGEMENT AREAS  
WHERE TRAINING CAN PROVIDE  
GREATEST ASSISTANCE**

**ADMINISTRATION\MANAGEMENT RESPONSIBILITIES**

Police managers must practice self-regulation or suffer the consequences. They must seek to ensure that officers make ethical decisions at every level of the department or risk the loss of public trust. Police managers must make ethics a top priority and establish a strong ethics code that reflects the needs of agency policy and operations. Ethics should be institutionalized into a department simply by getting ethics formally and explicitly into the daily business of the agency. This means making ethics a regular part of policing. It requires putting ethics into department policy-making at the top management levels and through formal codes. These should be integrated into daily decision making and work practices for all employees.

A code of ethics has three explicit advantages. It provides

a stable, permanent guide to acceptable or unacceptable conduct. It offers guidance to resolve ethically unclear situations and conflicts of interest issues and acts as a partial check on the authoritarian power that can be exercised by employers and employees.

Once established, the code must be made available to the rest of the staff and reviewed periodically, making revisions when needed.<sup>29</sup> It also is imperative that administrators strive to maintain the integrity and ethical character of their departments while they promote professionalism. Management personnel should seriously consider focusing on thorough background checks on all applicants. Questions and checks should be made on the applicants conviction record, arrest record, drug and alcohol use or abuse, past employment history, character references, driving record, friends and associates, and education level. State requirements include medical and psychological examinations. These will aid the administrator in making a hiring decision on an individual and give him some insight about the persons current attitudes, behaviors, and how well he or she is liked in the community they live in.<sup>30</sup>

Background checks are highly beneficial to police departments. Police administrators have the opportunity to get to know the person that is being interviewed. He or she has the opportunity to ask strategic questions which may offer insight to a persons ethical and moral weaknesses. A police officer seeking employment may be very personable in his interview. However, talking with friends or acquaintances may reveal character flaws that may cause

the police administrator problems in the future.<sup>31</sup>

## **ETHICS AND POLICE SUBCULTURE**

The administrator must consider the police subculture to find the answers that are most likely to hamper the new officer, or the normal running of business, since interaction with crime can affect the agency's "organizational culture." The organizational culture is an important pattern of basic assumptions, that a given group has invented, discovered, or developed in learning to cope with its personal and agency-related problems. These are made up of values and beliefs that produce norms which, along with other variables, guide the discretion of both the organization and officers. Subculture values and beliefs have the potential for subsequently influencing the ethical behavior and operational methods used by police. All of these factors can have an adverse effect on a new officer if left to operate in an unguided maneuver.

There are some internal influences affecting the organization: the size of the department, the character of police leadership, the management philosophy of agency leaders, the composition of the officers themselves, officer peer groups, and department politics and policies. External influences include crime problems, local politics, media coverage, citizen expectations, and the demographic composition of the community.

Managers should be concerned with organizational procedures, priorities, and policies, if they wish to promote an ethical

environment. Partly, this is because of the officer's viewpoint. Officers are concerned with doing the job according to his or her perspective view of reality and trying to survive. From this perspective, officers maintain their own code which can provide the following proverbs: "take care of your partner first," "don't give up another cop," "be secretive about the behavior of other officers" or "take control of a situation and don't back down".

Because the code of a street cop is usually simple, it can vitally hurt the operation of a department. Police officers at times are their own worst enemy. Common slogans and practices include, "not trusting new officers until they can be checked out," "not volunteering information" or "just telling what is needed when asked" and "protect their own "butts" and don't give managers the opportunity to get them".

There are several building blocks which contribute to the police subculture:

- 1) Police officers consider themselves as being the primary crime fighting organization in government. No one other than a police officer understands the "actual" nature of police work and what is necessary to get the job done.
- 2) Police officers feel they have to stick together. Loyalty to one another is more important than anything else.
- 3) They feel the public, politicians, and police managers seem to make their job more difficult, and are often uniform in their evaluations of the police. These type individuals often feel they cannot win the war on crime without first, violating legal, organizational, and ethical standards.

