

# Critical analysis of the criminal justice system



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The purpose of this paper is to discuss the two types of ethics, absolute and relative. Noble cause corruption, challenges faced by administrators, managers and supervisors, unaccepted behaviors in policing, standards of conduct in the courts and ethical situations in corrections. In summary, I will discuss how each of these ethical considerations affects the management of organizational policy and implementation of justice programs.

## **Types of Ethics**

Character and ethical conduct, for criminal justice personnel, means that they would never betray their oath of office, their public trust, or their badge (Peak, 2010, p. 335). Police officers, judges and lawyers have a moral obligation to be honorable and trustworthy. The public's expectations of these personnel ought to not be compromised; they are held at a higher level of morality and should uphold this disposition regardless of the situation.

Ethics involves doing what is right or correct and is generally used to refer to how people should behave in a professional capacity (Peak, 2010, p. 337)

There are two types of ethics police deal with on a daily basis, how they react to these ethical dilemmas determine the level of integrity and or morality of the officer. Absolute ethics is two-sided, good or bad, black or white (Peak, 2010, p. 338). For example, if someone stops at a stop sign, this is the right thing to do. Not stopping at the stop sign is the wrong thing to do. A relative ethic is relative depending on the person's perception of the situation such as a person running a red light, was the light yellow as the car approached the light as it turned red or was the light red before the car proceeded. These examples are quite simple to everyday citizens but a

police officer making a decision on a relative issue, it is the difference between issuing a citation or not. Communities make exceptions when it comes to relative ethics. Officers may be allowed perform illegal traffic stings to prevent speeders in residential areas or hassle juveniles hanging on street corners late at night to prevent drug trafficking. The prevention of crime and protection of the community justify these unethical behaviors.

### **Noble cause corruption**

Noble cause corruptions leads to ineffective policing by breaking the rules either intentionally or unintentionally to cover a mistake or a purposeful act against a citizen. This act of carelessness is a detriment to a person who is unaware of how the situation will affect them in the long run, such as an accusation of speeding which could lead to a hefty citation or suspension of a driver's license or the illegal search of a vehicle that produces something incriminating eventually leading to a conviction and jail time for the accused. The mentality that the bad outweighs the good in an effort to make an arrest contributes to a corrupt justice system. During the OJ Simpson trial, Detective Mark Fuhrman discovered bloody gloves and other DNA evidence that could have easily implicated Mr. Simpson in the murders of his ex-wife and friend. Mark Fuhrman, the prosecutor's key witness, committed perjury when he testified under oath that he had never used the "N" word, but the defense revealed a taped interview of Fuhrman bragging about the abuse of gang members and using the "N" word, casting doubt about his credibility. Although there was substantial evidence in the case, OJ Simpson was later found not guilty (Curtis, 2008, p. 22).

## **Challenges faced by Administrators, Managers, and Supervisors**

Administrators, middle managers and supervisors are faced with the dilemma of ensuring that their officers are not violating the exact laws they are governed to oversee. Some officers deal with day to day issues which supervisors are unaware of or directly involved in. This means if a law is violated, and not reported, the officer gets away with it. If the supervisor is aware the officer has committed a violation, the action should not be pushed under the rug, he or she should not be given a slap on the wrist or worse case scenario; not address the indiscretion at all. Supervisors have various leadership styles and address situations in different ways; their attitude dictates the dynamics of the department's professionalism and behavior (Schafer & Martinelli, 2008)p. 306. It could become organizationally accepted and give the impression to other officers that it is okay to break the rules without the fear of consequences and quite possibly lead to corruption within the department, as in the case of the infamous Rampart division of the LAPD. The Community Resources Against Street Hoodlums (CRASH) anti-gang program was initiated under the direction of LAPD Chief Daryl F. Gates in the late 1970s, the program had encountered some success in the Rampart Division. The success turned to failure when between the years 1998-2000, it was discovered that extreme police misconduct was committed among Rampart's CRASH squad with Officer Rafael Perez at the helm of the investigation making it one of the most widespread cases of documented police misconduct in United States history. Fellow officers were aware of the incident but failed to report any of indiscretions for the fear of retaliation and possibly death. The convicted offenses included unprovoked shootings,

unprovoked beatings, planting of evidence, framing of suspects, stealing and dealing narcotics, bank robbery, perjury, and covering up evidence of these activities (Cannon, 2000, pp. 5-9).

