



# THE COMPLEXITIES OF POLICE ETHICS IN THE 21ST CENTURY: IS THERE A ROLE FOR MORAL CHARACTER?

**Police Ethics Webinar**  
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THE JUBILEE CENTRE  
FOR CHARACTER & VIRTUES

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# INTRODUCTION

The Jubilee Centre is currently undertaking a project titled 'Virtues in Policing', which focusses on the role of character and virtue in police work and on the intricacies of current police ethics. The eventual aim is to develop teaching materials to cultivate ethical professionalism and enhance phronetic (wise, reflective) decision-making among police officers and police-science students. However, not much is yet known about the role that character and virtues play in current police education and police work. As a result, on the 20th January 2021, the Jubilee Centre hosted a police ethics webinar titled 'The Complexities of Police Ethics in the 21st Century: Is There a Role for Moral Character?'. The idea behind the webinar was to explore current considerations and debates on policing ethics, police education, dilemmas that police officers face, and if and how virtue and ethics language features in current academic and professional practice.

Under the overarching theme of the research project, position papers from five leading academics and practitioners in the field of policing ethics were invited to address the following themes: (i) Police Education, (ii) The Changing Face of Policing, (iii) Police Dilemmas, (iv) Code of Ethics, and (v) Policing and the Language of Virtue: Does the language of moral, civic, intellectual and performative 'character strengths' and 'virtues' resonate with police educators, students and practitioners - or is the language of rule-based or utility-based ethics more felicitous in accounting for the ethical dimension of police work? The five position papers are presented below, and a recording of the webinar can be found on the 'Virtues in Policing' project page.

# 1. Ethical Leadership for a Crisis: Post Pandemic Policing in the 21st Century

'Crisis' is a word that is all too familiar to police leaders. Even before the challenges posed by COVID 19, viewed from the Chief's office, policing would have seemed to be permanently oscillating between periods of scandal or crisis and periods of reform (Sherman, 1978 and Neyroud and Beckley, 2001). On both sides of the Atlantic, the early 21st century has proved particularly challenging for the institution of policing. In the United States, Rosenbaum has argued that "policing is facing a major crisis of legitimacy" characterised by the disproportionate use of lethal force and over and under policing of black and minority communities (2016:1). During 2020 the death of George Floyd in Minneapolis gave fresh focus and urgency to both the global Black Lives Matter movement and a US-based movement to defund the police and replace them by community or other agency resources.

In the United Kingdom, in a different context, framed by a decade of stringent fiscal austerity, "the current situation - with the police facing rising demand alongside shrinking budgets - risks creating a crisis of legitimacy for policing" (Hadjipavlou et al., 2018: 3). For the United States, police leadership has been faced with the reform of the core strategies and tactics deployed in frontline policing. For the UK, the central challenge has been how to ration police services whilst at the same time meeting the increasing expectations for public protection and preventing rising levels of violent crime. Even with the promise of 20,000 extra officers, the pressure has not diminished: if anything, the ambitions for policing have only grown.

The police leadership within the UK or the USA are not alone in the 21st century in facing what are fundamentally existential challenges about the nature and effectiveness of public policing. Post the 9/11 terrorist attack, a combination of a heightened terrorist threat, the impact of globalisation and the internet on transnational organised crime and cyber-enabled crime have faced police forces across the world with a need to commit increasing resources to terrorism, organised crime and cybercrime (College of Policing, 2015). Added to this, the police have faced increased demands to tackle domestic abuse, investigate sexual crimes and for "public safety, welfare and the protection of the vulnerable" (Hadjipavlou et al., 2018: 8).

The effect of these combined pressures has been to squeeze the resources available for 24-hour response, volume crime investigation and local patrol or community policing (HMICFRS, 2018). It has become progressively more difficult to sustain local policing without a substantial injection of additional officers or a radical approach to rationing services. Alongside this, levels of violent crime have begun to reverse the falls of the crime drop (ONS, 2018), putting Chiefs under pressure to reconsider proactive, not to say aggressive, enforcement strategies such as stop and search that had been reined back, because of

political pressures and concerns about the impact on legitimacy (Meares and Neyroud, 2015).

Against this context, the COVID 19 pandemic has added a global critical incident in which the police have been forced into the public health frontline as the main agency responsible for restrictions to liberty on a scale not seen since the Second World War. In the UK, the police have tried hard to balance protecting the vulnerable, education, advice and enforcement for a population often divided by age, geography, economic hardship and vulnerability to the virus. The balance between enforcing restriction and encouraging compliance has been a tough tightrope to tread.

