Institute for
LAW ENFORCEMENT
ADMINISTRATION

Ethics Roll Call

To Champion the Nobility of Policing

WINTER 2015

Ethics Corner:

In light of the police actions in Ferguson, Missouri and in Staten Island, New York, we sought an article from a police executive. Our colleague from Tarrant County, Texas, John Ray responded with a thoughtful article to start our new year. Please note, Executive Chief Deputy Ray was asked to write this article before the end of 2014 when these issues were "above the fold."

Trust...We Must be Worthy

By John Ray

As I begin this article on the topic of *trust*, the nation awaits the announcement of the grand jury decision in Ferguson, Missouri. A sense of unease seems to dominate the media coverage and even casual conversations about the matter. More specifically, our entire profession appears to be on pins and needles as we wait to see what the ramifications of what that decision will bring. In the days and weeks leading to this point, agencies around the nation have made preparations to respond to expected demonstrations and potential unrest. Some preparations are of a tactical nature. Law enforcement agencies are on standby, ready to activate protocols to respond to mass demonstrations. Officers are on high-alert in response to intelligence reports advising law enforcement agencies to be aware of certain signs that a violent mass encounter may take place in their jurisdiction. Other preparations are of a strategic nature. In an effort to assist in these preparations, a number of entities have offered advisories and guidance. The International Association of Chiefs of Police (IACP), offered a set of previously published monographs and reports aimed at helping agencies establish effective relationships with their respective communities.

One of these reissued offerings was a 2009 report prepared by the IACP with support from the Community Oriented Policing Services Office (COPS Office), centering on the use of the internal affairs process to "build and maintain community trust" [IACP 2009, 3]. The report rightly observes that the internal affairs process must be more than a due process measure in the disciplinary process. Instead, it should be seen as one part of a larger accountability system that touches on a variety of seemingly unrelated processes designed to ensure high quality and ethical performance by those in whom we vest police powers. Indeed the report touched upon the many routine administrative processes that work with the internal affairs function to form a comprehensive system designed to ensure police services are rendered in a manner that protects the public's trust. We know these well. The first is the hiring process. It is here we strive to ensure only candidates that are worthy of the public's trust are brought into the organization. Next, there is the training program. Here they are taught to model the behaviors that are consistent with the organization's expectations, and we look for evidence of those behaviors that demonstrate they are keeping the public's trust. Finally, the report mentions routine performance appraisal processes. Once someone has completed initial training, most agencies engage in some form of on-going quality assurance evaluation to ensure behavior remains consistent with that of someone worthy of the public's trust.

Systems such as these are certainly important and can provide a mechanism for protecting, if not gaining, the public's trust. Onora O'Neill,

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Editorial Staff

EDITOR
T. Neil Moore, Ed.D.
1.972.244.3432
nmoore@cailaw.org

STAFF ASSISTANT
Karen Zaccardo
1.972.244.3447

who studied under the eminent John Rawls, observed that we often focus too narrowly on gaining trust, wrongly using the mechanistic metaphor of building trust when we desire to be trusted. Trust, in her estimation, is not something that can be *built*. It is a gift bestowed by an individual or withheld for cause. She suggests that instead of trying to convince people to trust us, we should be working to demonstrate our trustworthiness, and doing so in a manner that can be verified. This is precisely the aim behind most best-practices gaining currency in our profession. Our systems and processes should be created with an eye toward their capacity to demonstrate institutional trustworthiness. They should be built upon – and in their actualization give effect to – values and principles necessary for people to live in peaceful community. I suggest systems and processes so created to evidence trustworthiness should be creations of *art* – or rather A.R.T.

All institutional measures designed to demonstrate trustworthiness should be created with the ideals of *accountability*, *responsiveness* and *transparency* in mind. This suggestion is hardly new or even original, yet it is often the obvious that gets overlooked or taken for granted. In fact, their importance was impressed upon me when I was reviewing a piece by David Bayley concerning the democratization of police forces in lesser-developed parts of the world [Ray 2014, 164-165]. As I read his series of recommendations, it occurred to me that our own domestic police agencies ought to think more intentionally about these three ideals. Because they are so important – so fundamental to our efforts to merit trust – I believe they warrant a brief exploration.