## **Ethics in Policing**

### **Accepted and Deviant Lying**

Slippery slope is the acceptance of unethical or illegal behavior on behalf of the officer. A term that can best be described as riding the fence. Police officers are aware of the ethical responsibilities that come with wearing the uniform and badge. Accepted lying involves the by any means necessary motto, do whatever it takes to get an arrest or conviction. Deviant lying include illegal acts such as planting evidence, withholding evidence, illegal search and seizures and lying under oath. Deception is a behavior committed by officers without forethought. Police interrogations lead to deviant lying by deceiving a suspect with fake evidence or proof of witnesses to a crime they may have not committed. In order to receive a confession, detectives may interrogate a suspect for numerous hours, withholding food or water, and any other form of intimidation (Peak, 2010, pp. 340-341).

### **Gratuities**

A behavior that could lead to corruption is acceptance of gratuities. Some police departmental polices do not allow officers to receive gifts. There is a gray area when it comes to accepting gifts that can range from discounts, free or half priced meals to free donuts because these gifts seem to be insignificant. The model of circumstantial corruptibility proposed by Withrow and Dailey basically states that givers and receivers determine the level of corruptibility, if a gift or free meal is given voluntarily there is no violation of <https://assignbuster.com/critical-analysis-of-the-criminal-justice-system/>

acceptance (Peak, 2010, p. 342), however if the freebie is an expectation of the receiver as a form of payment from the proprietors for their safety or protection (Ruiz & Bono, 2004, p. 49), this action is a violation. Others believe accepting discounts, free meals or other gratuities are not a violation of a particular department's policy but it allows the officer to build confidence and trust within the community. Inevitably the acceptance of insignificant gifts leads to the slippery slope of engaging in bigger issues such as bribery and extortion (Coleman, 2004, p. 33).

## **Greed and Temptation**

Greed and Temptation evolve from the slippery slope brought on by the acceptance of gratuities. A police officer may start with offenses of greed such as recovering small items from the property department that were never claimed or items left behind by suspects fleeing police during foot chases. In my opinion, temptation and greed is not a behavior that transpires from the lack of money, poor working conditions, or intentional deceptiveness but the justification stems from the opinion that seizure of the items are perks that come with wearing the uniform and the absence of the individual's morals and lack of integrity. Once the line has been crossed, the officer may find it hard to revert back from. In some cases, the officer does not recognize succumbing to temptation because it has become second nature.

## **Training, Supervision and Values**

Prior to a prospective candidate's acceptance into the police academy, extensive background checks and assessment tests are used to evaluate their character, judgment and critical thinking skills. After completion of the <https://assignbuster.com/critical-analysis-of-the-criminal-justice-system/>

academy, new recruits are trained by more experienced officers who play the role as mentors. Supervisors are unable to be involved in every aspect of the mentoring process, the hope is that the supervisor is an active participant within his department or division and is aware of the best person to assign with a new recruit. Unfortunately there are more officers than supervisors, hence the need for other officers to function in the capacity of a training and mentor (Peak, 2010, p. 345). If the mentoring officer has a corrupt mentality exposing the unethical and negative side of police work, the recruit may have a misconception of the attitudes and expectations of being a police officer with integrity. The corruption could possibly work as an advantage, allowing the new recruit to realize the route not to take and to maintain the core values instilled from the training academy.

## **Ethics in the Courts**

### **The Judge**

The Code of Judicial Conduct's purpose is to prevent the judge from being an active participant in actions that will allow him to act in an unprofessional manner questioning his ability to perform his duties and responsibilities without prejudice (Gray, 2005, p. 35). Judges are held at a higher standard than any other official within the court system, therefore their loyalty and integrity are expectations from the general public (Peak, 2010, p. 347).

