

JOYCELYN M. POLLOCK



NINTH EDITION

---

Ethical Dilemmas and Decisions in

---

# CRIMINAL JUSTICE



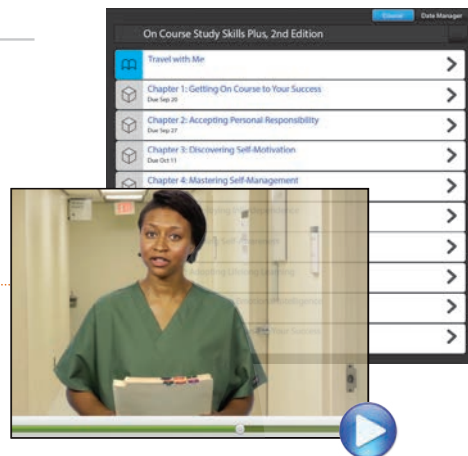
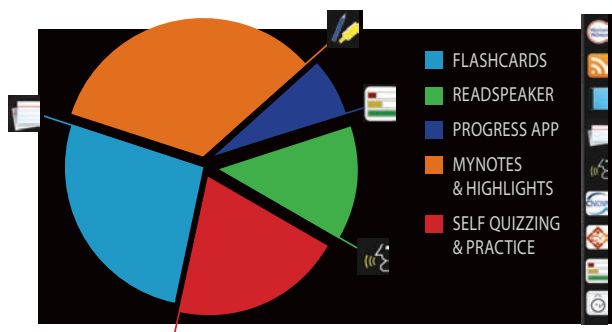
## Tap into engagement

MindTap empowers you to produce your best work—consistently.

MindTap is designed to help you master the material. Interactive videos, animations, and activities create a learning path designed by your instructor to guide you through the course and focus on what's important.

### MindTap delivers real-world activities and assignments

that will help you in your academic life as well as your career.



### MindTap helps you stay organized and efficient

by giving you the study tools to master the material.

### MindTap empowers and motivates

with information that shows where you stand at all times—both individually and compared to the highest performers in class.

*"MindTap was very useful – it was easy to follow and everything was right there."*

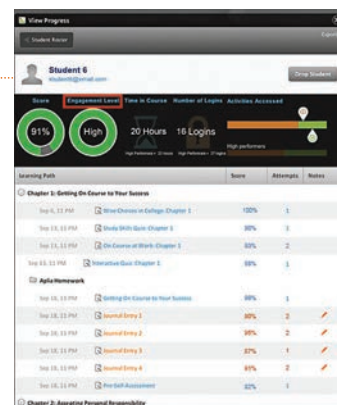
— Student, San Jose State University

*"I'm definitely more engaged because of MindTap."*

— Student, University of Central Florida

*"MindTap puts practice questions in a format that works well for me."*

— Student, Franciscan University of Steubenville



Tap into more info at: [www.cengage.com/mindtap](http://www.cengage.com/mindtap)

Source Code: 14M-AA0105

Engaged with you.  
[www.cengage.com](http://www.cengage.com)



Copyright 2017 Cengage Learning. All Rights Reserved. May not be copied, scanned, or duplicated, in whole or in part. Due to electronic rights, some third party content may be suppressed from the eBook and/or eChapter(s). Editorial review has determined that any suppressed content does not materially affect the overall learning experience. Cengage Learning reserves the right to remove additional content at any time if subsequent rights restrictions require it.



NINTH EDITION

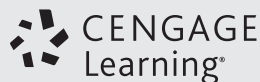
---

Ethical Dilemmas and Decisions in

---

# CRIMINAL JUSTICE

JOYCELYN M. POLLOCK  
Texas State University



---

Australia • Brazil • Mexico • Singapore • United Kingdom • United States

This is an electronic version of the print textbook. Due to electronic rights restrictions, some third party content may be suppressed. Editorial review has deemed that any suppressed content does not materially affect the overall learning experience. The publisher reserves the right to remove content from this title at any time if subsequent rights restrictions require it. For valuable information on pricing, previous editions, changes to current editions, and alternate formats, please visit [www.cengage.com/highered](http://www.cengage.com/highered) to search by ISBN#, author, title, or keyword for materials in your areas of interest.

**Important Notice:** Media content referenced within the product description or the product text may not be available in the eBook version.

**Ethical Dilemmas and Decisions in  
Criminal Justice, Ninth Edition**

Joycelyn M. Pollock

Product Director: Marta Lee-Perriard

Sr. Product Manager: Carolyn  
Henderson-MeierAssociate Content Developer: Jessica  
Alderman

Product Assistant: Valerie Kraus

Sr. Marketing Manager: Kara Kindstrom

Art and Cover Direction, Production  
Management, and Composition: Lumina  
Datamatics, Inc.

Manufacturing Planner: Judy Inouye

Cover Image: Image Source/ Getty Images

© 2017, 2014 Cengage Learning

WCN: 02-200-208

ALL RIGHTS RESERVED. No part of this work covered by the copyright herein may be reproduced, transmitted, stored, or used in any form or by any means graphic, electronic, or mechanical, including but not limited to photocopying, recording, scanning, digitizing, taping, Web distribution, information networks, or information storage and retrieval systems, except as permitted under Section 107 or 108 of the 1976 United States Copyright Act, without the prior written permission of the publisher.

For product information and technology assistance, contact us at  
**Cengage Learning Customer & Sales Support, 1-800-354-9706.**

For permission to use material from this text or product,  
submit all requests online at [www.cengage.com/permissions](http://www.cengage.com/permissions)  
Further permissions questions can be e-mailed to  
[permissionrequest@cengage.com](mailto:permissionrequest@cengage.com).

Library of Congress Control Number: 2015951153

Student Edition:

ISBN: 978-1-305-57737-4

Loose-leaf Edition:

ISBN: 978-1-305-66105-9

**Cengage Learning**20 Channel Center Street  
Boston, MA 02210  
USA

Cengage Learning is a leading provider of customized learning solutions with employees residing in nearly 40 different countries and sales in more than 125 countries around the world. Find your local representative at [www.cengage.com](http://www.cengage.com).

Cengage Learning products are represented in Canada by  
Nelson Education, Ltd.

To learn more about Cengage Learning Solutions,  
visit [www.cengage.com](http://www.cengage.com).

Purchase any of our products at your local college store or at our preferred online store [www.cengagebrain.com](http://www.cengagebrain.com).

Printed in the United States of America  
Print Number: 01      Print Year: 2015

To Greg and Eric, as always



# About the Author



**Joycelyn M. Pollock** received her Ph.D. in Criminal Justice at the State University of New York at Albany. She also obtained a J.D. at the University of Houston, and passed the Texas Bar in 1991. She is a University Distinguished Professor at Texas State University.

The first edition of *Ethics in Crime and Justice: Dilemmas and Decisions* was published in 1986 and continues to be one of the leading texts in the field. Dr. Pollock has also published *Women's Crimes, Criminology and Corrections* (2015); *Criminal Law*, 11th Ed. (2016); *Prisons and Prison Life: Costs and Consequences* (2014); *Crime and Justice in America: An Introduction* (2012); *Morality Stories, 2nd Ed.* (with Michael Braswell and Scott Braswell, 2007); *Women, Prison and Crime, 2nd Ed.* (2002); *Sex and Supervision: Guarding Male and Female Inmates* (1986); *Counseling Women Prisoners* (1999); *Criminal Women* (2000); and *Prison: An American Institution, 2nd Ed.* (Editor, 2006). In addition to publishing these and other texts, she maintains an active research agenda, primarily in the areas of police ethics and women's prisons.

In addition to teaching at Texas State University, Dr. Pollock has delivered training to police officers, probation officers, parole officers, constables, and other groups in the areas of sexual harassment, ethics, criminology, and other subjects. She has taught at the Houston Police Academy and the Bill Blackwood Law Enforcement Management Institute, and has been a guest speaker for the International Association of Policewomen, the Texas Juvenile Justice Association, and the Southwest Legal Institute, among other groups. In 1998, she was awarded a Fulbright Teaching Fellowship to Turku School of Law in Turku, Finland. She was also a recipient of a Senior Scholar Justice award from the Open Society Institute. The Academy of Criminal Justice Sciences has honored her with the Bruce Smith Award for outstanding contributions to the field of criminology and the ACJS Fellows Award for contributions to criminal justice research. In 2008, she was awarded the Distinguished Alumni award from the State University at Albany, School of Criminal Justice.







# Brief Contents

Preface | xv

<b>PART I</b>	<b>ETHICS AND THE CRIMINAL JUSTICE SYSTEM ■ 1</b>
<b>CHAPTER 1</b>	MORALITY, ETHICS, AND HUMAN BEHAVIOR ■ 1
<b>CHAPTER 2</b>	DETERMINING MORAL BEHAVIOR ■ 24
<b>CHAPTER 3</b>	JUSTICE AND LAW ■ 54
<b>CHAPTER 4</b>	BECOMING AN ETHICAL PROFESSIONAL ■ 85
<b>PART II</b>	<b>POLICE ■ 113</b>
<b>CHAPTER 5</b>	THE POLICE ROLE IN SOCIETY ■ 113
<b>CHAPTER 6</b>	POLICE DISCRETION AND DILEMMAS ■ 146
<b>CHAPTER 7</b>	POLICE CORRUPTION AND RESPONSES ■ 183
<b>PART III</b>	<b>LAW ■ 223</b>
<b>CHAPTER 8</b>	LAW AND LEGAL PROFESSIONALS ■ 223
<b>CHAPTER 9</b>	DISCRETION AND DILEMMAS IN THE LEGAL PROFESSION ■ 252
<b>CHAPTER 10</b>	ETHICAL MISCONDUCT IN THE COURTS AND RESPONSES ■ 293
<b>PART IV</b>	<b>CORRECTIONS ■ 327</b>
<b>CHAPTER 11</b>	THE ETHICS OF PUNISHMENT AND CORRECTIONS ■ 327
<b>CHAPTER 12</b>	DISCRETION AND DILEMMAS IN CORRECTIONS ■ 367
<b>CHAPTER 13</b>	CORRECTIONAL PROFESSIONALS: MISCONDUCT AND RESPONSES ■ 402
<b>CHAPTER 14</b>	MAKING ETHICAL CHOICES ■ 434
	Bibliography ■ 469
	Name Index ■ 503
	Subject Index ■ 511
	Case Index ■ 519





# Contents

Preface xv

## **PART I** **ETHICS AND THE CRIMINAL JUSTICE SYSTEM** **1**

### **Chapter 1** **Morality, Ethics, and Human Behavior** **1**

Why Study Ethics?	4	Conclusion	20
Defining Terms	8	Chapter Review	20
<i>Morals and Ethics</i>	8	Study Questions	21
<i>Duties</i>	11	Writing/Discussion Exercises	21
<i>Values</i>	11	Key Terms	22
Making Moral Judgments	13	Ethical Dilemmas	22
Analyzing Ethical Issues and Policies	16		
Analyzing Ethical Dilemmas	17		

### **Chapter 2** **Determining Moral Behavior** **24**

Ethical Systems	26	Relativism, Absolutism, and	
<i>The Ethics of Virtue</i>	28	Universalism	46
<i>Natural Law</i>	30	<i>Toward a Resolution: Situational Ethics</i>	48
<i>Religion</i>	32	Conclusion	49
<i>Ethical Formalism</i>	35	Chapter Review	50
<i>Utilitarianism</i>	38	Study Questions	51
<i>The Ethics of Care</i>	39	Writing/Discussion Exercises	52
Egoism: Ethical System or Not?	42	Key Terms	52
Other Methods of Ethical Decision		Ethical Dilemmas	52
Making	44		
<i>Using Ethical Systems to Resolve</i>			
<i>Dilemmas</i>	44		

### **Chapter 3** **Justice and Law** **54**

Origins of the Concept of Justice	56	Immoral Laws and the Moral Person	77
Distributive Justice	57	Conclusion	81
Corrective Justice	63	Chapter Review	81
<i>Substantive Justice</i>	64	Key Terms	82
<i>Procedural Justice</i>	67	Study Questions	82
Wrongful Convictions	70	Writing/Discussion Exercises	83
Race, Ethnicity, and Justice	73	Ethical Dilemmas	83
Restorative Justice	75		

## **Chapter 4      Becoming an Ethical Professional      85**

<b>Individual Influences</b>	<b>86</b>	<b>Societal and Cultural Influences</b>	<b>107</b>
<i>Biological Factors</i>	87	<b>Conclusion</b>	<b>108</b>
<i>Learning Theory</i>	90	<b>Chapter Review</b>	<b>109</b>
<i>Kohlberg's Moral Stage Theory</i>	91	<b>Study Questions</b>	<b>110</b>
<b>Workgroup and Organizational</b>		<b>Writing/Discussion Exercises</b>	<b>111</b>
<b>Influences</b>	<b>96</b>	<b>Key Terms</b>	<b>111</b>
<i>Ethical Climate and Organizational</i>		<b>Ethical Dilemmas</b>	<b>111</b>
<i>Justice</i>	100		
<i>Ethics Training</i>	103		
<i>Leadership</i>	104		

## **PART II      POLICE      113**

### **Chapter 5      The Police Role in Society      113**

<b>Crime Fighter or Public Servant?</b>	<b>116</b>	<i>Police Culture and "Noble Cause"</i>	131
<i>Crime Fighter</i>	116	<i>Police Culture, Loyalty, and the Blue</i>	
<i>Public Servant</i>	116	<i>Curtain of Secrecy</i>	133
<i>History of Policing: From Public Servant</i>		<i>Police Culture Today</i>	137
<i>to Crime Fighter</i>	119	<b>Conclusion</b>	<b>142</b>
<i>Future of Policing</i>	122	<b>Chapter Review</b>	<b>143</b>
<b>Power and Discretion</b>	<b>123</b>	<b>Study Questions</b>	<b>144</b>
<i>Discretion and Duty</i>	124	<b>Writing/Discussion Exercises</b>	<b>144</b>
<b>Formal Ethics for Police Officers</b>	<b>128</b>	<b>Key Terms</b>	<b>144</b>
<i>The Law Enforcement Code of Ethics</i>	128	<b>Ethical Dilemmas</b>	<b>144</b>
<b>The Police Subculture</b>	<b>129</b>		
<i>Themes and Value Systems</i>	129		
<i>The Cop Code</i>	130		

### **Chapter 6      Police Discretion and Dilemmas      146**

<b>Discretion and Discrimination</b>	<b>148</b>	<b>Conclusion</b>	<b>178</b>
<i>A Racial Divide</i>	149	<b>Chapter Review</b>	<b>179</b>
<i>Racial Profiling</i>	152	<b>Study Questions</b>	<b>180</b>
<i>Police Shootings of Blacks</i>	156	<b>Writing/Discussion Exercises</b>	<b>180</b>
<b>Discretion and the Use of Force</b>	<b>157</b>	<b>Key Terms</b>	<b>180</b>
<i>What We Know and Don't Know</i>	158	<b>Ethical Dilemmas</b>	<b>180</b>
<i>Factors in the Use of Force</i>	160		
<i>Use of Tasers (CEDs)</i>	161		
<i>Responses to Uses of Force</i>	163		
<b>Discretion and Criminal Investigations</b>	<b>165</b>		
<i>Proactive Investigations</i>	166		
<i>Reactive Investigations</i>	173		

