

**The Bill Blackwood
Law Enforcement Management Institute of Texas**

Discretion: Appreciation between Management and the Line Officer

**A Leadership White Paper
Submitted in Partial Fulfillment
Required for Graduation from the
Leadership Command College**

**By
John Krueger**

**La Porte Police Department
La Porte, Texas
February 2014**

ABSTRACT

When considering the word *discretion*, concepts that come readily to mind are that of choice, selection, or perhaps an idea for the best alternative within a situation. However, in the arena of law enforcement, the word takes on the broader role; it is a common phrase more often recognized by those in and around the profession. While those in the field may readily utilize the phrase, a question remains whether the concept of discretion is truly understood. Moreover, it could be suggested that the members of the law enforcement community do not truly comprehend the diversity of its forms, as it diverges from job to job (i.e. assignment to assignment). In the end, the term *discretion*, while most commonly applied to the street level police officer, arguably applies to all levels of law enforcement. Therefore, for an organization to become truly successful, all levels must understand one another and remember that their own conflicts regarding the legally-entrusted power of choice are not solely their burden: ethical and moral dilemmas are faced at all levels. The following paper draws from a conglomeration of peer reviewed journals and widely distributed books published by experts in the field of law enforcement management and operations. In this writing, the historical aspects of the inherent segregation of management and operations in policing are considered, as well as the entire character of the profession as it applies to the compelling level of decision-making all law enforcement officials must employ. Through an understanding and appreciation of these differences, members representing the corresponding elements of management, operations, and the community at large will enjoy a more cohesive relationship with one another, thus both core elements of service and protection will improve.

TABLE OF CONTENTS

	Page
Abstract	
Introduction	1
Position	2
Counter Position	7
Recommendation	11
References	14
Appendix	

INTRODUCTION

The process of decision-making in a law enforcement organization remains a prevalent fixture at all levels. Whether a choice is made at the management level to approve the implementation of a novel program, lay appropriate discipline on the aberrant employee, or alter an entire departmental policy, there is a position which requires much foresight and planning. However, decisions are also made at the line level, where an officer must weigh newly encountered experiences on a daily basis, often as a result of the immediate circumstances encountered. Consequently, decision making processes are not reserved for one particular group but can be found among each law enforcement role, with line-level employees more often making the vital decisions which each member of the agency must bear (Kania & Davis, 2012).

The decisions made by upper level managers, regarding organizational goals and objectives, should not be discounted, however, as they will most certainly influence the policies that, in-turn, effect the decisions of officers on the street (Kania & Davis, 2012). Still, it must be recognized that police discretion goes far beyond simply establishing a series of policies, rules, and procedures (Domonoske, 2006). A police executive has many techniques to employ, such as: creating overarching rules and principles; implementing and fostering ongoing career development processes; maintaining a solid field training program; and progressively addressing internal disciplinary matters (Domonoske, 2006). Likewise, contemporary policing has emerged from its former reactive approach to one where proactive strategies are utilized. Particular examples lie among the chief areas where the line officer now has surpassed management's influence, namely among community policing and neighborhood

intelligence efforts (Steinheider & Wuestewald, 2008). Therefore, in the current environment, line officers now have the discretion to intervene in ways which can truly benefit their community's overall quality of life (Steinheider & Wuestewald, 2008). Yet, while such models are the ideal, they tend to be the exception to the rule and emerge in only the most progressive of organizations. In effect, police agencies are stuck in a pattern of adhering to outdated policies, dysfunctional hierarchies, and subversive alliances which do nothing but thwart progress (Steinheider & Wuestewald, 2008). Given the weight of these dynamics between rank and position, line officers and management staff should appreciate that each faces their own unique forms of discretion according to their professional roles, yet the dilemmas encountered by these police representatives simply occur as unique frameworks within the same category.

POSITION

Management and line officers each have been entrusted with certain attributes of power, and each must remain profoundly cognizant of that which has been handed over to them. Police are in a unique position where society has willingly relinquished a portion of their rights for the assumption of protection against evil action. When considering the support police receive from the public, regarding their unique activities, there is an inherent exchange of trust which then leads to compliance, cooperation, and even the granting of empowerment in order to equip police with the ability to maintain order in a society (Tankebe, 2009). The result is that line officers can either deprive or award many things to an individual citizen, while administrators and managers can do the same for their mid-level and line officers alike. However, regardless of position or rank, the morals, codes, and guidelines subscribed to by individual officers should be