These dilemmas have major implications for the approach and philosophy of police leadership. In particular, given the stark ethical choices posed for the priorities, style, strategies and tactics of policing, the central importance of an ethical leadership approach stands out. There has been much discussion about transformational and transactional leadership in policing, but relatively little around ethical leadership. Whilst there has been extensive debate about police ethics, this has tended to focus on corruption and misconduct rather more than normative frameworks for leadership. On the other hand, there has also been a growing debate about a new professional model for policing, framed by ethics and supported by evidence-based practices (Neyroud and Sherman, 2012). As decisions about priorities for increasingly scarce resources in public policing become harder, so police leaders will need to pay more attention to both the evidence and the ethics of their approach in order to sustain the legitimacy of the organisation.

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## 2. Police Education and Training for the 21st Century

Police Education and Training in England and Wales, and the Nordic states, continue to evolve from their early militaristic roots. The primary focus of having sharp creases in their uniform, the ability to march in step, together with the ability to recite police powers and law by rote, has been replaced by the requirement that the police officer can critically reflect on and upon their action(s) and make ethically and morally defensible decisions, whilst under the scrutiny of citizen journalists recording their every action and word. This significant pivot is not without its critics, many of whom seek to cling onto the actual or perceived artefacts and remnants of the halcyon days of the local or National Police Training Centres.

From its earliest roots in 1829, recruits to the new police in London were predominantly from working-class backgrounds with lawyers and military officers taking on supervisory roles including the Commissioner and/or Chief of Police (Emersley 1986, 1996). Unsurprisingly, military discipline and models of training were adopted and maintained by the police services for over one hundred and fifty years in England and Wales. Conflicts and wars were common during this period of history with many recruits to the police services having served in the armed forces either voluntarily or through National Service up to 1960 in the United Kingdom. The desired virtues espoused by police recruiters of recruits during this period of history included a willingness to follow orders without question, punctuality, the ability to march in step and parade in a smartly ironed uniform with highly polished boots, came easy to those working-class recruits who had experienced military service.

Mass immigration during the post-war period coincided with the rise of civil rights movements and the liberalisation of Western societies, including the United Kingdom, from the 1960s (Newburn 2011). This period is also characterised by a steady but continued reduction in trust of authority, not just in terms of Government, but also in terms of professions including medicine, teaching and religious leaders. The police service was not exempt from these challenges to its orthodoxy of authority and operational practices. Police training practices changed little during this period of societal change. The riots in Brixton, Bristol and across other cities in the early 1980s brought about some minor changes to the training of police. These changes came as a result of the investigation led by Lord Scarman (1981), were externally driven, and often resisted by frontline police officers and their staff association, the Police Federation. These relatively minor changes included a requirement for diversity training which was to be included for all new recruits and frontline staff.

Following the racist murder of Stephen Lawrence in March 1993, the working practices and

training of police officers were once again in the spotlight (Macpherson 1999). Whilst equality and diversity training were embedded in the police training curriculum, the majority of the training was conducted by police officers themselves within the militaristic setting of the Training Centre where students were required to live and sleep in barrack type blocks, from Monday to Friday. Here uniform inspections, marching and rote learning continued to be highly prized activities. Following the publication of the Stephen Lawrence Inquiry report of Sir William Macpherson in 1999, police training continued with relatively little change. It was only after the airing of the BBC Documentary 'The Secret Policeman' on 21st October 2003, that police training in the UK began to change. The documentary followed an undercover reporter through his recruitment and initial training (BBC 2003). Racism amongst the recruits and staff at a Regional Police Training Centre was revealed to the British public. The airing of this documentary marked the beginning of the end for the traditional police training colleges that delivered initial police training across England and Wales.

In 2006 all regional recruit Training Centres across England and Wales were closed, and police services were required to enter into partnership arrangements with Further Education Colleges and/or Universities for the provision of police recruit training and for the first time, education (Centrex 2006). Whilst some police services sought educational partnerships with a blend of education and practical training, others sought what could be described as simply Bricks and Mortar: These police services sought to continue with the traditional police training curriculum and with police trainers but using University or college premises only. The resistance to engagement with higher education by some police services continues today. Some, but not all, of the opposition is the result of police occupational culture (Chan 1996). The Police Service hold firm to its origins and remain proud of its deep working-class roots.

Unlike traditional police training, society and technology have evolved at a staggering pace. In recent decades, teachers, nurses and other traditionally working and middle-class occupations have shifted their initial training to embrace significant educational requirements that practising in the modern age demands. To say that policing in the digital age is complex is an understatement. The demands and expectations made of police officers have never been higher, nor is the scrutiny to which individual police officers are frequently exposed. The policing of a global pandemic continues to add a further level of complexity that few could have predicted. The policing principles set out by Sir Robert Peel in 1829 remain as valid and relevant today as they were when they were first published. However, the demands and expectation placed upon police officers in 2021 dictate that they look smart and have the ability to recite rules and laws verbatim are no longer sufficient (and never were). To work inter-professionally, in partnership with other professionals the modern police officer needs to understand and appreciate the human and social diversity, to understand disadvantage and the place that prejudice and discrimination operate at the personal, cultural and structural levels (Thompson 2012) and how these impact upon their decision-making and their use of discretion when carrying out their duties in the digital age.