**Chapter 7      Police Corruption and Responses      183**

- Economic Corruption   186**
  - Gratuities   187*
  - Graft   190*
- Abuse of Authority   191**
  - Professional Courtesy and Ticket Fixing   191*
  - On-Duty Use of Drugs and Alcohol   192*
  - Sexual Misconduct   193*
- Criminal Cops   196**
- Costs of Corruption   197**
  - Consent Decrees   198*
- Explanations of Deviance   200**
  - Individual Explanations   201*
  - Organizational Explanations   204*
  - Societal Explanations   207*
- Reducing Police Corruption   208**
  - “Rotten Apple” Responses   208*
  - “Rotten Barrel” Responses   213*
  - Societal Responses   218*
- Conclusion   220**
- Chapter Review   220**
- Study Questions   220**
- Writing/Discussion Exercises   221**
- Key Terms   221**
- Ethical Dilemmas   221**

**PART III      LAW      223****Chapter 8      Law and Legal Professionals      223**

- The Role of Law   225**
- Justifications for Law   226**
  - Preventing Harm to Others   227*
  - Preventing Offensive Behavior   227*
  - Preventing Harm to Self (Legal Paternalism)   227*
  - Preventing Harm to Societal Morals (Legal Moralism)   228*
- Paradigms of Law   230**
  - Consensus Paradigm   230*
  - Conflict Paradigm   231*
  - Pluralist Paradigm   232*
- First, Let’s Kill All the Lawyers   233**
- Law and the Legal Professional   234**
- Legal Agent or Moral Agent?   237**
- Ethics for Legal Professionals   239**
  - Ethical Guidelines for Judges   243*
- Culture and Ethics   246**
- Conclusion   248**
- Chapter Review   248**
- Study Questions   249**
- Writing/Discussion Exercises   249**
- Key Terms   250**
- Ethical Dilemmas   250**

**Chapter 9      Discretion and Dilemmas in the Legal Profession      252**

- Ethical Issues for Defense Attorneys   254**
  - Responsibility to the Client   255*
  - Conflicts of Interest   258*
  - Zealous Defense   259*
  - Confidentiality   261*
  - Duty Regarding Perjury   264*
- Ethical Issues for Prosecutors   265**
  - Use of Discretion   266*
  - Duty to Disclose   269*
  - Conflicts of Interest   270*
  - Plea Bargaining   272*
  - Media Relations   274*
- Expert Witnesses   275*
- Zealous Prosecution   282*
- Ethical Issues for Judges   284**
  - Conflict of Interest   284*
  - Use of Discretion   285*
- Conclusion   289**
- Chapter Review   289**
- Study Questions   290**
- Writing/Discussion Exercises   290**
- Key Terms   291**
- Ethical Dilemmas   291**

## **Chapter 10 Ethical Misconduct in the Courts and Responses 293**

- Ethical Misconduct 294**
  - Defense Attorney Misconduct 295*
  - Prosecutorial Misconduct 296*
  - Judicial Misconduct 302*
- Factors in Wrongful Conviction 306**
- Explanations for Misconduct 309**
  - Explanations of Prosecutor Misconduct 309*
  - Explanations for Misconduct of Judges 312*
- Responding to Misconduct 312**
  - Professional and Judicial Sanctions 313*
  - Rethinking Prosecutorial Immunity 314*
  - Better Training, Better Supervision 314*
  - Conviction Integrity Units 315*
- Mandatory DNA Testing 315*
- Private Crime Labs and Enhanced Due-Process Procedures 316*
- Judicial Independence and the Constitution 318**
  - Judicial Activism 320*
- Conclusion 323**
- Chapter Review 323**
- Study Questions 324**
- Writing/Discussion Exercises 324**
- Key Terms 325**
- Ethical Dilemmas 325**

## **PART IV CORRECTIONS 327**

### **Chapter 11 The Ethics of Punishment and Corrections 327**

- Rationales for Punishment and Corrections 329**
  - Retribution 332*
  - Prevention Rationale 335*
- Ethical Frameworks for Corrections 340**
  - Utilitarianism 341*
  - Ethical Formalism 341*
  - Ethics of Care 342*
  - Rawlsian Ethics 342*
- Punishments 343**
  - Supermax Prisons 345*
  - Private Prisons 348*
  - Capital Punishment 352*
- Formal Ethics for Correctional Professionals 356**
- Occupational Subcultures in Corrections 358**
  - The Correctional Officer Subculture 358*
  - Treatment Professionals 362*
  - The Probation/Parole Officer Subculture 362*
- Conclusion 363**
- Chapter Review 363**
- Study Questions 365**
- Writing/Discussion Exercises 365**
- Key Terms 365**
- Ethical Dilemmas 365**

### **Chapter 12 Discretion and Dilemmas in Corrections 367**

- Correctional Officers 369**
  - A New Era of Corrections? 372*
  - Relationships with Inmates 373*
  - Sexual Relationships and Sexual Abuse in Prison 375*
  - Use of Force 380*
  - Maintaining Morality in Prison 382*
  - Jail Officers 382*
- Treatment Staff 385**
- Community Corrections 390**
  - Caseload Supervision 392*
  - Parole Officers 394*
  - Halfway Houses 395*
- Conclusion 398**
- Chapter Review 398**
- Study Questions 399**
- Writing/Discussion Exercises 400**
- Key Terms 400**
- Ethical Dilemmas 400**

## **Chapter 13      Correctional Professionals: Misconduct and Responses      402**

### **Misconduct and Corruption    403**

*California*    405

*Mississippi*    409

*Texas*    410

*Florida*    410

*Treatment Professionals*    415

*Community Corrections*    415

### **Explanations for Misconduct    418**

*Individual Explanations*    419

*Organizational Explanations*    421

*Societal Explanations*    424

### **Responses to Corruption    424**

*A New Era? Procedural Justice/Restorative  
Justice*    427

### **Conclusion    431**

### **Chapter Review    431**

### **Study Questions    432**

### **Writing/Discussion Exercises    432**

### **Key Terms    432**

### **Ethical Dilemmas    432**

## **Chapter 14      Making Ethical Choices      434**

### **Just Wars and Just Means    435**

*The Response to 9/11*    438

### **Utilitarianism versus Human**

**Rights–Based Policing    458**

### **Ethical Dilemmas and Decisions    461**

### **Conclusion    466**

### **Chapter Review    466**

### **Study Questions    467**

### **Writing/Discussion Exercises    467**

### **Key Terms    467**

### **Ethical Dilemmas    468**

Bibliography    469

Name Index    503

Subject Index    511

Case Index    519







# Preface

The first edition of this book was published in 1986, thus this 9th edition marks the 30th year of its existence! When I first wrote the book, there were very few textbooks for a course covering criminal justice ethics. Now there are probably a dozen, so I appreciate that readers continue to find value in this one. Over the years, the book has been shaped by current events, reviewers' comments, and the many individuals who have provided feedback. I want to thank each and every person who has contacted me through e-mail, letters, or personally at conferences. I welcome and appreciate all feedback. Please continue to let me know what you think and help me make the book better and more accurate.

Since the first edition, this text has provided the basic philosophical principles necessary to analyze ethical dilemmas, and it has also included current news events to show that these are not simply "ivory tower" discussions. Each edition has incorporated recent news, sometimes requiring updates even as the book goes to press. The book also identifies themes that run through the entire system, such as discretion and due process. In each edition, I have tried to improve the coverage and structure of the book without changing the elements that work for instructors.

This edition has been the most challenging I have faced in quite some time because there has been a veritable explosion of interest and news in the area of criminal justice ethics: law enforcement use of force, prosecutorial misconduct identified in exoneration, and mandatory minimums are only a few topics that have garnered a great deal of national attention recently. As with prior years, it is difficult not to devote more space to law enforcement than courts or corrections, since the troubles there seem to receive greater coverage by both the academic and popular press. However, in the last several years, examples of prosecutorial misconduct have been in the news much more often, as well as other factors involved in wrongful convictions. These topics began to be covered in this book several editions ago, but now it seems a tipping point has been reached in public consciousness so that concern is resulting in legislative activity. Similarly, the scandals in the Florida prison system and Rikers Island Jail in New York City have led to investigations. Systemic issues such as mandatory minimums, the lack of indigent defense, and mass imprisonment have even entered the presidential campaign, with candidates making criminal justice reform part of their platforms. These are interesting times for those in criminal justice, and it is important to note that the discussion cannot be just about law but, also, must involve a discussion about professional ethics and how to ensure that the great discretion that comes with being a criminal justice professional is used ethically.

This edition keeps the basic structure of devoting three chapters each to police, courts, and corrections with four introductory chapters. For this edition, I have not changed the organization of the chapters too much, or the chapter objectives or study questions, so instructors should experience an easy transition in terms of course material. All of the Walking the Walk boxes remain the same as well. The focus of revisions has been, instead, on covering relevant academic work and news. The changes are described in more detail below.

## New to This Edition

- **Chapter 1: Morality, Ethics, and Human Behavior** – The beginning of the chapter was rewritten. It now discusses current events, including Ferguson, Missouri, and the aftermath; wrongful convictions; and national scandals in prisons to set the stage as to why it is important to conduct ethical analysis. The format of the chapter remains roughly the same, but certain discussions have been deleted (e.g., Messner and Rosenfeld’s cultural strain explanation) to make room for an expanded discussion of the analysis of ethical *issues* compared to the existing discussion of *dilemmas*. The definitions of ethical issues and ethical dilemmas has been moved up to the first section and then a section on analyzing an ethical issue has been added using the preexisting paragraphs of Fast and Furious and the critical thinking checklist. The section on morality and behavior has been deleted as it is repetitive of the discussion in Chapter 4. The In the News box on public corruption has been updated with more recent data. The Michael Vick dogfighting box has been removed. There has been a Quote & Query box added since there was not one before.
- **Chapter 2: Determining Moral Behavior** – The story of Detective Poole has been removed from the chapter opening and used for an integrated “ethical dilemma” analysis near the end of the chapter. The chapter now opens with a new story of a Florida officer who was dubbed “the dirtiest cop” to trigger the question, why is something defined as right or wrong? Another added section in the front of the chapter is an ethical issue analysis on whether officers’ names should be released to the public after officer-involved shootings. Many chapters will now have an ethical issue analysis and an ethical dilemma analysis. The news item on the Wall Street broker who said Lehman Brothers was a corrupt culture was deleted as was the old “In the News” corrupt politicians box, and a new news story was used that discusses the 30 most corrupt politicians in New York along with the governor’s commission to investigate corruption.
- **Chapter 3: Justice and Law** – The beginning of the chapter has been rewritten to begin by asking the question, “What is justice?” and immediately moves to definitions and the relationship between justice and ethics. The two biggest changes to the chapter are a new section on race and ethnicity and justice implications, and a new section on procedural justice and the work of Tom Tyler. The section on CEO’s salaries has been updated. Also added are: a news box on a CEO deciding to give all employees a minimum salary of \$70,000, a news box on a family’s decision to forgive their daughter’s killer, and a news box about wrongful convictions.
- **Chapter 4: Becoming an Ethical Professional** – The beginning of the chapter has been rewritten and the chapter has been reorganized to reflect individual, workgroup, organizational, and cultural/societal influences on ethical decision making. The existing material on biological, learning and moral development research has been put under individual influences on behavior as well as a new section on Rokeach’s value survey. The workgroup section has utilized the existing information on Bandura’s techniques of moral neutralization and also the concepts of bounded ethicality and ethical fading. Added is a section on ethical climate studies. The organizational influence section utilizes the existing leadership and ethics training material and adds a section referencing organizational justice. The cultural/societal

section briefly discusses legal and cultural influences on organizational behavior. New news boxes have been added on a major ethical scandal in Hidalgo County, Texas, and the interrogation tactics that led to wrongful convictions by Burge and Guevarra in the Chicago Police Department. A new policy box has been added on whether to institute pension forfeiture policies.

- **Chapter 5: The Police Role in Society** – The beginning of the chapter has been changed to introduce the national discussion of policing issues that has emerged since Ferguson. The discussion of crime control versus being a public servant in the last edition has been expanded with current discussions of the warrior versus guardian model (which is very similar) and Radley Balko’s book and articles on the “rise of the warrior cop.” The recent events concerning the 1032 military equipment sharing program is discussed. The history of policing section has remained substantially the same. An expanded discussion is offered of the police role in a free, democratic society. News boxes were added on police nonfeasance, updated news on the San Francisco “testilying” scandal, and a box on police officers who violated the blue curtain of secrecy. The information on the Gallup poll results on trust in police has been updated.
- **Chapter 6: Police Discretion and Dilemmas** – The beginning of the chapter has been changed to an introduction that highlights the scope of power and discretion officers have and how law and policy don’t resolve decisions that involve race relations, the use of force, and other decision making. The order of the topics has been rearranged to bring force up to the second topic area in view of its current importance. Updated national poll numbers on public trust in police have been added. New boxes on Maricopa County (racial profiling) and Albuquerque (use of force) have been added. There is updated information on the numbers of police shootings and a discussion of the scarcity of good data. The organization of the use-of-force section has been revised to include subheadings of “what we know,” “factors,” and “responses.” Updated news on undercover operations has been added as well as new information on interrogation practices.
- **Chapter 7: Police Corruption and Responses** – All news boxes have been updated. Added sections include the costs of civil lawsuits and an expanded discussion of consent decrees. The corruption section has been rearranged to two categories: economic corruption and abuse of authority, with new examples for different types. A few types of misconduct have been added (ticket fixing, theft). The sexual misconduct section has been expanded with more recent studies. A discussion of PTSD was added as an individual explanation for corruption. Organizational factors have been subdivided into small work-group (exemplified by narcotics task forces) and larger organizational issues to reflect the same organization as Chapter 4. “Perverse incentives” (e.g., pressure from Compstat) has been added as an organizational factor. Within the suggestions to reduce misconduct discussion, a section on body cameras has been added, along with a section on public databases of misconduct. Added or expanded discussions include police decertification, secrecy of discipline or personnel records of officers, Christopher Dorner’s “manifesto” alleging unfairness and bias in LAPD’s disciplinary process, the arbitration process, and societal responses to misconduct. An ethical issue box on whether police disciplinary proceedings should remain exempt from public disclosure laws was added.

