

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

**Accepting Gratuities:  
Unethical Conduct**

**A Policy Research Project  
Submitted in Partial Fulfillment  
of the Requirements for the Professional Designation  
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## **ABSTRACT**

The importance of applying Ethics in the Weatherford College Police Department and in the Law Enforcement Career Field cannot be overstated. Texas state law provides a section that prohibits Public Servants from accepting gratuities. However, many Texas Peace Officers overlook this law, which is unethical behavior and compromises public trust placed in law enforcement agencies. The purpose of this research is to provide the officers of the Weatherford College Police Department with a clear understanding and definable meaning of ethics and values where gratuities are concerned.

This research found that the acceptance of gratuities by Texas Peace Officers is an ongoing crime and must be addressed by each department.

The conclusion and recommendation of this research project is that a written policy be placed into effect within the Weatherford College Police Department concerning the acceptance of gratuities.

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## Introduction

One of the many problems facing law enforcement today is the violation of public trust. Throughout the 1980s and 1990s, many officers violated and destroyed the public trust placed in police departments by making unethical decisions and using a value system most often found in the criminal elements they arrest. Violations of the public trust in the past two decades range from the beating of a suspect, tampering with evidence; falsifying public records to acceptance of gratuities.

The purpose of this research is to provide the officers of the Weatherford College Police Department with a clear understanding and definable meaning of ethics and values where gratuities are concerned. The focus of this paper will be the creation of a policy prohibiting the unethical decision of accepting gratuities.

The targeted audience for this research is the command staff of the Weatherford College Police Department.

The source of information for this project will be journals, books, legal opinions, surveys, and personal interviews. The intended outcome of this project is to set forth policies and procedures that will clarify any questions concerning acceptance of gratuities within the Weatherford College Police Department.

## Legal and Theoretical Context

Moral philosophy, also known as the field of ethics, is divided into three areas of theories: metaethics, which is the study of the origin and meaning of ethical concepts, applied ethics, which consists of the analysis of specific controversial issues such as animal rights; euthanasia, and abortion; and normative ethics, which regulates right and wrong behavior and involves arriving at a moral standard.

Three strategies of theories are expressed within normative ethics. Virtue theory includes rules of conduct, such as don't steal and don't kill. In ancient Greek civilization, Plato emphasized four virtues in which would later be known as the cardinal virtues: wisdom, courage, temperance, and justice (Edwards, 83). Deontological (Duty) theory is the rights that all people naturally have and the rest of us are obligated to acknowledge without question. The 17th Century British philosopher John Locke believed that the laws of nature mandate that we should not harm anyone's life, health, liberty, or possessions and that these natural rights were given to us by God (Aaron, 272). Consequentialist theory says that moral responsibility is determined by weighing the consequences of our actions. An action is morally right if the consequences of that action are more favorable than unfavorable for everyone involved.

Normative ethics and its three strategies, virtue theory, deontological (duty) theory, and consequentialist theory are the sole theories addressed in this research paper.

President Woodrow Wilson was one of the first American Presidents to address ethics (Trautman, 4). On September 9, 1919, thousands of Boston police officers walked away from their assignments and went on strike, which caused eight deaths,

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hundreds of injuries and property damage in excess of a million dollars. In response to this, President Wilson expressed the nation's sentiment and at the same time captured normative ethics in his words. He stated, "A strike of policemen of a great city, leaving that city at the mercy of an army of thugs, is a crime against civilization. In my judgment, the obligation of a policeman is as sacred and direct as the obligations of a soldier. He is a public servant, not a pirate employee, and the whole honor of the community is in his hands. He has no rights to prefer any private advantage to public safety" (Trautman, 4,5).

In 1931, the National Commission on Law Observance and Enforcement (the Wickersham Commission) called for educationally sound officers. 1967 saw the President's Commission on Law Enforcement state that all police departments should require their personnel with enforcement powers to have a baccalaureate degree. The common belief was that highly educated Police Officers would be more ethical than one's with a high school diploma. One of the many downfalls of this system was that it didn't require the teaching of ethics in the classroom. In fact, today in the United States, ethics training is still not well integrated into most basic law enforcement training programs (Schmallegger, 207).

In 1978, a quantitative study in criminology was conducted by Charles Wellford on the Effects of Education on Police Values and Performance. Wellford's findings were that educational level has a very slight effect on performance and no effect on values.

In January of 1997, the U. S. Department of Justice published a nationwide study in which 100 Americans were asked to rank moral confidence and trust they have

in the professional field. The professional most trusted was listed in the number one spot and the professional least trusted filled the twelfth position. Trust in Police Officers took the greatest fall from 1980 to 1995, a drop in five spaces from fifth to tenth. Among these findings there was another disturbing element. There was a large difference between African-American and White respondents. African-Americans placed police officers in the ninth position in 1980 and in 1995 placed police officers in the 11th position. One of the many conclusions drawn from this study is that the American public believes Police departments nationwide have an inherent problem with police integrity.

