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Seumas Miller

Corruption and Anti-Corruption in Policing— Philosophical and Ethical Issues

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Corruption
and Anti-Corruption
in Policing—Philosophical
and Ethical Issues

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Introduction

Recent and not so recent commissions of inquiry into police corruption, including the Knapp Commission (1972) and the Mollen Commission (1994) into the New York Police Department, the Rampart Inquiry (2010) into the Los Angeles Police Department, Independent Police Complaints Commission (2015) inquiries into the London Metropolitan Police, the Fitzgerald Commission (1989) into the Queensland Police Service and the Wood Commission (1996) into the New South Wales Police Service, have uncovered corruption of a profoundly disturbing kind. Police officers have been involved in perjury, fabricating evidence, protecting pederast rings, taking drug money and selling drugs. In South Africa, police have been involved in murder, armed robbery and rape, as well as theft, fraud, fabrication of evidence, and the like (Burger 2011). In many police stations in India police corruption and human rights abuses, including torture, are endemic (Lamani and Venumadhava 2013). High levels of police corruption have been a persistent historical tendency in many police services throughout the world (Skolnick 1967; Kappeler et al. 1994; Newburn 1999; Sarre 2005). Corruption in policing is neither new nor especially surprising. Moreover, a number of causes of police corruption have been identified (Skolnick 1967; Wilson 1968; Newburn 1999; Sarre 2005).

In order to do their job effectively, police have been given a number of legal rights and de facto powers, including rights to use coercive force and instruments for doing so (e.g. handcuffs, handguns, tear gas), and wide discretion in the exercise of these rights and powers (e.g. to decide whether or not to embark on a criminal investigation). Moreover, police have many opportunities to abuse these rights and powers; for example, opportunities to harass the innocent with threats or trivial charges, or to turn a blind eye to serious crime (Klockars et al. 2004).

Police officers also face considerable temptations to avail themselves of these opportunities. They may be offered material inducements, such as the offer of money or favours in return for protection, or dropping of charges, for example. They may be tempted by the opportunity to express some personal prejudice, against (say) a particular racial group. Or they may be influenced by the chance to avoid what we could think of as the costs of police work. After all, a lot of police

work is dangerous, tedious or time-consuming. The temptation to take shortcuts to avoid these costs, or to seek benefits to offset these costs, is considerable.

The general concern in this book is with police corruption and the methods used to combat it. The principal institutional arrangement for preventing, combating and reducing corruption is a so-called integrity system (Alexandra and Miller 2010). Integrity systems can be contrasted with regulatory frameworks. A regulatory framework is a structured set of explicit laws, rules or, regulations governing behaviour, issued by some institutional authority and backed by sanctions. It may serve to ensure compliance with minimum ethical standards (namely those embodied in a law, rule or regulation), but this is only one of its purposes. There are numerous laws, rules and regulations that have little or nothing to do with ethics. An integrity system, by contrast, is an assemblage of institutional entities, mechanisms and procedures, the purpose of which is to ensure compliance with minimum ethical standards—notably requirements not to engage in corrupt activity—and to promote the pursuit of ethical ideals. So integrity systems have a regulatory component, but they involve more than this.

The key ethical notion underpinning integrity systems is that of collective moral responsibility (Miller 2006). All or most members of an institution or organisation are collectively morally responsible for seeing to it that ethical behaviour and attitudes are promoted and unethical behaviour, notably corruption, is prevented, eliminated or at the very least contained within reasonable limits. The notion of collective moral responsibility in play here is complex and operates at multiple levels, e.g. managers of anti-corruption units have specialist responsibilities others might not have.

An integrity system for a police organisation (Prenzler 2009) would consist in such things as:

1. Recruitment vetting process to exclude persons predisposed to crime, violence and other ethical misconduct;
2. Ethics training of recruits and ongoing professional ethics programmes for all officers;
3. Ethical leadership emphasis in training and promotion processes;
4. Fair and reasonable remuneration, promotion and other rewards processes;
5. Complaints and discipline system;
6. Welfare support systems, e.g. resilience building and stress management, substance abuse;
7. Risk management, intelligence gathering and early intervention systems;
8. Internal investigations department;
9. Pro-active anti-corruption intervention systems, e.g. targeted integrity testing;
10. Well resourced, independent, external oversight body with powers of investigation.