Unfortunately as in the case of police officers, some judges believe they are above the law, expecting preferential treatment because of their position.

The thought of being investigated or convicted of any misconduct would be preposterous in their eyes (Peak, 2010, p. 347). Once a judge gets comfortable with the thought of escaping the law, the thought process could

easily carry into the courtroom. A federal judge in Texas appointed by President Bush in 1990 was convicted of sexual misconduct of two female court employees and sentenced to 3 years in prison (Casselmann, 2009, p. A. 4).

In 2006, one hundred and thirty five judges were disciplined in a public forum for ethical misconduct; some cases were severe enough to have the judge removed from office. Not all states allow public discipline to preserve the innocent until proven guilty stature on behalf of the judge, if he is proven innocent of the allegation he could face ridicule (Tembeckjian, 2007, p. 419). Public confidence in the court system is important, if the public has no confidence in the system, they will not respect it and decide to carry out their own punishment as judge and jury.

## **Lawyers for the Defense**

Defense lawyers are not held to such a high degree as judges but they must have morals and principles to be able to represent a defendant fairly. A defendant has the right to counsel and should have the confidence in knowing their counsel will treat them in a way in which they themselves would want to be treated, by sacrificing their own personal time, and tapping into resources that would be beneficial in the case against their client. Three attorneys from the state of Kentucky were working as foreclosure attorneys and represented clients referred by a particular foreclosure company, in exchange for their services the law firm grossed more than a quarter of a million dollars. The act of the business being referred by the foreclosure company versus the lawyers seeking the clients on their own was in violation of the Ohio Code of Professional Responsibility (Seidenberg, 2009, p. 26). As <https://assignbuster.com/critical-analysis-of-the-criminal-justice-system/>



recently as 2000, defense attorneys in the state of Florida have been the target of Federal Government investigations. The investigations stemmed from the unsuccessful prosecution against drug cartels and kingpins. Several attorneys were charged with victim intimidation and money laundering resulting in convictions and jail time for their involvement in the acquittals of high profile and infamous clients (Carter, 2000, p. 18).

## **Prosecutors**

The prosecutor must be able to prove the defendant is guilty beyond all reasonable doubt but prosecutors have a tendency to be a bit pretentious and break the law for the sake of justice regardless the cost. Unfortunately innocent people are placed in a position of pleading guilty to crimes they did not commit as a result of misconduct. Misconduct by prosecutors is commonplace within the courtrooms, an effective tactic that works in their favor. It consists of destroying, altering or withholding evidence, intimidating defense witnesses to testify in exchange for lesser sentences, coaching witnesses for the prosecution to give statements that help their case against the defendant. Ultimately the defendant does not receive a fair trial and is wrongly convicted. Criminal convictions in recent years have been overturned because of misconduct by prosecutors in regards to scientific and exculpatory evidence. A prosecutor has the moral obligation to maintain a level of competence in the courtroom. If he has evidence the defendant did not commit the crime he is being convicted of, the prosecutor should bring for the information (Joy & McMunigal, 2008, p. 44). Unfortunately the appellate courts allow this type of behavior to continue which gives the

prosecutor the freedom to do whatever he feels he can get away with in the courtroom (Peak, 2010, p. 348).

## **Other Court Employees**

Confidential employees have the responsibility to maintain ethical standards as well as attorneys and judges. Their positions within the court system allow them access to court records and they are often privy to information that can lead them to commit misconduct. Court clerks have sometimes been accused of simple offenses as fixing tickets and other favors for friends and relatives to severe cases of accepting bribes. Several other cases involving the unethical actions of employees include a building operations manager in Hennepin County, Minnesota charged with stealing over \$16, 000 from the state by claiming she worked more than 500 hours, a county jail nurse in the same state was charged with stealing drugs prescribed for inmates (Olson & Duchshere, 2009).