- **Chapter 8: Law and Legal Professionals** – A new box on the suicide of Kalief Browder has been added to illustrate the potential failure of due process. The Michael Morton case, which opened the chapter, has been updated to reflect more current events, as has the news box on same-sex marriage. The section on paradigms has been substantially shortened in line with reviewers' comments that it was less relevant to the discussion of ethics than other topics. The white-collar crime box has been removed. The section "Let's kill all the lawyers" that was in Chapter 10 has been moved here to consolidate the idea of the role of lawyers and public perceptions of them and to make room in Chapter 10 for more examples of misconduct. The box on Tenaha, Texas (asset forfeiture) has been updated. A discussion on underfunding of indigent defense has been added. The legal agent/moral agent discussion has been shortened. The number of states who have adopted subsections g and h of Rule 3 has been updated. A discussion about campaign financing and judicial elections has been added, moving the section that had been in Chapter 10 up to this chapter. Throughout the chapter minor revisions have updated and streamlined the information.
- **Chapter 9: Discretion and Dilemmas in the Legal Profession** – Chapter 9 has been slightly reorganized with subheadings added. The Criminal Justice Standards have been updated to reflect the 4th edition. The discussion on indigent defense has been expanded and updated. News stories have been added, including the DOJ investigation into Missoula, Montana's lack of prosecution of alleged sexual assault, and the misconduct charges against John Jackson, the prosecutor in the Willingham case. The discussion on asset forfeiture has been expanded and updated to reflect current events. The Daubert standard for scientific evidence has been clarified. Updated news on the FBI's review of hair analysis cases has been added as well as more current examples of crime lab scandals.
- **Chapter 10: Ethical Misconduct in the Courts and Responses** – The opening story has remained the same but this chapter has been reorganized by providing subheadings to better assist the student in identifying the types of misconduct, the reasons for misconduct, and the responses. Numerous subheadings have been added and discussions have been consolidated and streamlined. New news boxes have been added on attorney misconduct (legal services for sex) and prosecutor misconduct (the Scarcella scandal in New York City and the jailhouse informant scandal in Orange County, California). The Ted Stevens prosecution scandal news box has been enlarged to add two other cases of federal prosecutor misconduct. Also, studies of the prevalence of prosecutor misconduct have been added and the discussion on jailhouse informants has been expanded. New news stories of federal judge misconduct have been added. The wrongful conviction section has been retitled, reorganized, and updated with current numbers and research. The section on judicial activism has been slightly rewritten.
- **Chapter 11: The Ethics of Punishment and Corrections** – The beginning of this chapter has been rewritten to introduce the reader to current events occurring in corrections and to emphasize how Chapters 11–13 are similar in organization to the set of three chapters each for police and law. Current correctional legislation and/or issues were discussed ("ban the box," reentry initiatives, etc.) indicating a shift in the penal harm era. New news boxes have been provided for a lawsuit against the

BOP (Bureau of Prisons) for their placement of the mentally ill in supermax ADX, Nebraska's law abolishing the death penalty, and *Hall v. Florida*, 2014. The box on Rikers Island was updated along with a longer in-text discussion. The discussion on private prisons has been updated and expanded with new information.

- **Chapter 12: Discretion and Dilemmas in Corrections** – The opening of the chapter remains the same. The discussion of *Brown v. Plata* has been updated. The discussion of PREA that was in Chapter 13 has been moved to Chapter 12 to consolidate (and enlarge) the sexual abuse in prison discussion, and there is a new subheading created to more easily find this discussion. Now there is a use of force section and sexual abuse section set up in somewhat similar ways to the discretion sections in the parallel police chapter (Chapter 6).
- **Chapter 13: Correctional Professionals: Misconduct and Responses** – The opening has remained the same, but Chapter 13 has been substantially reorganized to provide subheadings and case studies of prison corruption and abuse, which are enlarged discussions of current events in Florida, California, Colorado, and Texas. A new discussion of PTSD as an individual explanation of correctional officer misconduct has been added. Several new stories regarding probation and parole officer misconduct have been added. An ethical issue box has been added. The procedural justice discussion has been utilized as a response to corruption. An expanded discussion of societal explanations of misconduct has been added.
- **Chapter 14: Making Ethical Choices** – The last chapter of the book has been updated with current news, largely news concerning Edward Snowden and other revelations concerning the use of surveillance by the NSA and local law enforcement. Other news concerned the release of the “torture” report by the Select Committee on Intelligence, the decision not to prosecute anyone for the CIA enhanced interrogation activities, and new information on whistleblowers. A discussion of human rights-based policing has been added with new material.

## Features

There are several boxed features found in *Ethical Dilemmas and Decisions in Criminal Justice*, 9th Edition, which highlight and provide real-world examples of key concepts and issues.

**IN THE NEWS** This feature has been present since the earliest editions of this book. Each chapter presents news items that relate to the discussion. In every edition, some of the news stories are kept, but most are cycled out to make room for current events. Examples include:

Ferguson, Missouri police-citizen conflict

Walter Scott case

Kalief Browder case

**QUOTE AND QUERY** Another long-time feature of the book, the Quote and Query boxes offer some classic and current quotes meant to illustrate a point or issue from the chapter's discussion. There is a query following the quote that spurs the reader to think about the quote in the context of the discussion.

**WALKING THE WALK** Introduced in the 6th edition, these boxes describe individuals who display ethical courage. This feature proved to be so popular that every chapter now has one.

**CHAPTER DILEMMAS** Each chapter has a featured dilemma followed by an extended analysis under law, policy and ethics. The feature makes explicit the focus of the book, illustrated by its title, *Dilemmas and Decisions*.

**CHAPTER ISSUES** A new feature to the 9th edition are featured "issues" boxes similar to dilemma boxes. These present a current issue or policy in policing, courts, or corrections followed by an extended analysis under law, policy and ethics. The addition of the issues boxes show how issues can be analyzed in a similar way to personal dilemmas.

## Pedagogical Aids

---

In addition to the boxed features, *Ethical Dilemmas and Decisions in Criminal Justice*, 9th Edition, has several pedagogical aids designed to enhance student learning and comprehension.

**KEY TERMS** As in previous editions, key terms are highlighted and defined in the chapters.

**STUDY QUESTIONS** These questions identify important points and concepts in the chapter and can be used for test reviews or test questions.

**WRITING/DISCUSSION QUESTIONS** These questions cover more abstract concepts and are designed to provide an opportunity to employ critical thinking skills in a writing or discussion exercise.

**ETHICAL DILEMMAS** Since the first edition of this book, dilemmas have been provided at the back of each chapter that are designed to be representative of what criminal justice professionals might face in the field. Many of the dilemmas describe true incidents and have been provided by police officers, probation officers, lawyers, and other criminal justice professionals. Others have been gleaned from news events or the media.

**CHAPTER OBJECTIVES** Chapter-opening learning objectives preview the key content in each chapter for the reader.

**CHAPTER REVIEW** At the end of each chapter, the chapter objectives are presented again, but there is also a short summary of content. These reviews summarize the key content of the chapter for the reader.



## Ancillaries

A number of supplements are provided by Cengage Learning to help instructors use *Ethical Dilemmas and Decisions in Criminal Justice* in their courses and to aid students in preparing for exams. Supplements are available to qualified adopters. Please consult your local sales representative for details.

## For the Instructor

**ONLINE INSTRUCTOR’S MANUAL** The manual includes learning objectives, a detailed chapter outline (correlated to PowerPoint slides), lecture notes, assignments, media tools, ethical dilemmas, and classroom discussions/activities. The manual is available for download on the password-protected website and can also be obtained by e-mailing your local Cengage Learning representative.

**ONLINE TEST BANK** Each chapter of the test bank contains questions in multiple-choice, true/false, completion, and essay formats, with a full answer key. The test bank is coded to the learning objectives that appear in the main text, references to the section in the main text where the answers can be found, and Bloom’s taxonomy. Finally, each question in the test bank has been carefully reviewed by experienced criminal justice instructors for quality, accuracy, and content coverage. The test bank is available for download on the password-protected website and can also be obtained by e-mailing your local Cengage Learning representative.

**CENGAGE LEARNING TESTING, POWERED BY COGNERO** This assessment software is a flexible online system that allows you to import, edit, and manipulate test bank content from the *Ethical Dilemmas and Decisions in Criminal Justice* test bank or elsewhere, including your own favorite test questions; create multiple test versions in an instant; and deliver tests from your LMS, your classroom, or wherever you want.

**ONLINE POWERPOINT LECTURES** Helping you make your lectures more engaging while effectively reaching your visually oriented students, these handy Microsoft PowerPoint® slides outline the chapters of the main text in a classroom-ready presentation. The PowerPoint slides are updated to reflect the content and organization of the new edition of the text and feature some additional examples and real-world cases for application and discussion. Available for download on the password-protected instructor companion website, the presentations can also be obtained by e-mailing your local Cengage Learning representative.

## For the Student

### Mindtap Criminal Justice

With MindTap™ Criminal Justice for *Ethical Dilemmas and Decisions in Criminal Justice*, you have the tools you need to better manage your limited time, with the ability to complete assignments whenever and wherever you are ready to learn. Course material that is specially customized for you by your instructor in a proven, easy-to-use interface keeps you engaged and active in the course. MindTap helps you achieve better grades today by cultivating a true understanding of course concepts and with a mobile app to keep you on track. With a wide array of course-specific tools and apps—from



note taking to flashcards—you can feel confident that MindTap is a worthwhile and valuable investment in your education.

You will stay engaged with MindTap's video cases and You Decide career scenarios and remain motivated by information that shows where you stand at all times—both individually and compared to the highest performers in class. MindTap eliminates the guesswork, focusing on what's most important with a learning path designed specifically by your instructor and for your Ethics course. Master the most important information with built-in study tools such as visual chapter summaries and integrated learning objectives that will help you stay organized and use your time efficiently.

## Acknowledgments

---

I thank the reviewers for this new edition. They are:

David D. Legere, J.D., New England College

Patrick McGrain, Gwynedd Mercy University

Amy Pinero, Baton Rouge Community College

Deborah Woodward Rhyne, University of Central Florida, Cocoa

Jerry L. Stinson II, Southwest Virginia Community College

The staff members at Cengage have been integral to the development of this edition as well. They are: Carolyn Henderson Meier, Senior Product Manager; Jessica Alderman, Associate Content Developer; and Kara Kindstrom, Senior Marketing Manager. Thanks also to Kailash Rawat, Associate Program Manager at Lumina Datamatics, and Jeri Freedman, copyeditor.

As always, I thank my colleagues and chairperson, Christine Sellers, at Texas State University for support through the years. I also wish to thank those individuals in the field who have emailed me with questions and suggestions for the book and hope that they continue to do so. Most importantly, I thank my husband, Eric Lund, for all that he does.

—Joycelyn Pollock  
jpl2@txstate.edu

# Morality, Ethics, and Human Behavior



Steve Liss/The LIFE Images Collection/Getty Images

Scott Waddle (the subject of the Walking the Walk box on p. 19).

In 2015, it would be hard not to be aware of the events that took place in Ferguson, Missouri (Michael Brown), Staten Island, New York (Eric Garner), North Charleston, South Carolina (Walter Scott), Baltimore, Maryland (Freddie Gray), and Cleveland, Ohio (Tamir Rice). Five black males lost their lives in these cities at the hands of police officers. There is debate and divisiveness about whether these events represent a “police problem” or a problem with citizens who, through their actions, compel police to use force in self-defense. But we have been here before. In 1991, Rodney King was beaten by LAPD and sheriff’s deputies on the side of a California freeway. What followed included the now famous videotape, the officers involved being acquitted in a state court, the Los Angeles riot where 53 died, and, the eventual federal conviction of two of the officers. Rodney King became a nationally known figure representing the problem of police use of force, especially

## Chapter Objectives

1. Explain the difference between ethical issues and ethical dilemmas.
2. Give examples of how discretion permeates every phase of the criminal justice system and creates ethical dilemmas for criminal justice professionals.
3. Explain why the study of ethics is important for criminal justice professionals.
4. Learn the definitions of the terms *morals*, *ethics*, *duties*, *supererogatories*, and *values*.
5. Describe what behaviors might be subject to moral/ethical judgments.

against minorities. In the next decade, much was written about this problem and sincere attempts, such as community policing initiatives, were made by law enforcement agencies around the country to address the enmity between law enforcement and minority communities.

Today, it seems as if the intervening 20 years had never happened. Michael Brown's death by a Ferguson, Missouri, police officer became a flashpoint similar to King's beating, triggering protests and mob violence. Once again, we, as a nation, are focused on law enforcement and whether there is abuse of the awesome power invested in those who wear police uniforms. It is with this backdrop that we open the ninth edition of this ethics text. Make no mistake, even though the discussions that have been generated pose legal questions (e.g., the legal test for use of force) and bring in academic researchers to present national statistics and correlates in the use of force, ethics is a part of this debate as well. It seems that at no other time in history, except perhaps during the civil unrest of the 1960s, has so much attention been focused on law enforcement and the criminal justice system. Laws, police, courts, and corrections have increasingly captured national attention. As crime rates have continued to drop across the country, there is growing concern that our criminal justice system is bloated, and, worse, unfair, especially against certain groups of citizens. Each of the paragraphs below briefly reviews current national attention and activity in the major subsystems of the criminal justice system: law, police, courts, and corrections.

We are seeing a growing chorus of discontent against the federal government's expansion of criminal laws, especially when such laws eliminate the requirement of criminal intent. "Overcriminalization" is said to be an issue that liberals and conservatives can agree upon, even if for different reasons. Recently, there has been enough political will to begin a discussion to roll back mandatory minimum sentencing, argue for moderation in drug sentencing and allow judges the discretion to consider mitigating factors, at least on the federal level.

As previously mentioned, the events in Ferguson, Missouri, and other places have spurred national attention to law enforcement, especially law enforcement's use of force against minorities. For instance, the 21st Century Panel on Policing was quickly formed by President Obama and, in early March 2015, the panel issued a comprehensive report with recommendations for major changes in training, accountability, and the culture of policing. Recently revealed is the fact that there are no good national figures for how many people are killed and/or injured by law enforcement officers. This lack of knowledge has spurred lawmakers in states and Congress to propose legislation requiring such data to be recorded and submitted to a state and/or national database. Responses to the perceived problem of misuse of force have been suggested, including body cameras, civilian review boards, the use of independent prosecutors after a police shooting, and implicit bias training that shows officers how their subconscious can identify black citizens as more dangerous, spurring them to be quicker to use deadly force.

A more concerted effort to document police misconduct is growing as well. A libertarian think tank (the Cato Institute) created and maintains a website that collects and displays news stories of police misconduct ([www.policemisconduct.net](http://www.policemisconduct.net)), and the ACLU has initiated a drive to submit open records requests in several large cities for disciplinary records to develop a database of officers who have been the target of numerous brutality lawsuits. The Justice Department has initiated and completed investigations in many major cities across the United States that result in "consent decrees," agreements whereby the city agrees to a certain set of changes in policies and

procedures to address issues of inappropriate use of force and violations of rights of citizens to prevent being sued by the Civil Rights Division of the Department of Justice.

Police are not the only target of scrutiny. The continuing news stories of the wrongfully convicted have led to the development of Innocence Projects around the country, where volunteer lawyers and students investigate cases and, in a growing number of cases, are successful in exonerating their clients. The National Registry of Exonerations ([www.law.umich.edu/special/exoneration/Pages/about.aspx](http://www.law.umich.edu/special/exoneration/Pages/about.aspx)) notes that 1,570 people have been released from prison because their conviction has been found to be the result of inaccurate eyewitness testimony, false confession, and/or misconduct on the part of system actors. Conviction integrity units have also emerged in prosecutors' offices around the country. These prosecutors either work with Innocence Projects or identify cases on their own to investigate as potential wrongful convictions. Prosecutors have come under scrutiny themselves for unethical and illegal actions with a few being criminally charged for their actions that contributed to sending innocent people to prison.

Prisons and correctional professionals have come into the spotlight as well. Major reports from science and policy groups have criticized our "mass imprisonment," which makes our country stand apart from all its peers in the number of citizens incarcerated. The Colson Commission was formed by Congress to evaluate the problem of over-imprisonment at the federal level. Efforts are under way across the nation to find better solutions to the problem of recidivism. Spurring these efforts in certain states are prison scandals, such as those in Florida, where prisoners' deaths have been the target of external investigations, and Rikers Island jail in New York, where systemic abuses have been revealed.

The thread that ties all these national trends together is abuse of power and/or a lack of adherence to the principles of justice, equity, and compassion. The purpose of this book is to take a careful look at ethical decision making by criminal justice professionals. The criminal justice system can be examined using political, legal, organizational, or sociological approaches; however, in this book we shift the lens somewhat and look at the system from an ethics perspective. Asking whether something is legal, for instance, is not necessarily the same as asking whether something is right.