equal with and appear greater than the public they serve. Results from Parker and Sarre's 2008 examination of police practices revealed that police behavior towards offenses which occur on the streets characteristically differs from situation to situation. Such variances are predominantly salient when it comes to minor infractions. The authors noted that when considering the many choices a line officer now has to maintain control, it is no wonder officers either hesitate or, worse, employ techniques with which they are not fully comfortable or experienced (Parker & Sarre, 2008). Such options were given to street officers as well as management with the intention of providing a greater scope to accommodate individual differences among offenses. However, as in all things, there were unforeseen effects, most notably the sheer uncertainty of results (Parker & Sarre, 2008). An unfortunate outcome then begins to emerge, where police at all levels often compromise their integrity and put both citizens and employees in positions where they fall at the mercy of another's judgment, situations which would arguably never appear if law enforcement officials were not exceeding the prescribed limits of their duties. Such abuses must remain absent from all officials in the public service capacity if justice is to be served at the organizational level. While a disconnect does indeed occur between the manager and street cop, this is but one area where each party has to recognize the temptations each face when entrusted with such a high level of authority. In the end, law enforcement personnel, at any level, must fervently avoid enforcing rules and laws arbitrarily, compromising the rights of any portion of the citizen base, or robbing from the city purse for personal benefit in an attempt for economic or dispensational gain.

Line officers, whether at the patrolman or detective level, have the frequent task of depriving individuals of time and/or money and also have the ability to forgive legal infractions. They can even apply multiple levels of force against another citizen; a power entrusted to them by the very citizens they serve. They do these things by and for the public through legal guidelines and an unwritten social contract understood by all. However, the supervisory role in this exchange is seldom considered, and management's role is even more obscured.

Pressing ethical issues in policing today are countless, but some areas are more familiar among current society. It then becomes the responsibility of police managers and administrators to address such matters through appropriate corrective action, while considering the social ramifications and always remaining vigilant in their efforts to avoid forgetting where their roots lie. Police use of force, acceptance of gratuities, abuse of power, corruption based on the perception of noble causes and segregation from citizens, coupled with the temptations offered to administrative officials, are but a few examples of the many problems facing these public servants; discretion is a daily element in either function.

Societal intent for any police organization working in a democratic culture is that they operate as a transparent organization. Police are entrusted with a significant amount of freedom in decision making regarding the particular laws they enforce, at which times, and in each particular situation. Unfortunately, this scenario also sets a stage where the enticement for ethical compromise is ever-present. Whether in the arena of self-interest, material gain, or any other form of personal advancement, the act of employing discretion has the potential to emerge at the expense of what should

otherwise be skilled judgment (Newburn, 1999). Newburn's 1999 study, while somewhat dated, is applicable for this discussion. In the assessment, it was identified that police property, seized or assigned, is in fact one of the largest sources of temptation (Newburn, 1999). Such an environment riddled with unclear choices therefore demands an examination of the concept of discretion at an even greater level (Newburn, 1999). As Newburn (1999) suggested, some areas within police work naturally invite a higher propensity for corruption (See Appendix A). By the sheer nature of police interacting with the confiscation, collection, and/or handling of sensitive resources and evidence, therein lay an inherent source of temptation for each unit, shift, and division (Newburn, 1999).

Inescapably, law enforcement organizations are faced with the requirement to remain open to the public and air all laundry, dirty or otherwise. Under the grace of broad legal guidelines, and in a country where democracy has always existed, citizens most certainly get involved in nearly every aspect of their police organizations. Not only do citizens want to be informed of everything according to their particular interests, they will do just about anything to gain the favor of police while simultaneously questioning management decisions on corruption within their organizations. One particular area, in the form of questionable external gifts, can range from free shopping items to free fishing trips and even go as far as new cars. However, there are times when it may actually be acceptable for police within their particular assignments to accept public donations or gifts. Some have actually regarded this as a practice which fosters positive relationships with the community they serve (Coleman, 2004). The problem lies in the fact that the gifts are frequently given with the hope, and often expectation, that

both line and staff will lend an open ear, and possibly a helping hand, to those offering gratuities. While lower-ranking officers face the dilemmas of turning their heads to crimes for immediate tangible rewards, the administrative and managerial ranks often face larger dilemmas surrounding the implementation of new programs, awarding of desirable equipment, or perhaps long-awaited career advancement. Fortunately, the majority of gratuities offered and accepted remains minor, and most exchanges provide equal benefit for the giver and receiver. However, contamination still lingers for both line and management staff when the enforcement of law becomes compromised for personal gain.

Cynical qualities commonly inherited by many law enforcement personnel present another problem. Simply put, after dealing with negative situations on a daily basis for an extended period of time, managers and indeed officers often begin to see the majority of “the public” as evil in some way. Unfortunately, when considered at any level of an organization, this leads to selective enforcement, manipulation of facts, and compromising evidence in the spirit of gaining compliance and/or convictions.