The first is *accountability*. When speaking of accountability, the first thing that comes to mind for many is disciplinary action. We speak of being held accountable or holding people accountable in language that is all too often punitive in its overtones. It is normal for the human mind to jump to the most personally damaging aspects of accountability encounters. We fear damage and loss. The association is so strong that many people, when speaking of accountability, *do* mean it as a synonym for punishment. The conflation of these two ideas is unfortunate because it loses sight of more important aspects of accountability. In fact, there are two other important aspects of accountability that are indispensable to policing in a democracy. Accountability involves taking responsibility for actions and giving reasons for those actions. This is accomplished simply by identifying ourselves and justifying our behaviors. Every time we do something as important as arresting someone or as minor as marking out on a lunch break, we are engaged in the act of accounting. These acts of accountability are so common place we don't think much about them. This is not, as a matter of course, accountability for the purpose of assigning blame, but rather showing cause for doing things that are within the scope of our authority and responsibility. In much of the literature, this is referred to as accountability, as responsibility, and answerability.

The second – *responsiveness* – dovetails nicely with notions of answerability and, of course, responsibility. We spend considerable effort meeting requests for services. We track response times to emergency calls for service, record the length of time a particular case has been under investigation, and respond to requests for information within statutorily mandated timeframes. Systems are designed to meet these needs – to respond to these needs – in an efficient and expeditious manner. But responsiveness for the purpose of demonstrating trustworthiness should not be reduced conceptually to a simple consumer transaction. It goes much deeper. It is fundamental to how we view the provision of services in a democracy. There are larger principles at work. David Bayley makes the point in *Democratizing the Police Abroad: What to Do and How to Do It*, that citizens served by democratic police forces are accustomed to unmediated access to police services (2001). We sometimes take for granted that the citizens themselves can directly access the services of government with a simple telephone call – or text! He contrasts this with other parts of the world where citizens must petition the political party in power for government services. He further makes the point that governments that deliver these unmediated services enjoy greater legitimacy in the eyes of the public. One need not be in the good graces of the political party in power to gain public safety assistance.

The final characteristic of trustworthy institutions is *transparency*. The processes by which governments exercise power – including police powers – should be readily known to the public. The rule of law is important in this regard. Knowing ahead of time what activities are forbidden helps individuals avoid negative consequences of government action. Moreover, advanced warning as to the procedures governments will use when deciding to exercise its authority is essential. When governments are consistent in this regard, it creates a degree of confidence that individuals will not be treated in an arbitrary or capricious manner. As noted in the stream of recent research on the matter of police legitimacy and procedural justice, transparency figures prominently in the creation of legitimacy. Openness is also important and differs somewhat from general understanding of transparency. Where transparency signals the ability to observe the process, openness indicates receptiveness to involvement and interaction. An institution seeking to demonstrate its trustworthiness would do well to be open to involving those whose trust they wish to earn.

Clearly an agency's systems and processes should be thoughtfully designed with the goal of demon-

"He who does not trust enough, will not be trusted."

Lao Tzu

strating institutional trustworthiness. But it is all for naught if they are not properly implemented and consistently carried out. For this we are completely dependent on people. Onora O'Neill made a similar observation in her June 2013 TEDx House of Parliament Talk when she noted that systems are only as effective as the people responsible for carrying them out. Using a variety of examples from her home country, she described the explosion of bureaucratic systems and procedures enacted over the past several decades for the purpose of securing the public's trust. Yet a check of the opinion polls conducted to measure their effect found no corresponding increase in public trust; even as the availability of information rose. O'Neill points out that while institutional systems are critical, the trustworthiness of those responsible for making these systems work is of even greater importance.