On September 1, 1994, the State of Texas began to address the issues of Police Officers accepting gratuities by placing into effect two penal code laws concerning public servants and gratuities. The first of these is Penal Code 36.07 "Acceptance of honorarium (a)" which states "A public servant commits an offense if the public servant solicits, accepts, or agrees to accept an honorarium in consideration for services that the public servant would not have been requested to provide but for the public servant's official position or duties" and second is Penal Code 36.08 "Gift to public servant by person subject to his/her jurisdiction (a) which states "A public servant in an agency performing regulatory functions or conducting inspections or investigations commits an offense if he solicits, accepts, or agrees to accept any benefit from a person the public servant knows to be subject to regulation, inspection, or investigation by the public servant or his agency.

Many police departments do not have a written policy in place because of the above stated law. However, without departmental policy, you leave the enforcement of this law up to officer discretion, which in this case is not acceptable.

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## Review of Literature or Practice

Psychological egoism was defined by 17th Century British Philosopher Thomas Hobbes (Edwards, 90). Hobbes believed that man's many actions, if not all actions, are prompted by selfish desire. Acts such as donating to charity are also viewed as selfish because this is done to experience power over people. Hobbes maintains that self-oriented interests ultimately motivate all human actions, with no exception.

18th Century British Philosopher Joseph Butler agreed with Hobbes to a point. Butler believed that instinctive selfishness and pleasure prompted much of man's behavior, a view known as psychological hedonism (Grant, 59). Could we today see these two theories arise in the words of Journalist David Burnham: "Police corruption begins with the notion that policemen by some divine right are entitled to free meals, free movies, and cut-rate prices on virtually everything they buy" (Inciardi, 226). This view holds to Hobbes' theory of selfish desire, "Why pay for it when I can get it for free or half price" or Butler's theory of pleasure, free movies, free meals these are items we derive pleasure from. Police corruption is defined as police misconduct in the forms of illegal activities for economic gain or accepting gratuities, favors, and payment for services that police officers are sworn to carry out as a part of their duty (Inciardi, 226). Corruption occurs in many forms, but it manifests itself in nine specific areas: meals and services, kickbacks, opportunist theft, planned theft, robbery, shakedowns, protection, case fixing, private security, and patronage (Inciardi, 227).

Of these nine, free meals and services sits at the top (Inciardi, 227). Almost everywhere in American a police officer can get a free meal or a half-price meal from a restaurant in their community. Many restaurant chains keep records of free meals

given to police officers so they can prove their good will. Smaller restaurants have a similar policy. However, their goal is a police presence. They believe attracting police officers will make their place of business more secure. Edwin J. Delattre, author of *Character and Cops* (1989), when speaking of gratuities and the slippery slope, stated he believed that the

"small kindness - like making fresh coffee when the police arrive in the middle of the night - is just that. It is not like a tip for a bellhop and it is not the beginning of a slippery slope. Since the intentions of the restaurant personnel are often equally innocent, police acceptance and appreciation are not illicit. Other police believe themselves deserving of special consideration because they feel underpaid or burdened with too much hardship in their work. If this attitude resembles self-pity, it can be a sign of vulnerability to a slippery slope. The free coffee may not cause the vulnerability, but it may by indulging it, lead to worse things" (Delattre, 80).

Delattre also believes that departmental policies should also state the truth, "not everyone who accepts free coffee steps onto a slippery slope that leads to more serious corruption, but some do, and some is too many."

In an effort to fully understand all of the practices and policies in place concerning the acceptance of gratuities, a geographical survey was conducted of five north Central Texas Police Departments varying in the number of sworn police officers. Of these five departments, there was one striking discontinuity in their practices and policies and state laws concerning acceptance of honorariums (gratuities). While three of these departments (Weatherford Police Department, Parker County Sheriff Department, and Granbury Police Department) had a Code of Ethics in place, there was an unformed question as to what their department classified as a gratuity. Many believed it was more than the free meal or free cup of coffee. While these departments

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had a Code of Ethics, they didn't have a written policy to define gratuity or to provide officers with guidelines to stay inside of. Personnel in these departments were allowed to personally interpret the Code of Ethics, instead of the agency head providing clear direction and definition. Of the two remaining departments (Willow Park Police Department and Hudson Oaks Police Department), it was common belief that their officers knew when the free cup of coffee was more than a random act of kindness and would not accept anything not offered in this nature.