Meanwhile, procedures to deter such behavior are continually put into practice by the courts to eliminate the activities, and certain elements within the police organization itself attempt to keep such infractions to a minimum. These attempts to promote rule adherence often take the form of courts not allowing evidence into trial, which then inspires officers to follow the proper rules and procedures from the onset (Stone, 1995). Unfortunately, an approach designed to steer police away from cutting corners via punishment is likely to become a bureaucratic endeavor where no one is actually following up on the processes or sanctions (Stone, 1995).

To add to such circumstances, the law enforcement culture holds onto many practices which allow, and even encourage, the circumvention of legal restrictions. As Rhodes appropriately listed in his 2008 Illinois Times article, when it come to the witnessing of another officer or manager committing questionable acts or outright wrongdoing “the implications for police officers, already muzzled by the “blue wall of silence,” are scary enough. The implications for the rest of us are even more troubling. If you were a cop, would you come forward?” (p. 1). And while a pocket of whistleblowers would be nice, and might be a temporary fix, they all too often they find themselves ridiculed, harassed, or conveniently dismissed. Furthermore, internal affairs investigators are also lied to on a frequent basis. Cultural protection of fellow workers taints investigations, and as a result these internal codes of silence help to further the systematic deprivation of justice. Unfortunately, while this process may rid society of many unsavory characters, sworn and unsworn, due process is compromised and many innocent become treated as guilty. The remaining officers and managers become victims themselves, as they lose whatever connection they may have had with the community they serve, as well as the eventual loss of self respect. Many supporters of the crime control model advocate a streamlined process for combating crime, but even its own supporters do not believe in compromising the spirit of the system. Thus, management and line officers may have the same goal but, when it comes to integrity, perhaps their discretionary acts become equally poisoned.

COUNTER POSITION

Times have changed, and will continue to do so. Officers patrolling the 21st century streets find themselves walking onto a new stage that the members of their

management staff cannot fully appreciate. Evidence of such transformation is readily apparent when the curtain is pulled back from the station doors. The modern-day environment has become sprinkled with obstacles that challenge line officer decisions on an extraordinary level. But even before leaving the station parking lot, there are changes that are unprecedented.

With unprecedented mixture of race, sex, religion, and educational levels internally, police officers soon find themselves divided among their peers at a level which has never been witnessed among prior generations. This effect has the potential to cause members who perform street level operations to remain so preoccupied with interpreting their own co-workers that they cannot effectively deal with the public they have sworn to serve. Add in changes in Civil Service processes, Meet and Confer agreements, collective bargaining contracts, and many other forms of organizational arrangements, and today's patrol officer frequently has a myriad of items and issues running through their mind which are well-beyond their primary duties to protect and serve. Frustration, then, has the potential to swell when roles and duties begin to change as management staff becomes increasingly focused on improving organizational processes and adhering to current trends in the profession (Engel & Worden, 2003).

Professional and organizational improvements, while not always tangible for the line officer, emerge through larger, more comprehensive, policy manuals while command staff searches out external review board approval through accreditation of what has been perceived as an implementation of the ideal practices in the profession. Combine these changes with a society continually steering away from its focus on

religion and family cohesiveness, not to mention the officer base following the same trends, and a recipe emerges where officers are now expected to maintain order through peace and passivity in an environment that may not be genuinely interested.

However, while such arguments are indeed real in the world of the street officer, one must step back and take perspective. While the role of law enforcement is ever-evolving, significant changes were equally representative of the period witnessed by the majority of today's upper management staff as well. During the later part of the 20th century, media coverage, citizens-rights groups, and the legal system not only began to strengthen, but each continued to build and diversify at a juggernaut pace, while continuing to systematically scrutinize every move police made as they attempted to present themselves as an organization of actual professionals. Add the introduction of internet access into nearly every home and business, and the street officer in the 1990's began finding their reports and investigation processes taking a huge turn. As a result of such influences and many other unnamed events, confused and bitter senior police officers emerged as a result, just as it has occurred today with shifts in technology and the larger social setting. The end result of yesteryear's transitions has since culminated into a common setting of either bitter managers or disgruntled veterans.

Nevertheless, newly recruited police officers continue to receive affected, and perhaps infected, training from their own professional role models. Such conditions have laid the groundwork for a myriad of dilemmas, as the training ground for today's police officer remains perplexing for anyone entering the field. Therefore, management faces a whole new level of discretion in deciding how to learn from the training and communication mistakes in days past, while struggling with increased budgetary

constraints and a society where young adults divert from public service roles as they increasingly enjoy their status of having more college graduates than any prior generation (Goldrick-Rab, Carter, & Wagner, 2007).