The resistance to change of the police subculture is very powerful. Forces within established police ranks have a much stronger influence over the way in which an agency operates than do

managers of the department all of which affects the operation of ethics and external standards in an agency. The cohesion of the police subculture grows out of the peculiar characteristics and conflicting pressures of the job. These pressures include the ever-present physical danger, the vulnerability of police officers to allegations of wrong doing, and a stifling working environment. Officers often get cynical in the job due to dealing with the worst of society on a continuing basis. There are four stages which lead to cynicism:

- 1) Professional commitment. New officers are idealistic in their views usually and want to truly help people.
- 2) Officers suffer a few failures which are considered as part of the job. The attitude is that "they won't get me down".
- 3) Chronic disenchantment, officers have had failures and frustrations which have been unrelenting.
- 4) Cynicism. Changes in the officers' attitude were evident. He feels the whole justice system is a joke and people in general are scum.<sup>32</sup>

Efforts have been made in the past to bring ethics-oriented change to the culture of police organizations, but their efforts have fallen short and often were undertaken with indifference. The architects of the change failed to recognize the power of the subculture and the effect it has on change. They also failed to deal with factors that contribute to its strength. Changes in the organization were advanced without regard for how they related to or were supported by other conditions and changes in the police organization.



## **MANAGING AGENCY ETHICS**

In order for a manager to be successful in implementing a change toward ethical behavior, he must review with an eye to considering how the change can be introduced. Changes must not be designed to give the rank and file officers the impression that the change will further complicate their jobs or how they operate in the field. They should be designed to reduce the factors that contribute to the strength the police subculture. The simplest way of introducing what is wanted is to get officers involved in the planning process. Investigations into the police subculture should be aimed at finding the truth with the outcome being fair to all.<sup>33</sup>

Since Police Administrators and Managers are at high risk of being sued under state and federal laws, they have a moral and ethical obligation to the public and to the officers they employ. It is imperative that managers provide all the resources available to insure that adequate training is provided. Lawsuits against managers and agencies are filed in two primary areas.

- 1) A client whose rights have been violated by an officer who has not been properly trained;
- 2) A subordinate who suffers injury in the course of duty because he or she has not been trained adequately.

As a result, ethics in agency management involves the reduction of liability risk - a risk reduction that focuses on both top agency management and on supervision duties and responsibilities.

## **SUPERVISORY RESPONSIBILITIES**

Lawsuits against police officers are directed mainly at the field officers and agency-level ethics must take this into account. (Plaintiff's have recently become more inclined to include the supervisory personnel and agencies as parties in the lawsuits, it is also worth noting). The logic behind this litigation is that the law enforcement officer, in turn, works for the department which reflects on the agency's policies and practices. Agencies and supervisors are inclined to increase financial resources to satisfy a judgment. The higher the position of the employee, the closer the plaintiff gets to all levels of the municipal, county, or state government.

Supervisor liability may be direct or vicarious. Direct liability holds a supervisor responsible for what he does personally. The supervisor has the obligation to employ high ethical standards both on and off the job and set a positive example for subordinates. Vicarious liability is indirect responsibility where the supervisor is held liable for what his or her subordinates do. Court decisions of late have greatly expanded the possible sources of vicarious liability under state and federal laws. This should be a major concern for supervisors. (i.e., a supervisor taking an active part in a beating of a suspect or, who stands by and watches subordinates perform an illegal act and does nothing to stop it.) This is the case with the police supervisor in Los Angeles in the Rodney King incident. There are seven areas in which a supervisor may be at risk of being held liable.<sup>34</sup>

1. **Negligent Failure to Train:** Supervisors have a duty to train employees, and; failure to discharge this obligation subjects the supervisor and agency to liability.

(Example)

Negligent Failure to train allegations arise when the plaintiff alleges the officer has not been instructed or trained by the supervisor or agency to a point that he or she possesses sufficient skills, or knowledge required of him or her in the job. This could mean an illegal arrest or a search or seizure which violates a persons constitutional rights. Officers may also file a suit against the agency if hurt while in the performance of his or her job while using equipment they are not properly trained in using.

2. **Negligent Hiring:** Supervisors should if in the position of hiring, stress the important of background checks on recruits or employees which come from other agencies.

(Example)

A supervisor hires an officer who, in checking the officers background, has determined the officer is unfit and hires him anyway. (The good ole boy syndrome)

3. **Negligent Assignment:** Supervisors should not assign an employee to a job without out first being very sure the employee has been adequately trained for it; or, leave the employee on the job after it is determined the employee is unfit.

(Example)

An employee assigned to patrol who has a history of careless driving; or an officer who is assigned to a jail facility who has had problems with mistreating prisoners.