Ethical discussions in criminal justice focus on *issues* or *dilemmas*. **Ethical issues** are broad social questions, often concerning the government's social control mechanisms and the impact on those governed—for example, what laws to pass, what sentences to attach to certain crimes, whether to abolish the death penalty, and whether to build more prisons. The typical individual does not have much control over these issues. Other issues may be more discrete and can be said to be policy choices—for example, mandatory DNA collection for all misdemeanor arrestees, disclosing police officers' names to the public when they have been involved in shooting, or utilizing an "open file" policy in a prosecutor's office. Individuals may have control over these decisions, but they are often developed over the course of time through committees or other group decision-making processes.

While ethical issues are broad social questions or policy decisions, **ethical dilemmas** are situations in which one person must make a decision about what to do. Either the choice is unclear or the right choice will be difficult because of the costs involved.

At times, one's belief regarding an ethical issue gives rise to a personal dilemma. In 2000, George Ryan, then governor of Illinois, declared a moratorium on use of the death penalty in his state when at least five individuals on death row were exonerated through the use of DNA evidence. One of his last acts as he left office in 2003 was to commute

**ethical issues**

Difficult social or policy questions that include controversy over the "right" thing to do.

**ethical dilemmas**

Situations in which it is difficult for an individual to make a decision, either because the right course of action is not clear or because the right course of action carries some negative consequences.

the sentences of all 160 prisoners on death row to life without parole. Governor Ryan faced a difficult personal dilemma because he was in a position to do something about his belief that the death penalty was implemented in a way that could never be just. There was strong support and strong opposition to his action, indicating the depth of his dilemma and the seriousness of the issue. In a sad and ironic footnote to this story, Ryan ended up in prison himself after being convicted of federal racketeering charges and sentenced to a six-and-a-half-year sentence in a federal prison. Evidence proved that he had been involved in a system of “sweetheart deals” and backroom bribes selling government contracts since he had been secretary of state (Schaper, 2007).

In this book, ethical *issues* and ethical *dilemmas* will be analyzed. As you will see, the approach taken in both types of analysis is similar. Throughout the book we approach decision making using the framework of applying, *law*, *policy*, and then *ethics*. In each chapter, there will be at least one ethical issue or ethical dilemma that will be presented and analyzed. You will see that tools of ethical reasoning are necessary for a good analysis. It is for this reason that we must first explore the foundations of ethics.

## Why Study Ethics?

**discretion** The authority to make a decision between two or more choices.

Although the decisions faced by professionals associated with the criminal justice system—ranging from legislators who write the laws to correctional professionals who supervise prisoners—may be different, they also have similarities, especially in that these professionals all experience varying degrees of **discretion**, authority, and power. If decisions were totally bounded by legal rules or policy regulations, then, perhaps, there would be less reason for ethical analysis; however, the greater role discretion plays in a profession, the more important is a strong grounding in ethics.

Legislators have the power to define certain acts as illegal and, therefore, punishable. They also have the power to set the amount of punishment. Public safety is usually the reason given for criminalizing certain forms of behavior. In other cases, legislators employ moral definitions for deciding which behaviors should be illegal. “Protection of public morality” is the rationale for a number of laws, including those involving drugs, gambling, and prostitution. On June 26, 2015, in *Obergefell v. Hodges*, the Supreme Court held that all states must license and recognize same-sex marriages. Before the Supreme Court issued its decision, legislators in some states passed laws allowing same-sex marriages, while in other states, legislators passed laws defining such marriages as illegal. The arguments for and against such laws are based in morality, not public safety. How do legislators use their great discretion to balance the rights of *all* people? We explore these questions in more detail in Chapter 3, which covers the concept of justice, and in Chapter 8, which begins our discussion of the law and legal professionals.

Part of the reason that legislators are not held to very high esteem in this country is that we perceive that their discretion is unethically influenced by lobbyists and personal interests rather than the public good. A clear example of this was the case of Jack Abramoff, a lobbyist who eventually ended up in prison. At the height of his Washington influence, however, he provided lawmakers with private seats in athletic skyboxes, expensive dinners, hunting trips, and cash. His most notorious dealings involved lobbying activities for Indian tribes. Lawmakers were lobbied to either approve or block the building of casinos. Amazingly, Abramoff’s firm at one point was obtaining money from one client to advance their interest in building a casino while, at the same time,



taking money from another client to block it. Much of the money charged to clients ended up in the pockets of legislators. The 2010 movie *Casino Jack and the U.S. of Money* is based on Jack Abramoff. The case illustrates that sometimes lawmakers' positions are not taken from moral or ethical stances at all, but rather according to which lobbyist has managed to persuade them.

Police officers, who enforce the laws created by legislators, also have a great deal of discretionary power. Most of us, in fact, have benefited from this discretion when we receive a warning instead of a traffic ticket. Police officers have the power to deprive people of their liberty (through arrest) and the power to decide which individuals to investigate and perhaps target for undercover operations. They also have the power to decide that lethal force is warranted, hence the great current debate in this country that focuses on police shootings, especially of minorities. In the United States, we enjoy constitutional protections against untrammelled police power, and police act as the guardians of the law, not merely enforcers for those in power. In Chapters 5, 6, and 7, the ethical use of police discretion is discussed in more detail.

Prosecutors probably face the least public scrutiny of all criminal justice professionals—which is ironic because they possess a great deal of discretion in deciding whom and how to prosecute. They decide which charges to pursue and which to drop, which cases to take to a grand jury, how to prosecute a case, and whether to pursue the death penalty in homicide cases. Although prosecutors have an ethical duty to pursue justice rather than conviction, some critics argue that at times their decision making seems to be influenced by politics or factors other than the goal of justice.

Defense attorneys have ethical duties similar to prosecutors in some ways; however, they also have unique duties to their client. After deciding whether to take a case or not, they decide whether to encourage a client to agree to a plea deal, what evidence to utilize and how to try the case, and whether to encourage a client to appeal.

Judges also possess incredible power, typically employed through decisions to deny or accept plea bargains, decisions regarding rules of evidence, and decisions about sentencing. Chapters 8, 9, and 10 explore the ethical issues of legal professionals in the criminal justice system.

Finally, correctional officials have immense powers over the lives of some citizens. Probation officers make recommendations in presentence reports and violation reports that affect whether an individual goes to prison. Prison officials decide to award or take away “good time,” and they may punish an inmate with segregation; both types of decisions affect the individual’s liberty. Correctional officers make daily decisions that affect the life and health of the prisoners they supervise. Parole officials decide when to file a violation report, and make other decisions that affect a parolee as well as his or her family members. In short, all correctional professionals have a great deal of discretion over the lives of those they control. The ethical issues and dilemmas of correctional professionals are discussed in Chapters 11, 12, and 13.

Although the professionals discussed face different dilemmas, they also share the following common elements:

- *They each have discretion—that is, the power to make a decision.* Although the specific decisions are different, they all involve power over others and the potential deprivation of life, liberty, or property.
- *They each have the duty of enforcing the law.* Although this concept is obvious with police, it is also clear that each of the professionals mentioned has a basic duty to

uphold and enforce all laws; they serve the law in their professional lives. You may have heard the phrase “we are a nation of laws, not men.” What this means is that no one is supposed to be above the law, no matter how powerful, and no one is supposed to take the law into their own hands, no matter how clear the guilt.

- *They must accept that their duty is to protect the constitutional safeguards that are the cornerstone of our legal system—specifically, due process and equal protection.* Due process protects each of us from error in any governmental deprivation of life, liberty, or property. We recognize the right of government to control and even to punish, but we have certain protections against arbitrary or unlawful use of that power. Due process protects us against such abuses. We also expect that the power of our government will be used fairly and in an unbiased manner. Equal protection should ensure that what happens to us is not determined by the color of our skin, our gender, our nationality, or the religion we practice. Laws are for everyone, and the protection of the law extends to all of us. Although a fair amount of evidence indicates that different treatment does exist, the ideal of equal protection is an essential element of our legal system and should be an operating principle for everyone working in this system.
- *They are public servants.* Their salaries come from the public purse. Public servants possess more than a job; they have taken on special duties involving the public trust. Individuals such as legislators, public officials, police officers, judges, and prosecutors are either elected or appointed guardians of the public’s interests. Arguably, they must be held to *higher standards* than those they guard or govern. Temptations are many, and, unfortunately, we find examples of *double standards*, in which public servants take advantage of their positions for special favors, rather than higher standards of exemplary behavior.

The Josephson Institute (2005), which is heavily involved in ethics training for corporations and public agencies, identifies the ethical principles that should govern public servants: public service (treating the office as a public trust), objective judgment (striving to be free from conflicts of interest), accountability (upholding open decision making), democratic leadership (observing the letter and spirit of the law), and respectability (avoiding the appearance of impropriety).

It would be ideal if all public servants possessed the characteristics identified by Delattre as shown in the Quote and Query box; however, even public servants of

good character are sometimes perplexed as to the right course of action in situations they encounter in their professional duties. It is also true that there are all too many cases of public servants who have forgotten their mission of public service and substituted private enrichment. The In the News box provides depressing evidence that not all public servants have the public’s interest in mind.

Ethical issues for professionals in the justice system include relationships with citizens and others over whom they have power (e.g., whether to use one’s authority to coerce a citizen to provide sex, money, or other benefits), their relationship with their agency (e.g., whether to hide misconduct or rule breaking or whether to be lax about keeping up with professional training

## QUOTE & QUERY

Part of what is needed [for public servants] is a public sense of what Madison meant by wisdom and good character: balanced perception and integrity. Integrity means wholeness in public and private life consisting of habits of justice, temperance, courage, compassion, honesty, fortitude, and disdain for self-pity.

(Delattre, 1989b: 79)



Do you believe that this is asking too much of our public servants?

## IN THE NEWS | Public Corruption

Citizens for Responsibility and Ethics in Washington (CREW), a citizen watchdog group, releases an annual report titled “CREW’s Most Corrupt,” which highlights corrupt members of Congress. The latest report is for 2013 and identifies 17 sitting members of Congress who have violated laws or engaged in serious breaches of ethics. The report was compiled by analyzing media reports, Federal Election Commission reports, court documents, and travel disclosure reports. The list includes legislators who received financial benefits from those who arguably may have benefited from the legislators’ voting decisions. “Unjust enrichment” is a perennial problem of legislators, and in the report is a 2012 Rasmussen poll finding that 60 percent of the American public believe that members of Congress are willing to sell their vote.

Of course it isn’t only federal politicians who use their position for self-gain. A *Report to Congress* from

the Department of Justice reflects that investigations and prosecutions of public corruption at the state and local level have remained relatively consistent through the years with about 133 state and 272 local officials convicted in 1993 and 100 state and 319 local officials convicted in 2012. On the other hand, there seems to be a decline of federal officials convicted with 595 in 1993 but only 369 in 2012. While it may be wished that federal officials have become more honest over the years, there is no extraneous evidence to support that conclusion.

Powerful Assemblyman Sheldon Silver is only the latest well-known politician to be arrested for corruption in New York. An article graphic in the *New York Times* illustrates 30 previous individuals who had been accused of using their public office for personal gain ([www.nytimes.com/interactive/2014/07/23/nyregion/23moreland-commission-and-new-york-political-scandals.html?\\_r=0](http://www.nytimes.com/interactive/2014/07/23/nyregion/23moreland-commission-and-new-york-political-scandals.html?_r=0)).

**Sources:** Citizens for Responsibility and Ethics in Washington, 2013; Department of Justice, 2012; Rashbaum and Kaplan, 2015.

obligations), or their relationships with one another (e.g., whether to informally sanction a colleague when they speak out about misconduct). Professionals in the criminal justice system have unique powers and, therefore, unique ethical issues that they must be sensitive to in order to understand their ethical obligations and duties.

Felkenes (1987: 26) explained why the study of ethics is important for criminal justice professionals:

1. Professionals are recognized as such in part because [a] “profession” normally includes a set of ethical requirements as part of its meaning. . . . Professionalism among all actors at all levels of the criminal justice system depends upon their ability to administer policy effectively in a morally and ethically responsible manner.
2. Training in ethics helps develop critical thinking and analytical skills and reasoning abilities needed to understand the pragmatic and theoretical aspects of the criminal justice system.
3. Criminal justice professionals should be able to recognize quickly the ethical consequences of various actions and the moral principles involved.
4. Ethical considerations are central to decisions involving discretion, force, and due process which require people to make enlightened moral judgments.
5. Ethics is germane to most management and policy decisions concerning such penal issues as rehabilitation, deterrence, and just deserts.
6. Ethical considerations are essential aspects of criminal justice research.



In answer to a similar question, Braswell (1996/2002: 8) explained the following five goals of a study of ethics:

- Become aware of and open to ethical issues.
- Begin developing critical thinking skills.
- Become more personally responsible.
- Understand how the criminal justice system is engaged in a process of coercion.
- Develop **wholesight** (which roughly means exploring with one's heart as well as one's mind).

#### **wholesight**

Exploring issues with one's heart as well as one's mind.

The comprehensive nature of these two lists requires few additions; however, we also could note that individuals who ignore ethics do so at their peril. They may find themselves sliding down a slippery slope of behaviors that threaten their career and personal well-being. Even if their actions are not discovered, many people suffer from personal crises when their actions are in conflict with their conscience. Three basic points are reiterated below:

- We study ethics because criminal justice is uniquely involved in coercion, which means there are many and varied opportunities to abuse such power.
- Almost all criminal justice professionals are public servants and, thus, owe special duties to the public they serve.
- We study ethics to sensitize students to ethical issues and provide tools to help identify and resolve the ethical dilemmas they may face in their professional lives.

## Defining Terms

**morals** Principles of right and wrong.

**ethics** The discipline of determining good and evil and defining moral duties.

The words **morals** and **ethics** are often used in daily conversation. For example, when public officials use their offices for personal profit or when politicians accept bribes from special interest groups, they are described as unethical. When an individual does a good deed, engages in charitable activities or personal sacrifice, or takes a stand against wrongdoing, we might describe that individual as a moral person. Often, the terms *morals* and *ethics* are used interchangeably. This makes sense because they both come from similar root meanings. The Greek word *ethos* pertains to custom (behavioral practices) or character, and *morals* is a Latin-based word with a similar meaning. As Box 1.1 shows, the inquiry into how to determine right and wrong behavior has perplexed humans for thousands of years. Philosophers through the ages owe much to the great Greek philosophers who discussed what the “good life” meant.

## Morals and Ethics

Morals and morality refer to what is judged as good conduct. Immorality refers to bad conduct. We would judge someone who intentionally harms a child for their own enjoyment, or someone who steals from the church collection plate as immoral. Some of us disagree on whether other behaviors, such as abortion, capital punishment, or euthanasia, are immoral. How to resolve such questions will be the subject of the next chapter.

**BOX 1.1 \ Socrates, Plato, Aristotle, and the Stoics****Socrates (469–399 BCE)**

Socrates associated knowledge with virtue. He believed that bad acts are performed through ignorance. The wisest man was also the most virtuous. He believed that all people acted in a way to serve their own interests, but some people, because they were ignorant, pursued short-term happiness that would, in the long run, not make them happy. True happiness could come only from being virtuous, and virtue comes from knowledge. Thus, Socrates believed his role was to strip away self-deception and incorrect assumptions; hence, the so-called Socratic method of questioning a person's beliefs. The concept of *eudaimonia* is translated as happiness, but it is much more than that and is sometimes translated as flourishing. Self-actualization, to borrow Abraham Maslow's term, might be similar to the Greek concept of *eudaimonia*, the idea that one's happiness involved the pursuit of excellence and virtue.