Trust is an affect arising out of human relationships. The interdependent systems and processes we've discussed here are not, in and of themselves, living things. These man-made constructs may rely on each other for optimal functionality, but they are incapable of trusting each other. Instead, we should see institutions and their systems as drawing their life from the people that populate them. This is another of O'Neill's observations. While systems create the opportunity for individuals to demonstrate trustworthiness, they do not actually create trust. Again recall that O'Neill contends that trust is a gift, given only when people demonstrate they are trustworthy. Moreover, this gift is only bestowed by the giver on the basis of consistently observed behavior that – in their estimation – justifies the risk. In making these determinations, O'Neill contends we look primarily at three characteristics of the individual in making this risk assessment: *competency*, *honesty*, and *reliability*.

First, *competency* concerns the degree to which an individual possesses the capability and capacity to meet commitments. Demonstrations of competency take many forms in our profession. These range from open house events to publicly demonstrated excellence in rendering service. This also presents individuals a real growth opportunity when it comes to earning trust. It is fairly straight-forward and common place. As we demonstrate our abilities, we are usually entrusted with greater responsibilities. As professionals, we should be striving to acquire new capacities and perfect our performance of existing ones. As individuals (and agencies) we went through this over ten years ago when the new thinking on engaging active-shooters dawned. We developed individual skills for engaging these types of threats and have developed a level of competency in dealing with them. Many of us have been called upon to publicly demonstrate our competency at active-shooter drills and exercises held at schools. As a consequence, we have established a level of trust with those we are sworn to protect that we can address these threats.

But this trust is not universal, or even static. O'Neill notes in her discussions on trust that we often deeply trust people to do some things, but not other things. For example, we don't ordinarily trust the person who fixes our vehicle to perform brain surgery on us. We selectively trust based on observed or perceived competence. It is for this reason we should always be alert to changing expectations as it pertains to competency based trust. As individuals and as institutions, we are being challenged to rethink the way we approach certain tasks. For example, we are being challenged to increase our competency and capacity concerning encounters with persons with mental illness. In another, we are challenged to find other ways to address encounters that involve dogs. As individuals and as a profession, we demonstrate our trustworthiness by always striving to perfect our craft.

The second individual characteristic which evidences trustworthiness is *honesty*. This trait is the subject of many essays, treatises, poems, slogans, fables, and children's stories. Even in this context it warrants its own article. Honesty is an essential characteristic, rightfully demanded of those who swear an oath to protect us and vested with the authority to use force in the course of upholding that commitment. The issue of honesty – truthfulness we often call it – has been a hot topic of conversation in our profession for the past several years. The requirements of the Brady decision, while not new, has challenged and changed our internal processes when it comes to the issue of officer truthfulness. Dishonesty can not only damage an agency's reputation but end an officer's career. Law enforcement agencies are protective of their reputation in this regard. An agency's reputation for integrity begins with the individual's commitment to be honest and truthful in every aspect of their performance.

Finally, *reliability* is an important personal attribute that goes a long way toward establishing the kind of credibility that leads to trust. When we perform our duties in a highly proficient and honest manner, yet do so irregularly, we do not inspire the kind of confidence necessary to demonstrate our trustworthiness. In our profession, the bar can seem quite high. In fact, we work in a profession where lapses in these character traits by individuals in other departments can cause the public to question our department. This speaks to the unique position that the law enforcement profession has as an institution. It also identifies an obligation that we have to each other; as individuals and agencies.

In concluding by way of summary, remember that trust is something that we must demonstrate we are worthy of. It is not something that can be built; it is gift we must earn. We earn trust by demonstrating

the qualities of competency, honesty, and reliability. Further still, an agency earns trust by having competent, honest, and reliable people working within systems designed to demonstrate organizational accountability, responsiveness, and transparency. Performance of this type best positions an agency and its personnel to demonstrate its trustworthiness. However, I would offer that while trust is an important near term goal, it is not our ultimate destination. Earning the confidence of our communities – a deeply seated form of trust – gives us the best chance of realizing the highest quality relationship we could possibly have with those we serve. Having that level of trust helps weather the storms that come with our particular form of public service. Communities that are confident in their police departments don't share the same suspicion of their hometown public safety professionals when events cause our profession's integrity to be questioned. Once earned, a community's confidence is an invaluable asset that must be guarded zealously.

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"When a man assumes a public trust he should consider himself public property."