4. **Negligent Failure to Supervise:** The supervisor has the obligation of responsibility to properly oversee the employees activities but; fails to do so.

(Example)

The supervisor tolerated a pattern of events such as physical abuse of prisoners, racial discrimination, and failed to take action to correct the problem. Tolerating illegal

activities.

5. **Negligent Failure to Direct:** Supervisors failure to sufficiently instruct subordinates in specific requirements of the job he or she is doing. This means telling them what they can and cannot do.

(Example)

The failure on the manager or supervisors part to have proper policies or directives stating what an employee may or may not do.

6. **Negligent Entrustment:** The failure on the supervisors part to properly supervise or control employees custody, use, or supervision of equipment entrusted to the employee on the job.

(Example)

The issuance of equipment to an employee without the employee being fully trained or proficient with the items.

7. **Negligent Retention:** The supervisors failure to take action against an employee in the form of suspension, transfer, or termination, when the employee has demonstrated unsuitability for the job to a dangerous degree.

(Example)

A supervisor retaining an employee who has seriously injured or killed a member of the public or a fellow officer.

The obvious defense for a supervisor in these cases is proper training in ethics, equipment, policy and procedures, and department regulations. However, training may be deficient due to circumstances beyond the supervisors control, such as lack of funds and a deficiency of expertise. With proper documentation, however, the supervisor would be able to establish good faith if he repeatedly calls attention of those who hold the purse-strings to the need for training. The nature and scope of any training

program must be properly documented and its relevance to job performance identified.<sup>35</sup>

## **FIELD TRAINING OFFICERS RESPONSIBILITIES**

As previously mentioned, the newspapers regularly provide accounts of police officers and public officials involved in unethical or illegal conduct. The public may concluded that these instances are running in great numbers. Therefore, the public could even wonder if anything is being done about the situation. Something that can be done and explained to the public is ethics training for police. The public needs to be able to trust police for them to be effective in their work. There is a sense of urgency that police officers use their enormous powers and discretion fairly and with responsibility.

There are three occasions in an officer's career when his or her sense of ethics are tested.

- 1) The recruit training stage. The recruits' understanding of the law and what citizens expect. These are tested by probes and evaluations of how the recruit will get along with others. Their truth is tested as is their pursuit for excellence and taking responsibility in leadership roles.
- 2) Recruits are tempted to lower their standard of values by peers and superiors when profitable to do so. The rationalization in the matter is that "everyone does it," "it's not an important issue," "no one will know," or "they owe it to me." When faced with this corruption, the recruit can compromise or resist the temptation.
- 3) Recruits and officers alike are tempted as well when they see incentives or rewards given to those who cut corners or bend the rules.<sup>36</sup>

## FIELD TRAINING OFFICERS

The field training officer plays an intricate part of the new officers decision making process. Officers often learn police ethics on the job, where decisions are made in haste and under time pressures of the job itself. Over five hundred thousand officers have learned in this manner. Moreover, these decisions are made under peer group pressures, by personal self interest, and by passions or emotions in the heat of difficult situations. This can have a profound effect on officer decision making. The field training officer is probably the most important contributing factor in forming the recruits principles to good or bad and right and wrong behavior. The field training officer should be chosen from the top officers who have displayed the highest ethics and morals, and who show immense concern for his fellow man and compassion for others.

Police recruit training has changed drastically over the past several years. However, the central method of moral instruction does not appear to have changed. The "war story" still remains the central focal point for communicating the history and values of a department. The war story not only introduces police work as experienced by officers, it displays the ethics of police work as something different from what the public, or at least the law and the press might anticipate. More important is the fact that rookies spend many hours outside the classroom debating and analyzing the significance of the war story.<sup>37</sup>

The field training officer should tell the new officers that war stories are only stories and emphasize they are not to be taken literally, unless they concern officer survival. The recruit should also be told that questionable conduct is not accepted and report such conduct immediately to superiors. This may be known as whistle blowing but, it is the only way an officer can maintain a high degree of credibility for himself and for the agency.

It is the responsibility of the field training officer to reenforce the guidelines set by management and supervisory officers. He must be a living example to young recruits to what is right and wrong and morally good and bad. The actions of the FTO are critical, therefore making a decisive difference in the qualities he instills in the recruits. Recruits will consider and take seriously the living example the FTO sets before him or her. As Peter McPhail stated in Startline Publications of the School Council Moral Education Project:

The evidence of all our work is unequivocal. Children take pleasure in being treated with care and warmth; their prime course of happiness is being treated in this way. Further when children are supported by such treatment they enjoy treating people, animals and even inanimate objects in the same way.... The basic eloquent, more enduring from of education is the treatment we receive.... We learn particularly from treatment at the hands of those closest to us, those most important to our survival, security, and well being.