**Plato (423–347 BCE)**

Plato was a student of Socrates. In fact, it is his writings that are the source for what we know about Socrates's ideas. Because his writings were largely in the form of dialogues, with Socrates as the main character in many of them, it is hard to distinguish Socrates's ideas from Plato's. Another difficulty in summarizing Plato's ideas about ethics is that he undertook a wide-ranging exploration of many topics. His writings included discussions of ethical and political concepts, as well as metaphysical and epistemological questions. In *The Republic*, he, like Socrates, associates virtues with wisdom. The four virtues he specifically mentions are wisdom, courage, moderation, and justice. Three of the virtues are associated with the three classes of people he describes as making up society: the rulers (wisdom), the soldiers (courage), and the merchants (moderation since they pursue lowly pleasures). Justice is the idea that each person is in the place they should be and performs to their best ability. Plato discussed the concept of *eudaimonia*, mentioned above, which can be considered self-completion or self-actualization. A good life would be one that fit the nature of the person—that is, moderation for the merchant class, courage for the soldier, and wisdom for leaders. There is, of course, the need for all virtues in every life to some degree.

**Aristotle (384–322 BCE)**

Aristotle was a student of Plato. Aristotle did not believe, as did Socrates, that bad behavior came from ignorance. He believed some people had weak wills and did bad things knowing they were bad. The idea of *eudaimonia* is part of Aristotle's discussions of what it means to live a good life. Again, this concept, although translated as happiness, has more to do with flourishing or self-actualization. The good life is one devoted to virtue and moderation. The so-called Golden Mean was choosing actions that were moderate and between two extremes. For instance, courage was the virtue whereas the deficiency was cowardice and the excess was foolhardiness. Generosity is the mean between stinginess and wastefulness, and so on. Aristotle's virtue theory is discussed more fully in the next chapter.

**Stoics (Third Century BCE, Includes Zeno, Seneca, and Epictetus)**

The Stoic philosophical school is associated with the idea that man is a part of nature and the essential characteristic of man is reason. Reason leads to virtue. Virtue and morality are simply rational action. While Plato divided people into the three classes of leaders, soldiers, and everyone else, the Stoics simply saw two groups: those who were rational/virtuous and those who were irrational/evil. They perceived life as a battle against the passions. They argued that people should not seek pleasure, but should seek virtue, because that is the only true happiness. Moreover, they should seek virtue out of duty, not because it will give them pleasure.

For further information, go to:

**Stanford Encyclopedia of Philosophy:** <http://plato.stanford.edu>; and the Internet Encyclopedia of Philosophy: [www.iep.utm.edu](http://www.iep.utm.edu)

The term *ethics* refers to the study and analysis of what constitutes good or bad conduct (Barry, 1985: 5; Sherman, 1981: 8). There are several branches, or schools, of ethics:

- **Meta-ethics** is the discipline that investigates the meaning of ethical systems and whether they are relative or are universal, and are self-constructed or are independent of human creation.
- **Normative ethics** determines what people ought to do and defines moral duties based on ethical systems or other means of analysis.
- **Applied ethics** is the application of ethical principles to specific issues.
- **Professional ethics** is an even more specific type of applied ethics relating to the behavior of certain professions or groups.

While these definitions of ethics refer to the *study* of right and wrong behavior, more often, in common usage, *ethics* is used as an adjective (ethical or unethical) to refer to behaviors relating to a profession, while *moral* is used as an adjective to describe a person's actions in other spheres of life. Most professions have codes of conduct that describe what is ethical behavior in that profession. For instance, the medical profession follows the Hippocratic Oath, a declaration of rules and principles of conduct for doctors to follow in their daily practices; it dictates appropriate behavior and goals.

Even though professional ethics restricts attention to areas of behavior relevant to the profession, these can be fairly inclusive and enter into what we might consider the private life of the individual. For instance, psychiatrists are judged harshly if they engage in romantic relationships with their patients. These rules usually are included in codes of ethics for these professions. When private behavior affects professional decision making, it becomes an ethical issue, such as when school bus drivers abuse drugs or alcohol, or when scientists are paid to do studies by groups who have a vested interest in seeing a particular outcome.

Public servants are especially scrutinized. We are very much aware of how politicians' private behavior can affect their career in politics. President Clinton's affair with intern Monica Lewinsky was a serious blow to his political career, and not just because he prevaricated in the congressional investigation. More recently Anthony Weiner's political career as a U.S. congressman was over after it was revealed he "sexted" (sent a sexually suggestive picture) to a woman, who reported it to the press. When he attempted a political comeback in a run for mayor of New York City in 2013, more sexting by Weiner was revealed under the pseudonym of "Carlos Danger." Such behavior, while a boon to late night comics, is tragically inexplicable behavior for a serious public servant. In professions involving the public trust, such as politics, education, and the clergy, there is a thin line between one's private life and one's public life. Citizens assume that if one is a liar and cheat in one's private life, then that also says something about how they would make decisions as a public servant. If one displays extremely poor judgment and disrespect for his family in his private life, he is not a good fit for public office. What about police officers, prosecutors, judges, or others in the criminal justice professions? They are also public servants. Should private decisions, such as whom they have sex with or whether they divorce their spouse, concern us?

For our purposes, it does not make a great deal of difference whether we use the formal or colloquial definitions of *morals* and *ethics*. This text is an applied ethics text, in that we will be concerned with what is defined as right and wrong behavior in the professions relevant to the criminal justice system and how people in these professions make decisions in the course of their careers. It also is a professional ethics text, because we are concerned primarily with professional ethics in criminal justice.

## Duties

The term **duties** refers to those actions that an individual must perform to be considered moral. For instance, everyone might agree that one has a duty to support one's parents if able to do so, one has a duty to obey the law (unless it is an immoral law), and a police officer has a moral and ethical duty to tell the truth on a police report. Duties are what you must do in order to be good.

Other actions, considered **supererogatories**, are commendable but not required. A good Samaritan who jumps into a river to save a drowning person, risking his or her own life to do so, has performed a supererogatory action. Those who stood on the bank receive no moral condemnation, because risking one's life is above and beyond anyone's moral duty. Of course, if one can help save a life with no great risk to oneself, a moral duty does exist in that situation.

Police officers have an ethical duty to get involved when others do not. Consider the 2001 attack on the World Trade Center. One of the most moving images of that tragedy was of police officers and firefighters running toward danger while others ran away. This professional duty to put oneself in harm's way is why we revere and pay homage to these public servants. Many civilians also put themselves in harm's way in this disaster, and because they had no professional duty to do so, they could be said to be performing supererogatory actions.

There are also **imperfect duties**, general duties that one should uphold but do not have a specific application as to when or how. For instance, most ethical systems support a general duty of generosity but have no specific duty demanding a certain type or manner of generosity. Another imperfect duty might be to be honest. Generally, one should be honest, but, as we will see in Chapter 2, some ethical systems allow for exceptions to the general rule.

**duties** Required behaviors or actions, that is, the responsibilities that are attached to a specific role.

**supererogatories** Actions that are commendable but not required in order for a person to be considered moral.

**imperfect duties** Moral duties that are not fully explicated or detailed.

## Values

**Values** are defined as elements of desirability, worth, or importance. You may say that you value honesty; another way of saying that is that one of your values is honesty. Others may value physical health, friendships, material success, or family. Individual values form value systems. All people prioritize certain things that they consider important in life. Values only become clear when there is a choice to be made; for instance, when you must choose between friendship and honesty, or material success and family. Behavior is generally consistent with values. For instance, some individuals believe that financial success is more important than family or health. In this case, we may assume that their behavior will reflect the importance of that value and that these persons will be workaholics, spending more time at work than with family and

**values** Judgments of desirability, worth, or importance.

**BOX 1.2** Values Exercise

Achievement	Altruism	Autonomy	Creativity
Emotional well-being	Family	Health	Honesty
Knowledge	Justice	Love	Loyalty
Physical appearance	Pleasure	Power	Recognition
Religious faith	Skill	Wealth	Wisdom

Arrange these values in order of priority in your life. What life decisions have you made that have been affected by the ordering of these values? Did you think of them directly when making your decision?

endangering their health with long hours, stress, and lack of exercise. Others place a higher priority on religious faith, wisdom, honesty, and/or independence than financial success or status. Consider the values in Box 1.2. Which, if any, do you believe are more important than others? Do you ever think about the values by which you live your life? Do you think that those professionals who are caught violating laws and/or ethical codes of conduct have a clear sense of their value system?

Values as judgments of worth are often equated with moral judgments of goodness. We see that both can be distinguished from factual judgments, which can be empirically verified. Note the difference between these factual judgments:

“He is lying.”

“It is raining.”

and these value judgments:

“She is a good woman.”

“That was a wonderful day.”

The last two judgments are more similar to moral judgments, such as “Lying is wrong” or “Giving to charities is good.” Facts are capable of scientific proof, but values and moral judgments are not.

Some writers think that value judgments and moral judgments are indistinguishable because neither can be verified. Some also think that values and morals are relativistic and individual. In this view, there are no universal values; values are all subjective and merely opinions. Because they are only opinions, no value is more important than any other value (Mackie, 1977: 22–24).

In contrast, others believe that not all values are equal, and that some values, such as honesty, are always more important than other values, such as pleasure. In this view, values such as charity, altruism, integrity, knowledge, and responsibility are more important or better than the values of pleasure or wealth. You may value personal pleasure over charity or honesty, but to someone who believes in universal values, you would be wrong in this view. This question is related to a later discussion in Chapter 2 concerning whether ethics are relative or absolute.

As stated earlier, values imply a choice or a judgment. If, for instance, you were confronted with an opportunity to cheat on an exam, your values of success and honesty would be directly at odds. Values and morals are similar, although values

indicate the *relative* importance of these constructs, whereas morals prescribe or proscribe behavior. The value of honesty is conceptually distinct from the moral rule against lying.

In the United States, success is defined almost exclusively by the accumulation of material goods, not by doing good deeds. The financial meltdown this country experienced in 2008 seems to be a good example of this. The widespread issuance of bad loans and the creation of the derivative markets were arguably due to the way the incentive systems were set up and the value placed on making money. The fact that such financial instruments were “toxic” and that the housing bubble was bound to collapse, along with the fortunes of many people who had invested or had obtained loans they couldn’t afford, didn’t seem to matter. The value system that precipitated the economic disaster seems to be fairly clear.

An explicit value system is part of every ethical system, as we will see in Chapter 2. The values of life, respect for the person, and survival can be found in all ethical systems. Certain values hold special relevance to the criminal justice system and those professionals who work within it; privacy, freedom, public order, justice, duty, and loyalty are all values that will come up frequently in later discussions.

## Making Moral Judgments

We make moral or ethical judgments all the time: “Abortion is wrong.” “Capital punishment is just.” “It’s good to give to charity.” “It’s wrong to hit your spouse.” “You should put in a day’s work for a day’s pay.” “You shouldn’t take credit for someone else’s work.” These are all judgments of good and bad behavior. We also make choices, knowing that they can be judged as right or wrong. Should you fake a sickness to your boss to get a day in the sun? Should you give back extra change that a clerk gave you by mistake? Should you tell a friend that her husband is having an affair even though he asked you not to tell? Should you cut and paste sections of Wikipedia into your term paper? These are all ethical decisions in that they can be judged as right or wrong.

Not all behaviors involve questions of ethics. Acts that can be judged as ethical or unethical, moral or immoral, involve four elements: (1) acts (rather than beliefs) that are (2) human and (3) of free will (4) that affect others.

**ACT** First of all, some act must have been performed. For instance, we are concerned with the *act* of stealing or the *act* of contributing to charity, rather than an idle thought that stealing a lot of money would enable us to buy a sailboat or a vague intention to be more generous. We are not necessarily concerned with how people feel or what they think about a particular action unless it has some bearing on what they do. The intention or motive behind a behavior is an important component of that behavior in some ethical systems; for instance, in ethical formalism (which we will discuss in Chapter 2), one must know the intent of an action to be able to judge it as moral or immoral. However, one also must have some action to examine before making a moral judgment.

**ONLY HUMAN ACTS** Second, judgments of moral or ethical behavior are directed specifically to human behavior. A dog that bites is not considered immoral or evil, although we may criticize pet owners who allow their dogs the opportunity to bite. Nor do we consider drought, famine, floods, or other natural disasters immoral even though they result in death, destruction, and misery. The devastating earthquakes that



hit Haiti in 2010 and Nepal in 2015 are not considered immoral, although individuals who could have helped victims and did not might be. Philosophers widely believe that only humans can be moral (or immoral) because of our capacity to reason. Because only humans have the capacity to be good—which involves a voluntary, rational decision and subsequent action—only humans, of all members of the animal kingdom, have the capacity to be bad.

There is much more to this argument, of course, and there are those who argue that some mammals show moral traits, if not moral sensibilities. Shermer (2004: 27–28), for instance, recognizes a pre-moral sense in animals, including shame or guilt in dogs, food sharing in bats, comforting and cooperative behaviors in chimpanzees, lifesaving behaviors in dolphins and elephants, and defending behaviors in whales. He argues that mammals, especially apes, monkeys, dolphins, and whales, exhibit attachment and bonding, cooperation and mutual aid, sympathy and empathy, direct and indirect reciprocity, altruism and reciprocal altruism, conflict resolution and peacemaking, deception and deception detection, community concern and caring about what others think, and awareness of and response to the social rules of the group.

Does this mean, then, that these mammals can be considered moral or immoral? Although perhaps they may be placed on the continuum of moral awareness closer to humans than other species, one could also argue that they do not possess the rationality of humans. They do not, as far as we know, freely choose to be good or bad, nor do they judge their fellow animals as right or wrong. It may explain, however, why there is such moral condemnation toward those who abuse or injure certain animals, especially mammals such as cats, dogs, and monkeys.

**FREE WILL** In addition to limiting discussions of morality to human behavior, we usually further restrict our discussion to behavior that stems from free will and free action. Moral culpability is not assigned to persons who are not sufficiently aware of the world around them to be able to decide rationally what is good or bad. The two groups traditionally exempt from responsibility in this sense are the young and the insane, similarly to what occurs when ascribing legal culpability.

Arguably, we do not judge the morality of their behavior because we do not believe that they have the capacity to reason and, therefore, have not freely chosen to be moral or immoral. Although we may chastise a two-year-old for hitting a baby, we do so to educate or socialize, not to punish, as we would an older child or adult. We incapacitate the violent mentally ill to protect ourselves, but we consider them sick, not evil. This is true even if their actual behavior is indistinguishable from that of other individuals we do punish. For example, a murder may result in a death sentence or a hospital commitment, depending on whether the person is judged to be sane or insane, responsible or not responsible.

**AFFECTS OTHERS** Finally, we usually discuss moral or immoral behavior only in cases in which the behavior significantly affects others. For instance, throwing a rock off a bridge would be neither good nor bad unless you could possibly hit or were aiming at a person below. If no one is there, your behavior is neutral. If someone is below, however, you might endanger that person's life, so your behavior is judged as bad.

All the ethical issues and dilemmas we will discuss in this book involve at least two parties, and the decision to be made affects at least one other individual in every case. In reality, it is difficult to think of an action that does not affect others, however indirectly. Even self-destructive behavior is said to harm the people who love us and who would be hurt by such actions.