Through their lack of comparable training in the earlier stages of their careers, a significant portion of management staff remains unlikely to have a change in their thinking, or begin to appreciate the role of the current line officer. Thus, while initial efforts could be made, if unsuccessful in reasoning, officers should consider avoiding attempts to persuade management and simply promote to higher levels where they could be in a position to make necessary changes. A line officer who makes the decision to advance through promotional processes at a quicker rate and apply their knowledge of modern policing trends among the management arena holds the potential for making changes among what they perceive as a lack managerial appreciation for the operational environment. With promotion comes greater authority and the resources to either propose or make use of ideas which an employee feels current management is overlooking (Polk & Armstrong, 2001). By promoting in rank at a time where their street exposure is more recent, an officer can offer fresh ideas and help management understand what the environment is truly like. As a result, the schism of discretionary interpretation among management and line officers can be patched.

However, while an assertive effort is often called for, and an educated, driven, and goal-directed police officer is a jewel which should be mined and polished, there nevertheless exists an equal need for adequate time and experience in an operational role before moving into a management role. Consider that promoting an officer too quickly in their career compromises both efficiency and effectiveness, as they have the

potential to quickly exhibit that they are at a level where their competency does not match their rank and position (Camp, 2008). Education, as one current element, has undoubtedly become an important consideration for promotion, and it is certainly a value which is at times comparable with career experience. However, when the pair of attributes becomes the target of bi-variant study, the correlation between rank and experience is actually greater (Polk & Armstrong, 2001).

While individual education via academic achievement is more prevalent in 21st century policing management and is strongly related to reaching management levels, the line level employee moving up the ladder too quickly may not have the professional capacity and experience to fully appreciate managerial dynamics. Therefore, the quickly promoted employee, while intelligent and soon found capable of managerial work, may experience a divide from both line officers and their own managers. In such a scenario, their discretionary decisions may encounter a high propensity of being misunderstood equally by line officers and fellow members of senior management.

RECOMMENDATION

The term *discretion*, while most commonly applied to the street level officer when discussing law enforcement, is a concept which should be applied on a broader plane among all members within the law enforcement profession. Consideration must be paid toward management's shouldering of legal decisions involving ethics, due process, personnel matters, and many other official regulations such as those imposed by police unions, civil service rules, or perhaps meet and confer contracts. But, equal consideration is due from management as they make review of line officers decisions; there undoubtedly exists a clear distinction between written theory and practical

application. This is where the concept of *appreciation* enters - all employees of an organization should place value and have a general understanding of the role and duties held by agency members in differing contexts.

The degree of a law enforcement manager's professional accountability is synonymous with the manager's willingness to show deference to his or her officer's professional discretion. In the end, a manager should place the best interests of his profession and his police family above the political and social pressures which inevitably occur (LaFrance & Allen, 2009). Furthermore, first line supervisors, while caught in the middle, should embrace their influential roles as leaders and empower subordinates while simultaneously facilitating accurate communication between the two ends of the police ranking spectrum.

To be effective, leaders at any staff level must understand the crucial importance between leadership and management, as well truly embracing the popular law enforcement phrase "don't ever forget where you came from." While management skills are helpful in some aspects of the profession, policing demands an equal application of leadership from supervisors, as well as every other member throughout the organization. In particular, supervisors who are effectively leading fervently avoid micromanaging the actions of subordinates and coworkers. If a leader has any hope of establishing a working environment that will bear fruit, they must be willing to demonstrate their own capabilities and provide instruction and coaching. Then they must take a step back, maintain a hands-off approach, and allow officers to do what they do best – police (Schafer, 2008). To implement an environment laden with a pure sense of empowerment for each officer, in effect, releases the officer to willingly and

earnestly engage in community development while simultaneously promoting agency objectives. (Steinheider & Wuestewald, 2008). Provided an environment of increased dedication among members is fostered, the line officer will tap into their own discretionary processes to promote a more productive service-based environment (Steinheider & Wuestewald, 2008). This same empowerment, coupled with management participation, also holds the potential to improve communications at all levels while bridging the characteristic gap which lies between management staff and line officers (Steinheider & Wuestewald, 2008). It must be recognized, however, that the areas of discretionary conflict listed in this article are only a fraction of the long list of dilemmas which police officers face at all staffing levels. Therefore, unless the level of cooperation increases within an organization and all levels make the daily renewal to work together as a progressive team, discord will fester and discretion will become clouded.