Thomas Jefferson

Random Thoughts to Close Out 2014

By Neil Moore

Our colleague, John Ray, provides a great piece on the value of trust in this edition of the Ethics Roll Call. As we think about this very timely topic, in many respects it is like singing to the choir. Contrary to the media depictions of police actions and the various protests that followed, we need to remember that the overwhelming majority of police officers in our nation come to work with the best interest of the public in their heart. No police officer comes to work with the intent of using deadly force as she or he goes out on patrol. While trust is critical in what we do every day, and I will come back to that in just a minute, it is also critical to better frame the issues that gave rise to the concern over police-community interactions as we closed out 2014.

National surveys on satisfaction with police service delivery and perceptions of police behavior offer a different perspective on police-citizen encounters than recent media depictions. On September 24, 2013 the Bureau of Justice Statistics released the most recent study to address several of the issues regarding the citizen's perspective of police behavior. Police Behavior During Traffic and Street Stops, 2011 (Langston, L. and Durose, M., 2013) starts by reminding us that in 2011 an estimated 62.9 million citizens, 16 or older had one or more contacts with the police (p.1). Slightly less than one -half of the contacts with the police were conducted as a result of police inquiry and not in response to a call for service. Of street stops, almost 71 percent of the respondents believed the police acted properly. When encountering officers in traffic stops, over 88 percent believed officers behaved in an appropriate manner. This survey inquired about the perception of people regarding the *legitimacy* of the traffic stops: did the police have a valid reason for making the stop? Interestingly, 83.6 percent of White, 67.5 percent of African-American and 73.6 percent of Hispanic/Latino respondents reported that they perceived the reason for the stop to be legitimate. I say interestingly because a number of surveys taken over the years have continued to show this same sort of difference in the perception of the delivery of police service when the data was broken down by race and ethnicity. The Langston and Durose report also noted that it makes a difference if the traffic stop has an intraracial or interracial element. If the officer conducting the stop was of the same race as the driver, 83.3 percent of the drivers viewed the stop as being for legitimate reasons. If the officer was of a different race than the driver, the sense of legitimacy dropped to 74.4 percent. When this report looked at proper behavior during an enforcement action (ticketed, written warning or no action taken) the aggregate numbers indicate proper behavior at 86.6 percent if ticketed,

93.3 percent if warned and 82.5 percent with no enforcement action (p.7). When that same data was examined across racial categories, with the exception of when no enforcement action was taken, the respondents were much closer in their perspective of proper police behavior. An argument can be made here that when an officer is delivering the bad news of a ticket or the relative good news of a warning, they are more inclined to be far more informative about their action. Does communication help the community trust us more? Does explaining our actions and our work promote a better perception of our behavior? I would recommend that police leaders who have not had a chance to read this report, take a few minutes and pull this report up for a quick read. One conclusion made here is that we are doing better in many areas of our enforcement encounters, but the legitimacy numbers tell the age old story that we still have work to do in building trust among all population groups.

As part of trust building and community engagement, education and partnership should become a greater part of our repertoire. That education has to go both ways. We need to be working internally and externally. In her article of December 22, 2014 in the City Journal, Heather McDonald, the Thomas W. Smith Fellow at the Manhattan Institute and a contributing editor of *City Journal*, helped to further frame the issues surrounding the anti-cop sentiment that was prevalent as 2014 came to a close. "In 2013, there were 6,261 black homicide victims in the U.S. – almost all killed by black civilians – resulting in a death risk in inner cities that is ten times higher for blacks than for whites…The police, by contrast, according to published reports, kill roughly 200 blacks a year, most of them armed and dangerous." That is not to discount any death that results from a police action. The number simply serves as a tool to help set the debate. The vast majority of police officers understand that a homicide, any homicide represents a tragedy. Many officers, become visibly upset at the loss of life that occurs in their respective cities. If one doubts that, watch the YouTube video of Milwaukee Chief Ed Flynn from November 6, 2014 responding to media questions in the aftermath of a police action shooting in his city.