Indeed, even a hermit living alone on a desert island may engage in immoral or unethical actions. Whether he wants to be or not, the hermit is part of human society; therefore, some people would say that even he might engage in actions that could be judged immoral if they degrade or threaten the future of humankind, such as committing suicide or polluting the ocean. We sense that these elements are important in judging morality when we hear the common rationale of those who, when judged as doing something wrong, protest, “But nobody was hurt!” or “I didn’t mean to.”

One’s actions toward nature also might be defined as immoral, so relevant actions include not only actions done to people but also those done to animals and to the environment. To abuse or exploit animals is defined by some people as immoral. Judgments are made against cockfighting, dog racing, laboratory experimentation on animals, and hunting. The growing area of environmental ethics reflects increasing concern for the future of the planet. The rationale for environmental ethics may be that any actions that harm the environment affect all humans. It also might be justified by the belief that humankind is a part of nature—not superior to it—and part of natural law should be to protect, not exploit, our world.

Thus far, we know that morality and ethics concern the judgment of behavior as right or wrong. Furthermore, such judgments are directed only at voluntary human behavior that affects other people, the earth, and living things. We can further restrict our inquiries regarding ethics to those behavioral decisions that are relevant to one’s profession in the criminal justice system. Discussions regarding the ethics of police officers, for instance, would concern issues such as the following:

- Whether to take gratuities
- Whether to cover up the wrongdoing of a fellow officer
- Whether to sleep on duty

Discussions regarding the ethics of defense attorneys might include the following:

- Whether to devote more effort to private cases than appointed cases
- Whether to allow perjury
- Whether to attack the character of a victim in order to defend a client

Of course, all of these actions affect other people, as do most actions taken as a professional. Most behaviors that might be judged as ethical or not for criminal justice professionals fall into four major categories:

- Acts involving citizens/clients (i.e., misuses of authority, harassment, malfeasance, or misfeasance)
- Acts involving other employees (i.e., harassment, gossip, lying)
- Acts involving one’s organization (i.e., theft, work ethic, filing false reports)
- Acts involving those one supervises (i.e., arbitrary discipline, unrealistic demands, discouraging honest criticism)

In this text, we will present some of the unique issues and dilemmas related to each area of the criminal justice system. It is important, first, however, to explore the means available for analyzing and evaluating the “right” course of action.



## Analyzing Ethical Issues and Policies

“Critical thinking skills” has become an overused and abused term in education, but the core idea of critical thinking is to be more cognizant of facts as opposed to concepts, assumptions, or biases, and the use of objective reasoning to most effectively reach a decision or understand a problem. Paul and Elder (2003) explain that all reasoning is based on assumptions, points of view, and data or evidence, but reasoning is shaped by concepts and ideas that affect our interpretations of the data, which then lead us to conclusions that give meaning to the data. In order to be a critical thinker, one must ask these types of questions:

- What information am I using in coming to a conclusion?
- What information do I need to settle the question?
- Is there another way to interpret the information?
- What assumption has led me to my conclusion?
- Is there another point of view I should consider?
- What implication or consequence might be the result of this conclusion?

In each of the discussions throughout the book that subject issues or policies to an ethical analysis, critical thinking will be required. One of the most important elements of critical thinking is to separate facts from concepts and identify underlying assumptions.

The ethical systems will not be covered until Chapter 2; thus, the ethical analysis below will use general concepts concerning right and wrong. In all analyses, we will begin by determining if there is any relevant law, then if there are relevant policies, and, finally, ethical principles will be applied.

## ETHICAL ISSUE

### Was the “Fast and Furious” Operation Wrong?

The gun trafficking operation called “Fast and Furious” by the ATF and federal prosecutors became a major scandal when it was discovered that one of the guns was implicated in the death of a U.S. federal agent in Mexico. The operation involved allowing illegal gun sales and following the guns to track down major players in gun trafficking rings. Unfortunately, it was reported that federal agents lost track of nearly 1,400 guns of the 2,000 they tried to follow. One of those guns was found at the scene of a murder of a federal agent by drug cartel members in Mexico. Interestingly, the operation had been undertaken before during the Bush administration in 2006. Called Operation Wide Receiver, the same plan to allow illegal guns to “walk” in order to track them was carried out. E-mails from several ATF agents and assistant attorneys general indicated their discomfort with the plan and their

concern about the consequences of allowing hundreds of guns to go to Mexico, arguably straight into the hands of drug dealers (Yost, 2012a). The exposure of the failings of the operation led to calls for the impeachment of Attorney General Eric Holder, but a congressional report, issued in September of 2012, did not uncover any evidence that Holder was aware of the operation. Rather, it was reported that an assistant deputy attorney general (Jason Weinstein) had learned about Operation Wide Receiver and the Fast and Furious operation and signed off on several wiretap applications for it. He, and other high-ranking Justice officials, did not understand or did not care that the firearms were ending up in the hands of criminals. The agents and prosecutors most directly involved evidently decided that the goal of leaving the guns in order to catch bigger criminals was more important than the risk to public safety.

**Law**

Interestingly, law enforcement officers can do things that, if done by anyone else, would be criminal. They can sell drugs, solicit prostitutes, and incite terrorism if they are undercover. In this case, trafficking in guns is illegal, unless done by federal agents.

**Policy**

One would think that there would be policies in place to prevent the debacle. The investigative report did not find that ATF had policies that prevented the practice of allowing guns to “walk” across the border in an investigation, although such policies are now in place after the fact (Savage, 2012). Oversight was also lacking with legal officials evaluating wiretap affidavits solely for concurrence with legal requirements, not with an eye to the overall wisdom or legality of the operation itself. (Report is available at: [www.nytimes.com/interactive/2012/09/20/us/politics/20guns-report.html?ref=us](http://www.nytimes.com/interactive/2012/09/20/us/politics/20guns-report.html?ref=us).)

**Ethics**

ATF agents evidently shared their concerns with each other, and some shared their concerns openly with members of Congress (Savage, 2012). There is some evidence in the report that these agents were transferred in retaliation by the agency. Unfortunately, this illustrates that doing “the right thing” sometimes comes at a cost.

The ethical analysis of Fast and Furious would apply the critical thinking issues above. The information used by the agents and prosecutors to pursue the operation was that

trafficking in guns is a problem and the best way to trace the guns is to allow a controlled “buy” by a straw purchaser. The information they needed was lacking since it was clear that the resources available did not allow surveillance to occur and, consequently, the guns went over the border out of the agents’ control. The early indications that the operation was not working should have been used to shut it down, but there were individual decisions (it’s not entirely clear who was primarily responsible for allowing it to continue) to continue to allow the guns across the border to criminal cartels. The implication or consequence was, of course, the threat to public safety, and the death of the agent with the use of one of the guns. Agents allowed their “tunnel vision” of the operation to cloud their judgment as to their ultimate goal of protecting public safety. Supervisors did not do an adequate job of supervision in that they were unaware of the failures of surveillance or they did not care. The ethical analysis of this policy is that it was wrong to allow guns to get into the hands of criminals because of the hope that they would catch “bigger fish,” especially because it should have been clear that they did not have the resources to conduct surveillance of the guns going into Mexico. Several ethical systems would support the idea that protection of harm to the public would be more important than catching “bigger fish” if there was no clear evidence that the operation would quickly lead to such arrests. The length of the operation along with its clear risk and lack of success in tracking the lost guns indicates the policy could not be supported if it was subjected to objective analysis.

## Analyzing Ethical Dilemmas

Recall that an ethical dilemma is when an individual is faced with at least two courses of action and the decision is difficult. An individual ATF agent in the policy analysis above would have faced an individual dilemma as to whether to refuse to be involved if he or she felt it was a dangerous mistake and/or illegal operation.

In applied ethics texts, various authors set out the steps to take when facing ethical dilemmas. For instance, Ruggiero (2001) advises us to (1) study the details of the case, (2) identify the relevant criteria (obligations, ideals, consequences), (3) determine possible courses of action, and (4) decide which action is the most ethical. This approach is very similar to the one we will use throughout the book when analyzing ethical dilemmas, detailed in the steps below:

1. *Identify the facts.* Make sure that one has all the facts that are known—not future predictions, not suppositions, not probabilities.
2. *Identify relevant values and concepts.* Concepts are things that cannot be proven empirically but are relevant to the issue at hand. Understand that your concepts and values may affect the way you interpret the facts. For instance, the issue of abortion revolves around the value of life, but it is also a concept in that there is no proof of when life begins or ends (although there are facts regarding respiration,

## ETHICAL DILEMMA

You are a correctional officer working the late-night shift. Your sergeant and another officer from the day shift come onto the tier where you are working and ask you to open up an inmate's cell. After you do so, they enter the cell. Then you hear a series of grunts, cries, and moans. They leave, muttering about how the inmate has been taught a lesson. You believe that you have been a party to an assault, but you say nothing. The next night you find out that the inmate did not report the incident, nor did any other inmate. You believe that if you come forward and report what you saw, you will be severely ostracized. You may not be believed (especially if the inmate doesn't back you up). You might even lose your job. What would you do?

### Law

Correctional officers, similar to police officers, have the legal authority to use physical force in order to defend themselves, others, or to subdue an inmate. They are allowed to use only the reasonable force necessary to accomplish their goal (which is usually stopping a fight, removing an inmate from a cell, or moving an inmate to segregation). Obviously, if this was a case of going in to a cell for the express purpose of a retaliatory beating, then it would constitute either simple or aggravated assault and the officers involved could be prosecuted. The correctional officer has a legal duty to protect inmates and might be considered to be an accessory after the fact if he lies about the incident, or be subject to some charge of obstruction if there is an investigation, or malfeasance of office for not coming forward.

### Policy

Every correctional facility has express policies regarding the use of force. Usually a sergeant or lieutenant must give approval of the use of force, usually a use-of-force report must be written, and, usually, there are procedures in place for a medical professional to check the inmate after the use of force to make sure there are no serious injuries. Obviously there is no policy that would allow retaliatory uses of force.

### Ethics

Understanding the law and policies related to the event does not necessarily resolve the ethical dilemma. Thus, we move to an ethical analysis as detailed above:

1. This officer has to make sure that he has all the facts. Was the inmate hurt? Did his injuries occur during the time the two other officers were in his cell? Is the officer sure that no one reported it? Would the inmate come forward if he believed that someone would testify against the other two officers, or would he deny the assault (if there was one)? What other facts are important to know? Remember that facts are those things that can be proven; however, this does not necessarily mean that the individual facing the dilemma knows what the facts are.
2. The officer might examine the relevant values. In this situation, one can identify duty, legality, honesty, integrity, safety, protection, loyalty, self-preservation, and trust. Are any other values important to resolve the dilemma? Concepts that may affect this dilemma include things like just punishment—if one feels that prison as punishment is not enough, then that concept will affect the way this dilemma is perceived.
3. Several ethical issues come into play here. The first is whether the other officers should have entered the prisoner's cell. There is probably an earlier issue involving whatever the prisoner did to warrant the visit. There is obviously the issue of whether the officer should have let off-duty officers into the cell in the first place. Finally, there is the issue of what the officer should do now that he believes an injustice may have taken place.
4. The most immediate dilemma for the officer is whether or not to come forward with the information.
5. To resolve the dilemma, it is helpful to work through Chapter 2 first because one way to resolve ethical dilemmas is to decide on an ethical system. If the officer was a utilitarian, he would weigh the costs and benefits for all concerned in coming forward and in staying quiet. If he followed duty-based ethics (ethical formalism), he would find the answer once he determined his duty.

brain activity, and other body functions). Many arguments surrounding ethical issues are really arguments about concepts (e.g., "life").

3. *Identify all possible dilemmas and then decide what is the most immediate dilemma.* Identifying all dilemmas can help us see that sometimes one's own moral or ethical dilemma is caused by others' actions. For instance, a police officer's ethical

dilemma when faced with the wrongdoing of a fellow officer is a direct result of that other officer making a bad choice.

4. *Decide what is the most immediate moral or ethical issue facing the individual.* This is always a behavior choice, not an opinion. For example, the moral issue of whether abortion should be legalized is quite different from the moral dilemma of whether I should have an abortion if I find myself pregnant. Obviously, one affects the other, but they are conceptually distinct.
5. *Resolve the ethical or moral dilemma by using an ethical system or some other means of decision making.* (Ethical systems will be discussed in Chapter 2.)

It is important to note that very often the ethical thing to do is clear once you identify the relevant law and/or policy. Although there are instances where the law or policy itself is unethical, in most situations, if something is illegal, it is also unethical. Most individuals who engage in public corruption know that they are violating the law but they do it anyway. There is no ethical dilemma involved in whether to steal from a burglary site (as a police officer) or hide exculpatory evidence (as a prosecutor); these acts are wrong and the individual knows they are wrong. We use ethical analysis when the right thing to do is not clear. Why someone chooses to behave in an illegal or unethical way is the subject of Chapter 4.

## WALKING THE WALK

Scott Waddle was the captain of the USS *Greenville* in 2001, a former Eagle Scout whose career in the navy saw a steady progression of successes resulting in his command of the *Greenville*. A tireless promoter of the navy and the giant submarine he captained, Waddle sent autographed pictures of the sub to schoolchildren, and he enthusiastically participated in the “distinguished visitor” program, which allowed civilians to accompany the submarine crew on cruises.

During one of these public relations cruises, on February 9, 2001, the submarine captain gave the order for an “emergency blow,” a maneuver in which the submarine comes up out of the depths at great speed, breaking the surface of the water like a breaching whale before settling back onto the surface. In a tragic accident, the probabilities of which boggle the mind, the submarine came up under a Japanese trawler carrying students and their teachers, as well as a crew. The submarine smashed it to bits and sent the crew and passengers who survived the initial impact into the ocean. The accident killed nine people and cost more than \$100 million in damages and compensation costs.

The ensuing investigation and testimony determined that the person in charge of the radar deferred to Waddle’s visual inspection of the surface and didn’t tell him of a sonar contact that was within 4,000 yards. Waddle and other officers who manned the periscope had scanned the surface too quickly and missed the small ship in the turbulent swells.

Testimony indicated that after the crash Waddle grimly kept the crew focused, and instructed them over the intercom, “Remember what you saw, remember what happened, do not embellish. Tell the truth and maintain your dignity.”

Against his lawyer’s advice, Waddle gave up his right to silence in the military tribunal that was held to assess whether to court-martial him. He was reported to have said, “This court needs to hear from me—it’s the right thing to do.” In his testimony, he refused to shift responsibility to others and accepted all blame for the accident. He said, “I’m solely responsible for this truly tragic accident, and for the rest of my life I will have to live with the horrible consequences.”

A father of one of the victims was sitting in the room when Waddle testified, and his anger was overcome by Waddle’s tearful apology. Waddle ultimately accepted a letter of reprimand that ended his career with the navy. Then he went to Japan to apologize to the victims’ families personally.

In the aftermath of his decision to testify and not fight to keep his career, Waddle reported that he considered suicide, but he moved past his shame and guilt. Today he gives speeches on the experience and advises others of the importance of dealing with failure honestly, one of which was to a Boy Scout awards ceremony in Chattanooga, Tennessee. Speaking to the 500 attendees, he said that the values of honesty and responsibility he learned in Scouting helped him make the decisions he did during the aftermath of the accident.