Policing operations, like management processes, have certainly changed. Yet their core components remain the same. Through greater internal communication processes, open-systems, and visible programs (e.g. career development, cross-training, supervisory mentoring, etc.), understanding and appreciation between management and line operations can grow and set the stage for external demonstrations of cohesion, ones which any community will embrace and continue to support.

REFERENCES

- Camp, D. (2008): Linking Training and Promotion in a Police Agency. *Journal of Offender Rehabilitation*, 29(3), 25-55.
- Coleman, S. (2004). Police, gratuities, and professionalism: A response to Kania. *Journal of Criminal Justice Ethics*, 23(1), 63-65.
- Domonoske, C. (2006). Towards an integrated theory of police management. *International Journal of Police Science & Management*, 8(4), 326-341.
- Engel, R., & Worden, R. (2003). Police officers' attitudes, behavior, and supervisory Influences: An analysis of problem solving. *Criminology*, 41(1), 131-166.
- Goldrick-Rab, S., Carter, D., & Wagner, R. (2007). What higher education has to say about the transition to college. *Teachers College Record*, 109(10), 2444-2481.
- Kania, R. & Davis, R. (2012). *Managing criminal justice organizations: an introduction to theory and practice*. Waltham, MA: Anderson Pub.
- LaFrance, C., & Allen, J. (2009). An exploration of the juxtaposition of professional and political accountability in local law enforcement management. *International Journal of Police Science & Management*, 12(1), 90-118.
- Newburn, T. (1999). Understanding and preventing police corruption: Lessons from the literature. Policing and Reducing Crime Unit. Research, Development and Statistics Department, London: Home Office.
- Parker, A., & Sarre, R. (2008). Policing young offenders: What role discretion? *International Journal of Police Science and Management*, 10(4), 474-485.

Polk, O., & Armstrong, D. (2001). Higher education and law enforcement career paths:

Is the road to success paved by degree? *Journal of Criminal Justice Education*, 12(1), 77-99.

Rhodes, D. (2008, June 4). Reinforcing the “blue wall of silence”. *Illinois Times*. 1.

Retrieved from <http://illinoistimes.com/Springfield/article-5079-reinforcing-the-blue-wall-of-silence.html>

Schafer, J. (2008). Effective police leadership: Experiences and perspectives of law enforcement leaders. *FBI Law Enforcement Bulletin*, 77(7), 13-19.

Steinheider, B., & Wuestewald, T. (2008). From the bottom-up: Sharing leadership in a police agency. *Police Practice & Research*, 9(2), 145-163.

Stone, R. (1995). Exclusion of evidence under Section 78 of the Police and Criminal Evidence Act: Practice and Principles. *Nottingham Law School Journal of Current Legal Issues*. Nottingham Trent University Press in association with Blackstone Press: Nottingham, UK.

Tankebe, J. (2009). Policing, procedural fairness and public behavior: A review and Critique. *International Journal of Police Science & Management*, 11(1), 8-19.

APPENDIX A

Table I. Casual Factors Affecting Development of Corrupt Practices (Newburn, 1999)

A Constant factors	
Discretion	The exercise of discretion is argued to have both legitimate and illegitimate bases.
Low managerial visibility	A police officer's actions are often low in visibility as far as line management is concerned.
Low public visibility	Much of what police officers do is not witnessed by members of the public.
Peer group secrecy	'Police culture' is characterized by a high degree of internal solidarity and secrecy.
Managerial secrecy	Police managers have generally worked themselves up from the 'beat' and share many of the values held by those they manage.
Status problems	Police officers are sometimes said to be poorly paid relative to their powers.
Association with lawbreakers/contact with temptation	Police officers inevitably come into contact with a wide variety of people who have an interest in police not doing what they have a duty to do. Such people may have access to considerable resources.
B Variable factors	
Community structure	Refers to the degree of 'anomie', the political 'ethos', and the extent of culture conflict.
Organizational characteristics	Levels of bureaucracy, integrity of leadership, solidarity of work subcultures, moral career stages of police officers, and the perception of legitimate opportunities.
Legal opportunities for corruption	Moral: so-called 'victimless crimes' (Schur, 1965) associated with the policing of 'vice'. Regulative: the exploitation of minor or trivial regulations such as those associated with construction, traffic and licensing.
Corruption controls Social organization of corruption	How the guardians are themselves 'guarded'. Two basic forms: 'arrangements' and 'events'.
'Moral cynicism'	Association with lawbreakers and contact with temptation is inevitable in police work, inclining officers towards moral cynicism.