To meet this expectation and societal and even Government demand, the modern police officer requires high-quality, practical training which is blended with skills that are oft associated with a university-level education (Telep 2010). These include an understanding of the law, sociology, psychology, professional ethics and criminology. To do this well, the



police student needs time both to learn, to ask questions and time to reflect upon the implications of this leaning in the context of their role. Policing in the digital age requires officers to become pracademics, police officers who are also academic (Huey & Mitchell 2016). The New Paradigm of Police Science as proposed by Neyroud & Weisburd (2011) involves science, and the scientific method is added to the police service generally and specifically, the police officer inventory. The time spent polishing boots and marching is replaced by training in problem-solving, ethical decision making and working through ethical dilemmas. Complaints from those who claim that University-level police officer education and training might result in the over-intellectualisation and over-theorisation need to be considered in the context of police occupational culture and the exceptional demands on, and scrutiny of, the modern police officer. Are we to prepare the contemporary police students for policing in the past or the future?

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### 3. Profession or Craft? Police Education and the Professionalisation Agenda

The professionalisation agenda for policing in England and Wales is well established, having adopted reforms from the Neyroud review in 2011. This included the implementation of a new Professional Body for policing (Neyroud, 2011) in the form of the College of Policing in 2012. Reforms drew on the examples of other professions, i.e. medicine, teaching, law and education that defined key features, such as a depository of research, accredited educational qualifications and a code of ethics (Davis, 2020). A robust code of ethics followed for the police service, along with a growing and highly credible body of research and evidence-based practice (EBP), substantially influenced by the work of Professor Lawrence Sherman. As Sherman (Sherman, 1998) outlines: 'Evidence-based policing uses research to guide practice and evaluate practitioners. It uses the best evidence to shape the best practice.' Although always of interest to academics, research into policing within a UK setting has surged over the past two decades. This notably includes the involvement of the police service itself in the form of the Society of Evidence Based Policing, that seeks to link research with applied practice and improve policing from within by using the best research evidence (Society of Evidence Based Policing, 2021). Developments around educational qualifications are more recent with the establishment of the Police Education Qualification Framework (PEQF) and the step-change in mandating degree entry for policing from 2019. Although, the notion of a profession in the UK is ultimately linked with that of qualification (Bryant et al, 2014), the PEQF is not without controversy in challenging the status of police occupational 'craft' and the importance of experiential knowledge (Davis, 2020). This paper now turns to the PEQF debate and the notion of policing: 'profession or craft'.

Viewing the police officer as an artisan is historic. Upon implementation in 1829, Metropolitan Police officer remuneration was set at 21 shillings per week. This was more than a labourer but less than a 'skilled man'. (Police pay remained comparatively poor until the first Thatcher government in 1979). Partly due to the lack of professional status, police recruitment traditionally drew heavily upon a working-class and lower middle-class base, reflecting the perceived blue-collar nature of the job. Contemporary policing is an increasingly complex and technological endeavour. It can be argued that higher education within policing and degree entry reflects that complexity and in particular, navigating a turbulent moral and ethical environment that is only set to become more challenging. Predictive analysis and artificial intelligence systems are due to transform processing outputs and outcomes through the growing development and expansion of data analytics - framed by increasingly powerful algorithms (Winch, 2021). Many ethical dilemmas could be

highlighted within the application of predictive analysis, representing areas that people are starting to get worried about, particularly because of the potential for bias in the data or the algorithm, (such as) live facial recognition software (Dick, 2019). Higher education, professional policing degree courses are beginning to address these areas from academic and philosophical perspectives and offer space and time to reflect on the ethical and practical dimensions of police work. This will no doubt influence future police practitioners, including senior leaders and policy makers, to the benefit of increased professionalisation. There are risks that these approaches and broader elements of degree level scholarship could promote over intellectualising and ‘paralysis by analysis,’ destabilising ethical and effective decision-making and problem-solving; generating unhealthy risk-aversion among future police practitioners. This could be to the detriment of emergency and critical responses, so essential to maintaining public protection, police legitimacy and community trust and confidence.