**Sources:** Hight, 2005; Putman, 2008; *Newsweek*, 2001.

---

## Conclusion

---

In this chapter, we distinguished ethical issues or policies and ethical dilemmas. We explained why a study of ethics is especially important to criminal justice professionals. It also was noted that not all behaviors would be subject to ethical judgments—only those that are performed by humans who are acting with free will and that affect others. We also defined the terms morals and ethics as both relate to standards of behavior. Professional ethics deals with only those behaviors relevant to one's profession. We make ethical judgments (what we consider right and wrong) using rationales derived from historical and traditional ethical systems. These ethical systems will be described in Chapter 2.

The most important thing to remember is that we all encounter situations where we must determine the ethical or moral course of action among several choices. In the Walking the Walk boxes, present in each chapter, we will offer real-life examples of individuals who faced ethical dilemmas. It is clear that in many of these situations, the easier decision would have been to avoid responsibility, transfer blame, hide behind rationalizations, or refuse to stand up for what is right. By becoming aware of those who uphold ethics in their professional decision making, we can honor them for doing what is right.

This chapter closes with a chapter review, and study questions to answer in class or in a journal. These can be helpful to check your understanding of the issues. These are followed by writing/discussion exercises, which have no right or wrong answers and can be the basis for classroom discussions or individual writing assignments. Finally, ethical dilemmas are presented to encourage the reader to practice ethical analysis.

---

## Chapter Review

---

### 1. Explain the difference between ethical issues and ethical dilemmas.

Ethical issues are broad social or policy questions, while ethical dilemmas are situations in which one person must make a decision that can be judged as right or wrong, and where what is right is difficult to decide or is hard to do for some other reason.

### 2. Give examples of how discretion permeates every phase of the criminal justice system and creates ethical dilemmas for criminal justice professionals.

Discretion can be defined as the power and authority to choose one of two or more alternative behaviors. At each stage of the criminal justice system, professionals have such discretion: legislators make decisions regarding the creation of laws, police make decisions on the street in their enforcement of those laws, prosecutors make decisions about which arrests to formally prosecute, judges make decisions about which evidence to allow, and correctional professionals make decisions that affect the lives of offenders.

### 3. Explain why the study of ethics is important for criminal justice professionals.

First, we study ethics because criminal justice is uniquely involved in coercion, which means there are many and varied opportunities to abuse such power. Second, almost all criminal justice professionals are public servants and, thus, owe special duties to the public they serve. Finally, we study ethics to sensitize students to ethical issues and provide tools to help identify and resolve the ethical dilemmas they may face in their professional lives.



**4. Learn the definitions of the terms *morals*, *ethics*, *duties*, *supererogatories*, and *values*.**

The terms *morals* and *ethics* come from Greek and Latin words referring to custom or behavioral practices. *Morals* refer to what is judged as good conduct. *Ethics* refers to the study and analysis of what constitutes good or bad conduct. *Duties* are obligatory acts (by law, practice, or morals). *Supererogatories* are those acts that go above and beyond duties. *Values* are statements of worth or importance.

**5. Describe what behaviors might be subject to moral/ethical judgments.**

Behaviors that can be adjudged under moral criteria are those that are acts (not thought) committed by humans (not animals) of free will (not by those judged as incompetent), and that affect others.

**Study Questions**

---

1. Define a public servant and why public servants should be especially sensitive to ethical issues.
2. Discuss Felkenes's reasons for why it is important for criminal justice professionals to study ethics.
3. Define *morals*, *ethics*, *values*, *duties*, *supererogatories*, *imperfect duties*, *meta-ethics*, *normative ethics*, and *applied ethics*.
4. What are the four elements that specify the types of behaviors that are judged under ethical criteria? Which groups traditionally have been exempt from legal and moral culpability? Why?
5. What are the steps in analyzing an ethical dilemma?

**Writing/Discussion Exercises**

---

1. Write an essay about (or discuss) a difficult ethical dilemma that you faced. What was it? What were the options available to you? Who was affected by your decision? Were there any laws, rules, or guidelines that affected your decision? How did you make your decision?
2. Write an essay (or discuss) whether public servants should be held to higher standards than the rest of us. Touch on the following questions in your response: Should we be concerned about a politician who has extramarital affairs? Drinks to excess? Gambles? Uses drugs? Abuses his or her spouse? What if the person is a police officer? A judge? Should a female police officer be sanctioned for posing naked in a men's magazine, using pieces of her uniform as "props"? Should a probation officer socialize in bars that his or her probationers are likely to frequent? Should a prosecutor be extremely active in a political party and then make decisions regarding targets of "public integrity" investigations of politicians?
3. Write an essay (or discuss) the issue of the medical use of marijuana. What do medical studies indicate regarding whether or not it is necessary or the best medical alternative for certain patients? What do critics argue in their opposition to the medical use laws? If you or a loved one were suffering and someone told you that marijuana could ease your pain, would you violate the law or not? Why?

**Key Terms**

discretion	ethics	values
duties	imperfect duties	wholesight
ethical dilemmas	morals	
ethical issues	supererogatories	

**ETHICAL DILEMMAS****Situation 1**

A rich businessman's daughter, Patty, had the best of everything all her life. Her future would have included college, a good marriage to a successful young man, and a life of comparative luxury—except that she was kidnapped by a small band of radical extremists who sought to overthrow the government by terror, intimidation, and robbery. After being raped, beaten, and locked in a small, dark closet for many days, continually taunted and threatened, she was told that she must participate with the terrorist gang in a bank robbery; otherwise, she and her family would be killed. During the course of the robbery, a bank guard was shot.

Was her action immoral? What if she had killed the guard? What if the terrorists had kidnapped her mother or father, too, and told her if she didn't cooperate, they would kill her parents immediately? What would you have done in her place? (Readers might recognize this dilemma as the Patty Hearst case. In 1974, the Symbionese Liberation Army, a terrorist group, kidnapped the daughter of Randolph Hearst, the tycoon of a large newspaper chain. Her subsequent capture, trial, conviction, and prison sentence have been portrayed in books and movies and provide ripe material for questions of free will and legal and moral culpability.)

**Situation 2**

You are taking an essay exam in a college classroom. The test is closed book and closed notes, yet you look up and see that the person sitting next to you has hidden under his blue book a piece of paper filled with notes, which he is using to answer some questions. What would you do? Would your answer change if the test was graded on a curve? What if the student were a friend? What would you do if the student was flunking the course and was going to lose the scholarship he needed to stay in school? What about a situation of plagiarism? Would you turn in a student if you knew he or she had turned in a plagiarized paper? Why or why not? If someone cheats in school, isn't it likely that he or she will be less honest as a criminal justice professional?

**Situation 3**

You are selected for a jury in a trial of a 64-year-old mother who killed her two adult sons. The two men had Huntington's disease, a degenerative brain disease, and were institutionalized. They were certain to die and would endure much pain and suffering before they expired. The defendant's husband had died from this same disease, and she had nursed him throughout his illness until his death.

The defendant took a gun into the nursing home, kissed her sons good-bye, and then shot them both through the head. She was arrested for first-degree murder. The prosecutor informs you that there is no "mercy killing" defense in the law as it is written.

If you were on the jury, how would you decide this case? What punishment does she deserve? (See “Justice Tempered with Mercy,” by K. Ellington, *Houston Chronicle*, January 30, 2003, 10A. The prosecutor accepted a plea of guilty to assisting suicide.)

#### **Situation 4**

You are completing an internship with a juvenile probation agency and truly have enjoyed the experience. Although working with the kids is challenging, you see many rewards in the job, especially when you sense that you are reaching a client and making a difference. Mr. Childers, the probation officer with whom you work, is less optimistic about the kids and operates in a strictly by-the-book legalistic manner. He is burned out and basically does his job without getting too involved. Although you respect him, you know you would approach the clients differently if you were to be hired full-time.

One weekend, you are out with friends in a downtown bar frequented by college students. To your surprise, you see Sarah, a 16-year-old probationer, dancing. In watching her, you realize that she is drunk and, in fact, is holding a beer and drinking it while she is dancing with a man who is obviously much older than she is. You go over to her, and she angrily tells you to mind your own business and immediately leaves with the man. Later she comes back into the bar and pleads with you to keep quiet. She is tearfully apologetic and tells you that she already has had several violations of her probation and at the last hearing was told that if she has one more violation, she will be sent to a juvenile detention center. You know that Sarah has been doing much better in school and plans to graduate and even go to college.

On Monday morning, you sit in Mr. Childers's office. What should you tell him?

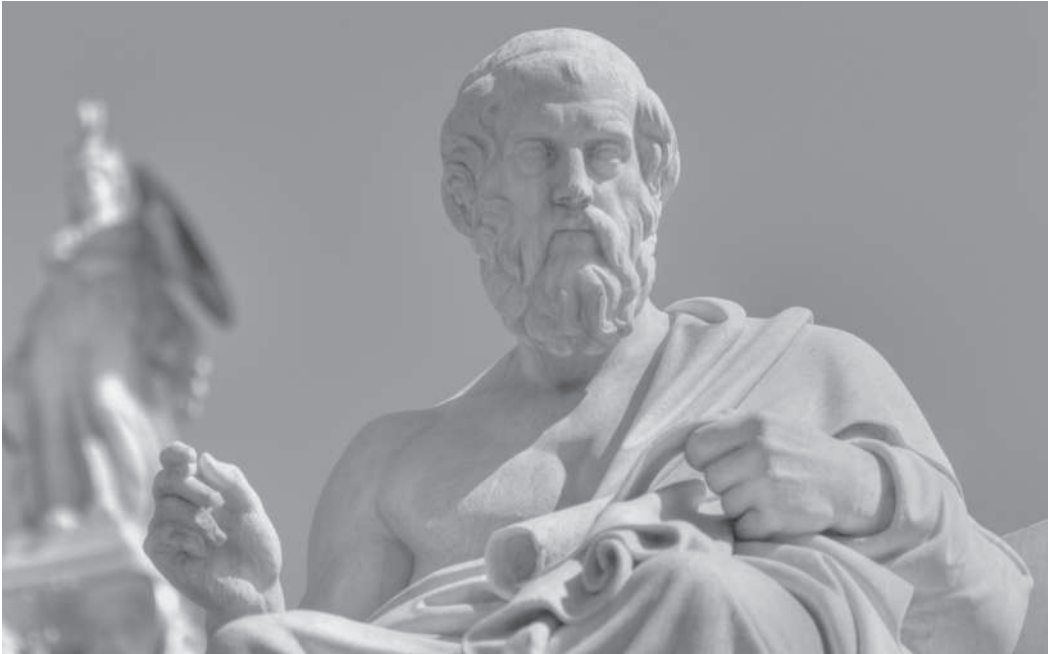
#### **Situation 5**

All your life you have played by the rules. When you went to college, you studied hard and didn't party to the extent that it hurt your grades. During your senior year, you began to make plans to graduate and begin your career. One Friday night, you were in a car with four other students heading home from a bar. Before you knew what happened, the car was hit head on, and all of you were seriously injured. You now are paralyzed and face the rest of your life in a wheelchair. The car that hit you was driven by a drunken student who, coincidentally, was in several of your classes. Several days after you return home from the hospital, he wants to see you. Despite your anger, you do see him, and he begs for your forgiveness. He breaks down and cries and tells you that he had never done anything like that before and wishes he were dead.

Can you forgive him? When he is prosecuted, what would your sentence recommendation be? Would your answers be different if someone had died? What if he had prior drunk-driving incidents? What if he also had committed other crimes and was not a fellow college student?



# Determining Moral Behavior



© Anastasios71/Shutterstock.com

Plato

**W**hy do you define someone or something as wrong? It seems a simple question, doesn't it? How would you describe a former Florida police officer who was the target of 40 different internal affairs investigations, 16 of which were for battery or excessive force, over his 20-year career? Dubbed "Florida's Dirtiest Cop" in a 2011 newspaper article, the officer was fired five times and arrested three times, charged with stealing a car, attempting to board an airplane with a loaded weapon, and driving with a suspended license. He has been accused of lying, insubordination, domestic violence, and stalking. A recent analysis of state records found his police certification had been challenged more than any other police officer in the state, yet he kept his job. Perhaps his longevity was attributable to the fact that the city he worked in was no stranger to corrupt officials: a former police chief tested positive for cocaine; four city officials were indicted for tax fraud, bribery, and theft; and a police captain was charged with protecting a drug ring.

## Chapter Objectives

1. Define deontological and teleological ethical systems, and explain ethical formalism and utilitarianism.
2. Describe how other ethical systems define what is moral—specifically, ethics of virtue, natural law, religion, and ethics of care.
3. Discuss the argument as to whether egoism is an ethical system.
4. Explain the controversy between relativism and absolutism (or universalism).
5. Identify what is good according to each of the ethical systems discussed in the chapter.

Since 1993, at least a dozen complaints against this officer were sustained for various counts of battery, perjury, theft of city resources, conduct unbecoming, official misconduct, breach of duty, and excessive force. Police departments are required to forward serious sustained cases of misconduct to a state agency called the Criminal Justice Standards and Training Commission who decide whether the officer should lose his or her license. In this particular officer's case, seven cases were on file. In each case, he kept his state peace officer certification. In no case did they look at his record as a whole, only the most immediate case reported. The cases included disobeying a direct order and continuing to chase a suspect and then covering up his role in the subsequent accident by lying on a police report, striking a teenager in the face three times, striking a handcuffed man in the face and punching him in the stomach, head-butting a handcuffed man, spitting in the face of a handcuffed man, and working a second job while under suspension and then lying about it. In another case, he was fired after having an empty vodka bottle, cocaine, crack pipes, and false identifications in his police vehicle, but he won his job back after his union helped him file a grievance.

More recently, he was arrested again after he allegedly forcefully moved a man from the police lobby area, handcuffed him, placed him into a holding area, and held him against his will because the man wanted to file a formal complaint against the officer for excessive force. The officer was charged with first-degree felony kidnapping, tampering with a witness, and misdemeanor battery. He was finally terminated from employment in 2012 after the newspaper's investigative report that called him the "dirtiest cop." Evidently at least one person thinks that judgment is wrong: He has been reported as saying: "I'm conceited about only one thing in life, and that is that I'm an excellent police officer" (Cormier, 2011; German Bosque Arrested. . . , 2013). It is possible to examine each of the actions that make up this officer's record, evaluating each act as right or wrong, or we can examine the decisions of those in his police department who allowed him to continue to be a police officer or the system rules that allowed him to keep his license. In any of these analyses, we must utilize some type of method for determining good or bad. Ethical systems help us do that.

In this chapter, we will deal with the "why" of ethical judgments. Whether an act is right or wrong is an age-old question and there are classic answers to the question: "What is good?" Ethical systems help us analyze actions as good or bad, ethical or unethical, moral or immoral. Before we discuss ethical systems, we will analyze an ethical issue without the benefit of them. After the ethical systems have been discussed go back and reanalyze this ethical issue using one or more of the ethical systems that we will cover in this chapter.

## ETHICAL ISSUE

### **"Does the Public Have the Right to Know the Identity of a Police Officer After a Shooting?"**

One of the criticisms leveled against the Ferguson, Missouri, police department in the aftermath of the Michael Brown shooting was that there was a six-day lag between the shooting and when the police department identified the officer involved as Darren Wilson. When Eric Garner died in Staten Island, the officer involved, Daniel Pantaleo, was identified quickly after the video of the event circulated in

the news media, even though New York has extremely protective legislation protecting officers' identities in discipline investigations. The other officers involved were not identified (Goodman and Baker, 2015). In South Carolina, when Walter Scott was shot by Officer Michael Slager on April 4, 2015, the police chief released the officer's name, again after the video of the event began circulating in the news media. It is unclear what might have happened if the video had not been recorded on a cellphone camera by a bystander.