While the general area of concern in this book is with police corruption and anti-corruption, the focus is on certain key philosophical and ethical (or moral—these terms are used more or less interchangeably) issues that arise for police organisations confronting corruption. So the book is not a criminological work on

the specific varieties, contexts and causes of police corruption, nor is it an extended treatment of integrity systems for police organisations or best practice in anti-corruption methods.

The key philosophical and moral issues in question, and the chapters in which they are discussed, are as follows. In Chap. 1 a normative theory of policing is elaborated. It turns out that the principal institutional purpose of policing is—or, since this is a normative and not merely a descriptive theory, *ought to be*—the protection of moral rights, such as the moral right to personal security (e.g. not to be assaulted or killed) and the moral right to property. These moral rights are ones embodied, or ones that ought to be embodied, in the criminal law; these moral rights are, or ought to be, legal rights. Hence the close relationship between policing and the criminal law. This normative theory provides the framework within which police corruption can be identified and assessed. For ultimately unlawful and/or immoral failure on the part of institutional actors, such as police officers, is corruption precisely because it undermines institutional processes and purposes; and the more serious and widespread the corruption the greater the institutional damage.

Chapter 2 begins with an analysis of institutional corruption (Miller 2011). Corruption is at bottom a species of immorality, or so it is argued. Moreover, corruption needs to be distinguished from other forms of ethical misconduct. An analysis of police corruption, in particular, is then proffered; an understanding of police corruption being the necessary precursor to what follows in later chapters.

In Chap. 3 a very important species of police corruption is identified and elaborated, namely, the so-called noble cause corruption. This is corruption undertaken to achieve a good purpose, e.g. police planting additional ‘evidence’ on a suspect they know to be guilty in order to ensure a conviction. The phenomenon of noble cause corruption is a morally complex one and this complexity is often not well understood by police practitioners, lawyers, heads of commissions of inquiry, social scientists and others. Yet it is important that it be well understood if anti-corruption measures taken against it are to be successful.

Chapter 4 provides an account of integrity systems and, especially, those elements of integrity systems specifically concerned with anti-corruption. What is referred to as a holistic integrity system is argued for, and the various elements of such a system are identified. This chapter sets the scene for the remaining ones, since the moral issues to be discussed in these chapters arise from a number of the key elements of an integrity system for police organisations. The elements in question are internal investigations, integrity testing and professional reporting. As stated earlier, the key moral notion informing integrity systems is that of collective moral responsibility. Accordingly, Chap. 4 begins with an elaboration of that notion before applying it to the account of the holistic integrity system for police organisations.

Chapter 5 discusses the matter of the morality and rationality of professional reporting; police reporting on the corrupt behaviour of their fellow officers. Historically, the question of police reporting on police (‘ratting’?) has been fraught. The so-called ‘blue wall of silence’ has been a barrier to such reporting and, therefore, to combating corruption in police services. The chapter includes a

discussion of the rationality underpinning the reluctance to report and identifies the problem as being in part a collective action problem. Framing the problem in this manner suggests an approach to dealing with it.

Chapter 6 is concerned with internal investigations and identifies the criteria for good internal investigations. This is especially important given the crucial role that internal investigations play in combating police corruption and given, also, that historically many internal affairs investigations have been highly problematic. On some occasions internal affairs investigations have been compromised by, for example, negligence or the leaking of confidential information; on other occasions, investigations have developed into politically driven exercises in scapegoating or into private vendettas.

The focus in Chap. 7 is on integrity testing of police officers; roughly, setting ‘traps’ for police officers suspected of corruption. This practice raises the important moral issue of entrapment; when are such traps morally impermissible (and when, therefore, should they be unlawful)? The chapter ends with an outline of the conditions under which integrity testing might be morally justified.

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