## **Ethics in Corrections**

The role of a Correctional Officer (CO) is to maintain discipline and order within the prison and involves direct contact with inmates on a daily basis. The stress level for a CO includes hostile actions towards the officer, danger, taunts, long working hours and menial pay in an unfulfilled environment (Peak, 2010, p. 349). As in a police environment, the supervisor sets the tone for the standards of behavior among the officers and the climate of the correctional facility is predicated on the security level. Inmates housed in a maximum security facility are most likely to challenge an officer without any regard to the repercussions of their actions because they are possibly serving a life sentence; he feels he has nothing to lose. In 1990, data

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collected by the Department of Justice showed 185 assaults on federal correctional officers, 10, 731 correctional facility officers were assaulted by inmates and by 1995, 14 staff members were killed as a result of assaults (Bierman, 2006, p. 68). Correctional Officers are at a greater risk of injury because of weapons manufactured from everyday items within the prisons. COs have to take great precautions to protect themselves, these precautions include the use of force in an effort to gain control of a deviant inmate. The Federal Bureau of Prisons (BOP) established a code of ethics to reduce incidents of the use of force when using restraints or a stun gun to subdue an unruly inmate. The Use of Force and the Application of Restraints on Inmates statement gives specific guidelines as to how and when it should be implemented. Proper written documentation is required for legal purposes and each encounter is recorded to ensure this method was warranted. However, the use of force should be exercised as a last resort once other measures of control are proved to be unsuccessful (Falk, 1995, p. 110).

The harsh working conditions in prisons can cause correctional officers to inflict physical abuse on inmates violating the Eight Amendment-banning the use of cruel and unusual punishment. The abuse occurs in state and prisons as well as jails. The largest jail in the U. S., Cook County in Illinois, has been on a 25 year investigation from repeated reports of excessive abuse.

Excessive abuse is not the only act committed by correctional officers. The issues of overcrowding with the lack of correctional officers allow officers to form a relationship of strong bonds vowing to protect each other, not berate an officer in the presence of inmates, and to trust the officer's word over that of an inmate. That bond can be easily broken by officers who report

indiscretions by referring to them as snitches. The expectation is that anything that goes on in the prison stays in the prison. Using inmates as a form of entertainment is one of the most degrading experiences for the inmate; provoking fights among rival gangs, allowing sexual, verbal, and physical abuse are several complaints reported by other officers.

The Rikers Island prison in New York was under investigation for alleged extortion rings within its young adult division. This discovery was based on an inquiry into the death of a juvenile within the facility (Buettner, 2009, p. A. 17).

Some correctional officers resort to unethical behavior of turning a blind eye as in the case of the highest ranking official at a Westmoreland County, Pennsylvania prison. The officer was found guilty of allowing an inmate to run a drug-trafficking operation by using a cell phone from the confinements of his cell, all of the transactions for the operation took place during the officer's night shift. After serving a 60 day suspension for his involvement, the officer was fired (Anonymous, 2009, pp. 1-2).

## **Summary**

Organizational policy is based on a standard of operating procedures determined by a collaboration of ideas, suggestions and processes to improve or implement the outcome of an organization's goals.

Organizational structures were implemented within the criminal justice system to increase functionality. Based on this ideology, in order for the components to achieve their goals of becoming and remaining successful in organizational policy as well as implementing justice programs, each entity

needs to recognize its pitfalls. Each component needs to establish mission statements and introduce education and training programs at all levels. Allow feedback and ongoing discussions when procedures have proven to be ineffective. The foundation was laid at the inception of the criminal justice system. Over the years, we have made revisions to keep up with our ever-changing society. Laws and prison sentences differ from state to state based on the need for harsher penalties in the prevention of crime. The Code of Judicial Conduct was established to introduce judges to judicial ethics within the courtroom and prevent them from being removed from office because of indiscretions. The Amendments were established to ensure citizens' rights were not violated. The common denominator is ethics. Policies are unable to be administered if rules and regulations are violated by police, the court systems and corrections.