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## **Discussion of Relevant Issues**

In developing a departmental policy concerning ethics and the accepting of gratuities, many departments start by placing into effect a Law Enforcement Code of Ethics such as the one written by International Association of Chiefs of Police (IACP) and last updated in 1991. The Law Enforcement Code of Ethics is highly criticized as being vague; and not providing a clear direction. When this issue is not addressed by the Chief of Police or the head of the agency, it provides room for personnel interpretations. Therefore, it is imperative that the agency head provide the departmental interpretation definition. They need to provide a clear direction in the conduct that is not acceptable under this standard and follow this with written policy.

In writing an ethical gratuities policy, there are four key points the policy must cover. The first key point is that a policy must be universal. It must be shown that the scope of this policy is universal and covers all personnel within the department including civilian personnel. This is accomplished through the department's written policy and procedures.

The policy must be enforceable. It must show a reaction to every case of accepting gratuities with a strong clear action - degrading and punishing the actor. Personnel must be advised complaints of wrong doing will be accepted from departmental personnel and the public at large with complaints being fully investigated. This policy must be reviewed yearly to provide the best enforcement.

It is imperative that this policy be completely understood before its effective date. This can be accomplished through training all department personnel and one-on-one contact by the agency head. Personnel must be allowed to ask questions and all

questions must have a clear definable answer without containing any areas of gray to be explored.

The most important point is that the policy have no flexibility. All personnel must realize that regardless of rank and position or years of service, their first unethical act will be the last act as a member of the department.

The cost for implementation of the aforementioned policy can be measured in man-hours for the drafting, writing, and reviewing of the policy, in the man-hours for the required training of the policy, and the drop in personnel morale can be measured and added to the cost. However, the hidden cost that cannot be measured until it is too late is the number of Mark Furhmans bred by a system that does not hold its own accountable for their ethical violations. This cost of not implementing could be the downfall of the Law Enforcement career field.

The benefits of implementing a policy of this nature is clear. The departments will regain public trust. When a citizen pins on a police badge, they voluntarily agree to bear the public trust and must be held to that agreement. By regaining public trust, the Law Enforcement career field moves to a profession.

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## **Conclusion / Recommendations**

In conclusion, the purpose of this research is to provide the officers of the Weatherford College Police Department with a clear understanding and definable meaning of ethics and values where gratuities are concerned. The focus of this paper will be the creation of a department policy prohibiting the unethical decision of accepting gratuities. Texas state law provides a section that prohibits public servants from accepting gratuities. However, many Texas peace officers overlook this law, which is unethical behavior and compromises public trust placed in law enforcement agencies.

Violation of the public trust in the past two decades range from the beating of a suspect, tampering with evidence, falsifying public records, to acceptance of gratuities. Of these four criminal acts, the acceptance of gratuities is the easiest to control and can be accomplished through a departmental policy.

This research concluded that a departmental policy addressing gratuities must contain at least these four key points. It must be universally applied to all department personnel including civilians. The policy must be enforceable. It must show a reaction to every case of accepting gratuities with a strong clear action - one that degrades and punishes the actor. It is imperative that this policy must be completely understood. This may be accomplished through training all department personnel and one-on-one contact by the agency head. Personnel must be allowed to ask questions and all questions must have a clear definable answer without containing any areas of gray to be explored. The most important point is that the policy must have no flexibility. All personnel must realize that regardless of rank and position or years of service, their

first unethical act will be their last act as a member of this department and in the law enforcement career field.

The implementation of policies of this nature will hold every officer accountable for his or her actions and help regain public trust. By regaining public trust, the law enforcement career field can become a profession.

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## BIBLIOGRAPHY

- Aaron, Richard I., John Locke. London: Oxford University Press, 1955.
- Ahern, James F. Police in Trouble. New York: Hawthorn Books, Inc., 1972.
- Baker, Thomas. Police Deviance. Cincinnati, OH: Anderson Publishing, 1991.
- Balz, Albert G. A. Idea and Essence in the Philosophies of Hobbes and Spinoza. New York: Columbia University Press, 1918.
- Biegle, Herbert. The Closed Fraternity of Police and the Development of the Corrupt Attitude. New York: John Jay Press, 1977.
- Black, Algernon D. The People and the Police. New York: McGraw-Hill Book Company, 1968.
- Coffee, Alan, Edward Eldefonso, Walter. Human Relations: Law Enforcement in a Changing Community. Englewood Cliffs, NJ: Prentice-Hall, Inc., 1982.
- Cohen, Howard. Power and Restraint. New York, NY: Praeger Publishers, 1991.
- Delattre, Edwin J. "Police Ethics." The Police Chief January, 1992: 32.
- Delattre, Edwin J. "Character in Cops." Ethics in Policing American Enterprise Institute for Public Policy Research, Washington D.C., 1989.
- Dunham, Roger G., Geoffrey P. Albert. Critical Issues in Policing. Prospect Heights, IL: Waveland Press, Inc., 1993.
- Edwards, Paul. The Encyclopedia of Philosophy. New York: The Macmillan Company, The Free Press, Collier-Macmillan Limited, London, 1967.
- Eliot, Charles W. English Philosophers. New York, P F Collier & Son, 1910.
- Evans, David & Butcher, Robert, Ethical Reasoning in Policing. Toronto, Canada, Emond Montgomery Publications Limited, 1998: 122.
- Feldberg, Michael. "Gratuities, Corruption and the Democratic Ethos of Policing: The Case for a Free Cup of Coffee." Moral Issues in Police Work 267.
- Gaffigan, Stephen J., Phyllis P. McDonald. Police Integrity - Public Service with Honor. U. S. Department of Justice, Washington D.C., January, 1997.