All citizens have a role to play in reducing acts of violence in their home towns. Have we helped them understand that fact? Our outreach and education of the public needs to contain the ongoing message that we… the police…continually need their help to make our world a safer place. Sir Robert Peel really did get it right… "The police are the public and the public are the police; the police being only members of the public who are paid to give full time attention to duties which are incumbent on every citizen in the interests of community welfare and existence."

I like to remind our colleagues that to many of our citizens our work is mysterious; they either don't know what we do or they assume it is the way they see on the big screen. By valuing education, police agencies can routinely reach out to the public we serve to describe our training, our reactions to noncompliance and our reactions to use of force. By routinely engaging our citizens in a variety of forums we open up dialogue that enables us to dispel the myths of our work. The time to engage in educational outreach is before an adverse or contentious encounter occurs. As Executive Chief Deputy John Ray reminds us, trust is something we must demonstrate we are worthy of. As our colleagues who teach police legitimacy and procedural justice inform us, our behavior, the behavior of the officers we guide and direct on every one of the 63 million encounters that will happen in 2015 is important. It is those behaviors that help demonstrate that we are worthy of the trust of those we protect and serve.

References

Langton, Lynn and Durose, Matthew, September 2013. *Police Behavior during Traffic and Street Stops, 2011.* Washington, D.C. U.S. Department of Justice, Bureau of Justice Statistics.

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"You must trust and believe in people or life becomes impossible."

Anton Chekov

CIEC Taking Shape

The **Contemporary Issues and Ethics Conference...CIEC** is being to take shape. With the help of the Ethics Advisory Board and the evaluations of last year's attendees, the theme for this year's conference is **"Use of Force, The Public Trust and Consent Decrees: Procedural Justice Applied."**

The number of police agencies being investigated or actually operating under consent decrees is at an all time high. Oftentimes, the reason for the DOJ investigations that give rise to this type of action involves patterns or practices of agency personnel using force. As we witnessed during the latter part of 2014, the public trust of some police agencies around our nation seems to be at a low ebb. This conference explores the critical relationship between use of force incidents and the impact on the public trust. Taken together these factors may lead to inquiries from the DOJ Civil Rights Division.

Arlington Police Chief Will Johnson will set the stage with keynote remarks on these issues on the 15th. We have a number of invitations pending for presentations by nationally known experts who routinely deal with the topics of this conference. Please watch the ILEA website for further details.

Please mark your calendars:

<u>Contemporary Issues and Ethics Conference</u>

April 15-17, 2015

Plano, Texas

Another Group of Ethics Instructors

The Center for Law Enforcement Ethics added another group of ethics instructors to the cadre of over 10,000 instructors that have completed the Ethics Train-the-Trainer course. The Fall 2014 group represented agencies from :

Letheridge Regional Police Service Canada; Canadian Forces Military Police Academy; Arizona Game and Fish Department; Lakewood, Washington; Bellevue, Washington; Farmington, New Mexico; Austin, Texas; Godley, Texas; Richmond, Virginia; Nebraska State Patrol; Aztec, New Mexico; Keller, Texas; Burleson, Texas; Vermont State Police; University of Texas System Police; and Texas Parks and Wildlife. We are pleased to add our new colleagues to those who continue to promote the ethics dialogue in policing.

33 officers from throughout the United States and Canada!

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Upcoming ILEA Courses

Basic Police Leadership

February 23-27,2015 (Noblesville, Indiana)

52nd School of Executive Leadership

March 2-April24, 2015 (Plano, Texas)

Police Leadership Academy

March 16-20,2015 (Anderson, Indiana)

Contemporary Issues and Ethics Conference

Use of Force, the Public Trust and Consent Decrees: Procedural Justice Applied

April 15-17, 2015 (Plano, Texas)

"I'm not upset that you lied to me, I'm upset that from now on I can't believe you."

Friedrich Nietzsche

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Institute for Law Enforcement Administration
Center for Law Enforcement Ethics
The Center for American and International Law
5201 Democracy Drive
Plano, TX 75024
972.244.3430
972.244.3431 Fax
www.theILEA.org

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AND INTERNATIONAL LAW

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