The McPhail quote enumerates what is expected of a field training officer. The fact is, it is the exact role an FTO plays in the teaching of young recruits how to handle ethical and moral situations in police work. The field training officer must possess

the ideals in the treatment of recruits. This means he must understand and endeavor to be a reasonable person of good will. It is imperative the field training officer tell the recruits what they think is ethical behavior and why they think it is ethical.

An FTO cannot teach ethics without first being committed to ethics. And he cannot be committed to morality without holding that some things are right or wrong. A good field training officer should have the following traits:

- 1) A concern for people or respect for them as such.
- 2) The capacity to take the point of view and place of another as though it were his own.
- 3) The respect for factual information which must be considered in the moral judgement and deliberation.
- 4) The presence and concern that reach beyond consideration of what is commonly obligatory under a set given circumstances.<sup>38</sup>

### **IMPROVING LAW ENFORCEMENT IMAGE**

All ethical principles are founded in philosophies which are moral, legal and social in character. Ethics manufactures philosophical grounds or justifications to be applied in the performance of an officer's duty. They also establish standards of behavioral propriety regarding what is acceptable to society.

Emphasis should be placed on ethics training for all officers in the department to insure each officer is properly trained in policies and rules of the agency. It is especially important that management set a living example to subordinates in the sense they



treat the public and employees fairly and be exemplar of honesty.

Ethics in a police officers character is the quality of complete fairness to him or herself and complete fairness in every way to all people they deal with. It is more than fairness just to members of a group that they belong to, or members of a single race, or religious group. Ethical characters strive to be based on complete and absolute fairness to all people you deal with. It is doing unto all others as you would have others do unto you.<sup>39</sup>

Departments may also establish ethics committees to deal with ethical infractions. The committee, among other duties, can enforce the ethics code of departments. The size of the committee would depend on the size of the department. A large department may have as many as fifteen members, while a small department may have three members. Any and all alleged violations in unethical behavior should be investigated immediately. When unethical behavior occurs, managers should correct the situation and punish those officers involved. Current disciplinary procedures should be changed as well if they fall short of addressing any issue.<sup>40</sup>

## **ETHICS TRAINING NEEDS**

It is imperative that training programs be established within agencies for these fundamental reasons: to outline the organizational goals and objectives of the agency, teach new and old employees what is expected of them and how to perform their tasks professionally, and to upgrade the knowledge of personnel

within the department. Training is an important part of the staffing process. It is concerned with shaping selected job applicants into knowledgeable, skilled, committed employees of the organization and remolding current employees. Training is a basic element of the directing function of management which is concerned with making sure that employees know what to do and how to do it.<sup>41</sup>

As previously mentioned in this paper, the standards by which a police agency operates depends largely on its administrative, management, and supervisory officers. The message sent down from the top of the power structure directly reflects the morals, principles, and attitudes which will be accepted as permissible behavior in the future.

#### **POLICY AND PROCEDURE REVISIONS FOR ETHICS TRAINING**

Policy and procedures and rules and regulations are products of the directing process. They are guidelines to thinking and operation respectively, and serve as general guidelines for officers to follow in the conduct of their duties.

Policy and procedures are extraordinarily important in the police field. They are, in effect, statements which define role expectations of police officers. The police officer is given powers which are not granted to ordinary citizens. The possession of these extraordinary powers represent a potential threat of freedom. It can be argued that police need be controlled by definite and meticulously defined directions which certify that

they will play their roles in agreement with departmental rules rather than personal desires. Police officers should abide by the laws they enforce and play their roles within the confines of legal restraints. As a result, specific guidelines should be set to insure that police officers conform consistently to behavior that will enhance public protection instead of destroying the trust the public is expected of placing in them.

The goal of any police administrator must be to find middle ground between unlimited discretion and total standardization. This is not an easy task in ethics as in any other area, but it can be accomplished through an understanding of the proper applications of policies, procedures, rules and regulations.