*(continued)*

When there is a shooting by a police officer, should the police department release the name of the officer(s) involved? This is a hotly contested issue since when officers' names are released after shootings, they are reportedly the subject of death threats. Especially recently, relations between police departments and some communities have sunk to dangerous levels of enmity, and officer-involved shootings may serve as a flashpoint for retaliatory violence. Certainly, police have a right to be concerned after the 2014 assassinations of Officers Wenjian Liu and Rafael Ramos in New York City by a man supposedly "avenging" the death of Michael Brown. In Arizona, a bill was quickly written and passed by the state legislature that would mandate officers' names be kept private for 60 days after a shooting as a "cooling off" period (SB 1445). Governor Doug Ducey vetoed the bill on March 30, 2015 ("Ducey vetoes bill. . .", 2015), but proponents argue such protection is necessary.

In one case in Fairfield County, Virginia, the complexity of the issue was frustratingly clear to members of the Board of Supervisors, who were conflicted about whether they owed the public transparency in revealing the names and details of a shooting or should keep the information private while the disciplinary and legal procedures ensued; however, after 17 months, the investigation had not been completed and the public had lost trust that the response to the shooting was fair and unbiased. Due process for the victim and the officer(s) involved must be balanced against the public's right to know. Release of investigatory information during an active investigation or before any legal proceedings may bias the case; however, there is widespread belief among citizens that police officer shootings are not investigated thoroughly and that the victims of such shootings do not receive a fair investigation unless there is public pressure on the criminal justice system. The result is that some jurisdictions release very little information, sometimes not even the officer's name, and other jurisdictions release thousands of pages of investigatory reports (Olivo, 2015).

### Law

The law is different across jurisdictions regarding how much may be revealed about ongoing investigations. If legislation

like Arizona's is more successful in other locales, it may soon be illegal to disclose an officer's name. Generally, it is left to the discretion of the police department and city administrators as to whether and when to release an officer's name after a shooting. Eventually his or her name must be revealed, but the issue revolves around how soon and how many details of the shooting should be released. There is no law that mandates the disclosure of this type of information, but there are laws that exempt police investigatory reports from open records requests. At least 26 states completely shield discipline records from public disclosure (Goodman and Baker, 2015).

### Policy

Police and city administrators owe a duty to the public they serve but they also owe a duty of care to the officers who are their employees. They have a responsibility to ensure that their actions do not needlessly put officers in harm's way. In recent cases, officers who become the target of public scrutiny have had their personal information revealed to the public by hackers and been the target of threats. The public has a right to a fair and impartial investigation and it is more difficult to believe this is occurring when secrecy shields even the officer's name. Ultimately, it is an issue of rights with the officer and his/her family members' rights balanced against the rights of the public and shooting victim's family.

### Ethics

Even before the benefit of a discussion of ethical systems that will follow, individuals may argue that the public's right to know must outweigh the right of the officer to have his identity remain private. Civilians involved in shootings and accused of other criminal acts are routinely identified in the news media before due process might exonerate them. Only juveniles and rape victims are protected from public identification. It is important to note that the issue of safety can be divorced from the issue of public identification. Only unreasonable or evil people would agree that officers or their families deserve extra-judicial punishment; therefore, one can agree with the "rightness" of public identification without also supporting the potential aftermath. The ethical solution would be to serve the public's need/right to know and the officer's right to safety.

## Ethical Systems

Our principles of right and wrong form a framework for the way we live our lives. But where do these principles come from? Before you read on, answer the following question: If you believe that stealing is wrong, why do you believe this to be so? You probably said it is because your parents taught you or because your religion

forbids it—or maybe because society cannot tolerate people harming one another. Your answer is an indication of your **ethical system**.

**ethical system**

A structured set of principles that defines what is moral.

Ethical systems have a number of characteristics. First, they are the source of moral beliefs. Second, they are the underlying premises from which you make judgments. Third, they are beyond argument. That is, although ethical decisions may become the basis of debate, the decisions are based on fundamental truths or propositions that are taken as a given by the individual employing the ethical system.

C. E. Harris (1986: 33) referred to such ethical systems as *moral theories or moral philosophies* and defined them as a systematic ordering of moral principles. To be accepted as an ethical system, the system of principles must be internally consistent, must be consistent with generally held beliefs, and must possess a type of “moral common sense.” Baelz (1977: 19) further described ethical systems as having the following characteristics:

- *They are prescriptive.* Certain behavior is demanded or proscribed. They are not just abstract principles of good and bad but have substantial impact on what we do.
- *They are authoritative.* They are not ordinarily subject to debate. Once an ethical framework has been developed, it is usually beyond question.
- *They are logically impartial or universal.* Moral considerations arising from ethical systems are not relative. The same rule applies in all cases and for everyone.
- *They are not self-serving.* They are directed toward others; what is good is good for everyone, not just the individual.

We don’t consciously think of ethical systems, but we use them to make judgments. For instance, we might say that a woman who leaves her children alone to go out drinking has committed an immoral act. That would be a *moral judgment*. Consider that the moral judgment in any discussion is only the tip of a pyramid. If forced to defend our judgment, we would probably come up with some rules of behavior that underlie the judgment. Moral rules in this case might be:

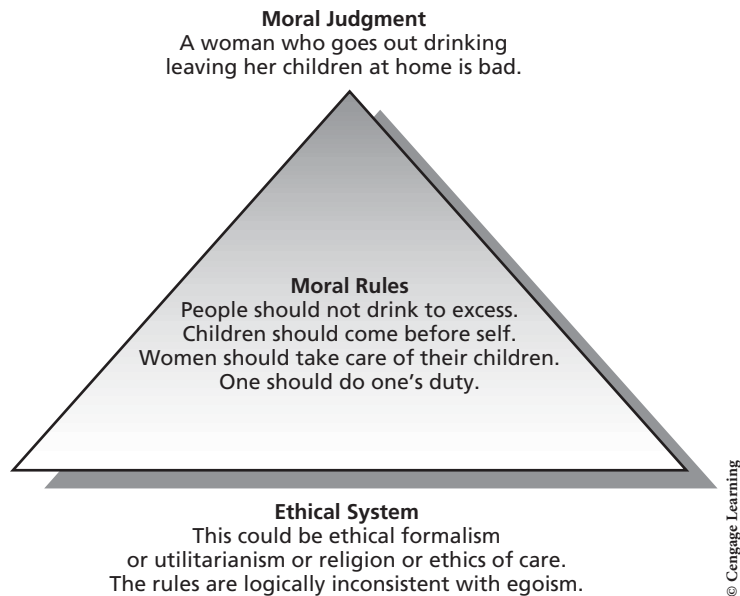
“Children should be looked after.”

“One shouldn’t drink to excess.”

“Mothers should be good role models for their children.”

But these moral rules are not the final argument; they can be considered the body of the pyramid. How would you answer if someone forced you to defend the rules by asking “why?” For instance, “Why should children be looked after?” In answering the “why” question, one eventually comes to some form of ethical system. For instance, we might answer, “Because it benefits society if all parents watched out for their children.” This would be a utilitarian ethical system. We might have answered the question, “Because every parent’s duty is to take care of their children.” This is ethical formalism or any duty-based ethical system. Ethical systems form the base of the pyramid. They are the foundation for the moral rules that we live by.

The ethical pyramid is a visual representation of this discussion. In Figure 2.1, the moral judgment discussed above is the tip of the pyramid, supported by moral rules on which the judgment is based. The moral rules, in turn, rest upon a base, which is one’s ethical system. Probably the most commonly utilized ethical systems by individuals when making personal decisions about their own behavior or judgments about others are religion and utilitarianism. The most commonly utilized ethical systems in

**FIGURE 2.1** The Ethical Pyramid

philosophical conversations are ethical formalism and utilitarianism because of the stark differences between them. We will discuss the ethical systems in somewhat of a chronological order, beginning with Aristotle and the Ethics of Virtue.

## The Ethics of Virtue

The question of what it means to be a good person is an ancient one. Socrates, Plato, and Aristotle were not the first to explore virtue, but we will begin our discussion of ethical systems with Aristotle. As you read in the last chapter, Socrates associated virtue with knowledge. Ignorance led to bad behavior because if one was rational and wise, he or she would know what virtue was and behave accordingly. The four virtues identified by Socrates and Plato are justice, wisdom, fortitude, and temperance. Recall that Plato associated these virtues with the three classes of citizens: leaders (wisdom), soldiers (fortitude or courage), and all others (temperance). Aristotle disagreed with the idea that bad behavior occurred only through ignorance and argued that there were people who chose to behave in ways that were not virtuous. In *Nicomachian Ethics*, he answers the **ethics of virtue** question, “What is a good person?” One answer is that to be good, one must do good. Virtues that a good person possesses include thriftiness, temperance, humility, industriousness, and honesty. The goal of life, according to Aristotle, is *eudaimonia*, translated as “happiness,” but another translation is “flourishing.” The meaning of this word does not mean simply having pleasure, but also living a good life, reaching achievements, and attaining moral excellence.

Aristotle defined virtues as “excellences.” These qualities are what enable an individual to move toward the achievement of what it takes to be human. Aristotle distinguished intellectual virtues (wisdom, understanding) from moral virtues (generosity,

**ethics of virtue** The ethical system that bases ethics largely upon character and possession of virtues.

**eudaimonia** The Greek term denoting perfect happiness or flourishing, related to the way to live a “good life.”



self-control). The moral virtues are not sufficient for “the good life”; one must also have the intellectual virtues, primarily “practical reason.” Aristotle believed that we are by nature neither good nor evil but become so through training and the acquisition of habits:

*[T]he virtues are implanted in us neither by nature nor contrary to nature: we are by nature equipped with the ability to receive them and habit brings this ability to completion and fulfillment. (Aristotle, quoted in Prior, 1991: 156–157)*

Habits of moral virtue are obtained by following the example of a moral exemplar, that is, a parent or virtuous role model. These habits are also more easily instilled when “right” or just laws also exist. Moral virtue is a state of character in which choices are consistent with the **principle of the Golden Mean**. This principle states that virtue is always the median between two extremes of character. For instance, proper pride is the mean between empty vanity and undue humility, and so on. The Catalog of Virtues derived from the writings of Aristotle appears in Box 2.1. It should be noted that it is difficult to understand some of Aristotle’s virtues because of the passage of time and the problems of translation. Generally, however, the idea is that the right way to behave is a balance between an excess and a deficiency of any element of character.

Moral virtue comes from habit, which is why this system emphasizes character. The idea is that one does not do good because of reason; rather, one does good because of the patterns of a lifetime. Those with good character will do the right thing, and those with bad character usually will choose the immoral path. Every day we are confronted with numerous opportunities to lie, cheat, and steal. When a cashier looks the other way, we could probably filch a \$20 bill from the cash drawer, or when a clerk gives us a \$10 bill instead of a \$1 bill by mistake, we could keep it instead of handing it back. We don’t because, generally, it does not even occur to us to steal. We do not have to go through any deep ethical analysis in most instances when we have the opportunity to do bad things, because our habits of a lifetime dictate our actions.

Somewhat related to the ethics of virtue ethical system are the Six Pillars of Character promulgated by the Josephson Institute of Ethics (2008). The Six Pillars of Character echo Aristotle’s virtues. They include:

#### **principle of the Golden Mean**

Aristotle’s concept of moderation, in which one should not err toward excess or deficiency; this principle is associated with the ethics of virtue.

### **BOX 2.1** / Catalog of Virtues

Courage (balance between cowardice and foolhardiness)  
 Temperance (balance between self-indulgence and asceticism)  
 Liberality (balance between meanness and too generous)  
 Munificence (similar to liberality; balance between stinginess and being profligate)  
 Magnanimity (balance between being vain and being petty)  
 Proper ambition (balance between being without ambition and having too much)  
 Good temper (balance between being quick to anger and not showing anger when warranted)  
 Truthfulness (balance between unnecessary truths and lying)  
 Wittiness (balance between being a bore and being a clown)  
 Friendliness (balance between obsequiousness and being unfriendly)  
 Modesty (balance between being too humble and too boastful)  
 Righteous indignation (balance between being envious and being spiteful)

**Source:** *Nicomachean Ethics*, Aristotle. Adapted from: [www.cwu.edu/~warren/Unit1/aristotles\\_virtues\\_and\\_vices.htm](http://www.cwu.edu/~warren/Unit1/aristotles_virtues_and_vices.htm).

1. *Trustworthiness.* This concept encompasses honesty and meeting one's obligations. Honesty means to be truthful, forthright, and sincere, and the pillar also involves loyalty, living up to one's beliefs, and having values.
2. *Respect.* This pillar is similar to the second portion of the categorical imperative of Ethical Formalism, which will be discussed subsequently. The concept admonishes us to treat each person with respect and not as a means to an end. The idea is also similar to the Golden Rule in Christianity.
3. *Responsibility.* This means standing up for one's choices and being accountable. Everyone has a moral duty to pursue excellence, but, if one fails, the duty is to take responsibility for the failure.
4. *Fairness.* This concept involves issues of equality, impartiality, and due process. To treat everyone fairly doesn't necessarily mean to treat everyone the same, but rather, to apply fairness in one's dealings with everyone.
5. *Caring.* This pillar encompasses the ideas of altruism and benevolence. It is similar to the ethics of care, which will be described later in the chapter.
6. *Citizenship.* This includes the duties of every citizen, including voting, obeying the law, being a good steward of the natural resources of one's country, and doing one's fair share.

One difficulty with the ethics of virtue is in judging the primacy of moral virtues. For instance, in professional ethics there are often conflicts that involve honesty and loyalty. If both are virtues, how does one resolve a dilemma in which one virtue must be sacrificed? Another difficulty is that it is not a system that provides an analysis of what to do in a given dilemma. If one is truly perplexed as to what the right course of action should be, this system does not help much in that it basically concludes that a virtuous person will act virtuously. The ethics of virtue probably explains more individual behavior than other ethical systems because most of the time, if we have developed habits of virtue, we do not even think about the possible bad acts we might do. However, when faced with a true dilemma—that is, a choice where the “right” decision is unclear—the ethics of virtue does not provide any equation or approach to find the right answer.

Aristotelian virtue ethics certainly influenced later thinkers, but as the timeline displayed in Box 2.2 shows, other ethical systems eclipsed this older system for centuries. More recently, Alasdair MacIntyre (1991), a contemporary philosopher, has done much to resurrect virtue ethics. He defines virtues as those dispositions that will sustain us in the relevant “quest for the good, by enabling us to overcome the harms, dangers, temptations and distractions which we encounter, and which will furnish us with increasing self-knowledge and increasing knowledge of the good.” MacIntyre (1999) also seems to endorse an ethics-of-care approach because he discusses virtue as necessary to care for the next generation. He sees life as one of “reciprocal indebtedness” and emphasizes “networks of relationships” as the locale of giving and receiving the benefits of virtues. This language is similar to the ethics of care, which will be discussed in a later section of this chapter.

**natural law** The idea that principles of morals and rights are inherent in nature and not human-made; such laws are discovered by reason but exist apart from humankind.

## Natural Law

The **natural law** ethical system holds that there is a universal set of rights and wrongs that is similar to many religious beliefs, but without reference to a specific supernatural figure. Originating most clearly with the Stoics, natural law is an ethical