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- Gates, Daryl F. CHIEF, My Life in the LAPD, Bantom Publishing Co., 1993.
- Grant, Frederick. "Joseph Butler". Encyclopedia Americana, 1968.
- Hansen, David A. Police Ethics. Springfield, IL: Charles C. Thomas, Publisher, 1973.
- Hooper, Michael Ken. "The Relation of College Education to Police Officer Job Performance." The Police Chief January 1992: 31.
- Inciardi, James A. Criminal Justice. Fort Worth, TX, Harcourt Brace Publishing Company, 1999: 226.
- James, David G. Life of Reason. London: Longmans, Green and Co., 1949.
- Keling. "Teaching and Learning Police Ethics", Journal of Criminal Justice. 1990: 18:1-18.
- Kleinig, John. The Ethics of Policing. New York: Cambridge University Press, 1996.
- Kornblum, Allen N. The Moral Hazards. Lexington Books, Lexington, MS 1976
- Limbaugh, Rush. The Way Things Ought To Be. New York, NY: Pocket Books, Simon & Schuster, 1992.
- Pollock-Byrne, Joycelyn M. Ethics in Crime and Justice. Brooks Cole Publishing Company, 1989.
- Robinette, Hillary M. "Leadership and Ethics Training for Police Administrators", The Police Chief. January, 1991:49.
- Russell, John E. The Philosophy of Locke, New York: Henry Holt & Company, 1906.
- Schmallegger, Frank. Criminal Justice Today, Second Edition, Prentice Hall, Englewood Cliffs, NJ, 1993.
- Sheehan, Robert and Gary Cordner, Introduction to Police Administration, 2nd ed. Cincinnati: Anderson Publishing Company, 1989.
- Sheingold, Stuart. The Politics of Law and Order. New York: Longman Publishing Co., 1984.

RESERVE

- Sherman, Lawrence, "Learning Police Ethics", Criminal Justice Ethics, (Winter/Spring, 1982): 10.
- Simpson, Antony E. The Literature of Police Corruption. New York, NY: John Jay Press, 1977.
- Standards for Law Enforcement Agencies, The Standard Manual of the Law Enforcement Agency Accreditation Program, Fairfax, VA 1984: 1-1, 1-2.
- Texas Commission on Law Enforcement Officer Standards and Education, "Basic Peace Officer Course Learning Objective Manual, October, 1989: 1-2.
- Texas Criminal Law and Motor Vehicle Handbook, Gould Publications, 1999: 74.
- Trautman, Neal E. , M.S. A Study of Law Enforcement. Charles Thomas Publishing Company, Springfield, IL. 1990: 4-5.
- Trojanowicz, Robert. Community Policing. Cincinnati, OH: Anderson Publishing, 1990.
- Turabian, Kate L. revised by Bonnie Birtwistle Honigsbblum. A Manual for Writers of Term Papers, Theses, and Dissertation. Chicago: University of Chicago Press, 1988.
- U. S. Department of Justice's Bureau of Justice Assistance and The International Association of Chief of Police, "Police Ethics, Building Integrity and Reducing Drug Corruption", The Police Chief, January, 1991: 32.
- U. S. Department of Justice. "Police Integrity". January, 1997: 12-15.
- Ward, Richard H. and Robert McCormick. An Anti-Corruption Manual for Administrators in Law Enforcement, John Jay Press, 1987.
- Webster's Third World New Dictionary G&C Merriam Publishing Company, Chicago, 1961.
- Wellford, Charles. Effects of Education on Police Values and Performance - A Multivariate Analysis of an Explanatory Model. "Quantitative Studies in Criminology". Sage Publications, Inc., Newbury Park, CA 1978: 147-175.