### **POLICIES, PROCEDURES, RULES OF ETHICS**

It is important to remember however, that policies are more general than procedures. Policies are primarily guidelines for thinking rather than action. They are especially important as guidelines for decision making. Therefore, policies should reflect the intention and position of the organization and help explain that purpose and outlook for its members.<sup>42</sup>

Procedures are more specific than policies. These are the guidelines for carrying out policy or the guides to action. Procedure is a method of operation while still allowing some flexibility within limits. Most organizations overflow in procedures. Police agencies for example, have investigative

procedures for patrol, booking, arrests, radio traffic, filing, roll-call, sick-leave, evidence handling, reporting and many more which describe specific methods of operation. These procedures are set forth as plans of action or designs for implementing policy.

Policy is adaptable while at the same time imposes intolerant defined procedures that must be obeyed in all cases. It allows police officers to use discretion and judgment within rigid restrictions which, in the use of force and weapons, the officer must be able to do. It takes a well trained person with extremely good judgment to internalize policy, to follow procedures and to use discretion wisely time and time again.

Rules and regulations are mandates that police officers must follow such as, being at briefing 15 to 30 minutes prior to shift start, wearing a hat when out of the patrol vehicle, and officers take a specific time for lunch break. These requirements leave no room for discretion and mandate that specific actions be taken. There will, of course, always be instances in which some rules of regulations may be waived. These, however, are few and far between.

Inasmuch as rules and regulations require certain specific behavior that is indispensable to agency stability, it is imperative that they be enforced stringently in agreement with established disciplinary measures. There is no quicker way for a police agency to deteriorate and for moral problems to build than through the unfair and partial application of disciplinary measures as these relate to rules and regulations. They must, therefore, be

reasonable and fully in keeping with organizational goals and objectives. A good example of this would be an officer who is constantly being complained on by coworkers, other departments, and citizens regarding his uncaring attitude and reluctance to help fellow officers and the general public. Although he is thought of as burned out, someone upstairs likes him and will not take action to correct the problem. Other officers, however, are punished for menial infractions of rules with reprimands or days off without pay. This refers to the "good ole boy syndrome."

The only effective way to promote guideline adherence is to involve those who will be affected by the guidelines in there development. This gives the officers of the department a better understanding of the rationale behind the guidelines and a stake in there successful application.

The administrator's general success may very well be predicated on his or her capability to make such decisions and to deal with corrective matters in an effective manner within established legal boundaries.<sup>43</sup>

## **ORGANIZATIONAL CORE VALUES AND ETHICAL ACTION IN LAW ENFORCEMENT**

Organizational core values include a set of assurances about what kinds of approach and procedures work well in the organizational setting. These beliefs distinguish the decision makers and the kinds of endeavors the organization should or should not consider doing. If new members of the organization are to

understand and believe them, organizational values and beliefs must be communicated in particular terms. Clear operational definitions of values are necessary to allow for personnel evaluation based on values.<sup>44</sup>

The core values set forth by the administrator as stated should be clear and to the point. However, the values are meaningless if they are not enforced fairly and equally among all employees of the agency. These are values which give employees a sense of direction and goals in which to strive to achieve. It is imperative that these values be taught to new and old employees as well to instill what conduct will be expected and what won't be tolerated. The values should uphold the Constitution of the United States and guarantee that citizen rights shall be preserved.

### CONCLUSION

Law enforcement officers come from all segments of society and cultures and with different moral and ethical standards. Some have not been taught the differences between right and wrong or good and bad. Given these factors, officers are subjected to various forms of ethics training mainly, on the job in which they work. Officers are forced to adapt through peer pressures the standards they will use throughout their careers.

Law enforcement agencies have lost in the past several years their public trust and credibility. Excessive use of force and deception is a major contributing force that has created the

decline in trust law enforcement faces today. There is a critical need for agencies and officers to strive to improve their public image and regain what has been lost over the past years due to what is known as the "bad cop." This is evidenced daily in news articles across the nation.

Poor ethical standards used by officers can cost departments untold losses in money through law suits filed against them, not to mention the unfavorable criticism generated or viewed by the public. This is why law enforcement is under the gun so to speak on a regular basis.

Departments should strongly interview applicants regarding their backgrounds and reinforce the need to make good moral decisions when faced with difficult situations. Agency policy and procedure should be clearly defined as to the standards officers are expected to maintain. There should be no tolerance for any bending or breaking of rules when it comes to compromising the departments credibility, trust, or image it projects to the public.

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