The policy of degree entry has also drawn criticism around the size of the recruit talent pool available to the police service. The impact of austerity and a virtual ten-year moratorium on recruitment led to a reduction of at least 30,000 officers and police staff. Central government is only now addressing this with the proposed uplift of 20,000 police officers. In reality, 45,500 new recruits are actually required in order to account for retirements and resignations. Furthermore, attrition rates within the recruitment process requires 450,000 new applicants for policing. This raises important questions of capacity for the PEQF and higher education providers. There are also real concerns about the PEQF impact on diversity and equality in recruitment from minority groups, with reports of far lower numbers of BAME applicants coming from universities (Verma, 2020). BAME students represent a growing proportion of university attendees, accounting for 23.6% of the student population in 2017-18 compared to 18.1% in 2009-10 (Universities UK, 2019). Whilst this is encouraging for police recruitment, the inequalities in higher education mirror those in wider UK society (Universities UK, 2019) where the gap between white students and BAME students getting a first- or upper-second-class degree is among the most stark - 13% among 2017-18 graduates (Universities UK, 2019). The challenge for policing and the PEQF remains in the retention and career progression of BAME officers. The future of policing and ethical practice depends on the service getting this right.

The ‘gift of time’ is an essential element of the PEQF and the paid allocation of 20% of a student officer’s time spent in studying for a degree is a welcome benefit. It also represents a clear sense of investing in people, something that the police service now takes extremely seriously and of which forces are justifiably proud. The concept of ‘earn while you learn’ for the police constable degree apprenticeship scheme (PCDA) is attractive and the qualification in professional policing is one that lasts a lifetime. Criticisms that police culture is dominated by a patriarchal hegemony will be addressed through the value of higher education in disrupting the uniformity of police occupational culture and encouraging greater criticality in the police (Davis, 2020).

In conclusion, the policing professionalisation agenda chimes with the seriousness of the tensions facing the UK in an increasingly turbulent environment and the increases in demand and scope of policing services. Uncertainties involving the Covid pandemic, climate change,

the consequences of Brexit and its security implications, globalisation and the severe economic picture are all likely to affect community cohesion and have implications for policing. For the PEQF to deliver meaningful change, it is necessary for police leaders to engage and address the challenges and complexities associated with managing new graduates (Davis, 2020). In its favour, the historical resilience and ability of the police service to respond positively to change is likely to prevail. If the history of policing over the past few decades points to the future, the journey has been one of ultimate progress, although the course has been far from smooth or predictable (Brain, 2010).

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## 4. Maintaining Policing Legitimacy in a Modern Machine Age

When contributors to policing forums start to write, it is often just a matter of time before a reference is made to the Peelian principles. As Lentz and Chaires (2006) highlight, however, it is now largely accepted that these principles are the invention of twentieth-century authors. Nevertheless, the principles have become enshrined in policing because they resonate and have stood the test of time.

When one breaks these nine principles down there is a common thread that was as important to the early founders of policing as it is to those now facing the challenges of the 21st century. Each principle emphasises the need for policing to operate with the consent of communities it serves and reflects the extent to which that consent is conditional upon the legitimacy of the service being maintained. Policing delivered in an unethical manner loses such legitimacy, those Peelian principles collapse and effectiveness dissipates.

Policing leaders must have humility if they are to avoid such pitfalls. The degree to which policing is being delivered ethically will, after all, be judged by the public. As the dictionary defines ethics as 'a system of accepted beliefs that control behaviour, especially such a system based on morals' (Cambridge University Press, 2020); so our communities expect a service of accepted standards that deliver public good in an ethical way.

Public trust can be fragile and as society changes over time, so the tone and style of policing must adapt. Events of the last year have demonstrated this. Our assumptions that young people will naturally be accepting of data-driven services have been dispelled by reactions to the 'A-Level Algorithm' (Burgess, 2020). Locally based trust-building can be eroded when global events such as the killing of George Floyd highlight the effects of structural racism. Alexander (2020) suggests the rule of law does not provide sufficient assurance if the criminal justice system as a whole is perceived to disadvantage some and Black Lives Matter protestors have reminded us that, "The UK is not innocent (Joseph-Salisbury et al, 2020)."

Add to this mix the unique dynamic of policing in a global pandemic; with laws that are literally reviewed and potentially revised on a fortnightly basis; laws that were never available to student officers at any stage of their initial training, or the majority of the public for the purposes of scrutiny and validation; laws imposed on a society questioning the validity of government endeavours to specifically capture more of their data for the purpose of monitoring compliance (Burgess, 2020); and it is easy to appreciate how trust in policing can waver.

As a service, we pride ourselves on our ability to flex to the sort of dynamic and demanding change highlighted above. We also pride ourselves on the established practices that

underpin our responses; such as the use of a national decision-making model with values and ethics at its centre. This helps provide communities with some assurance, but only if we are transparent in all we do. Yet transparency alone does not build trust and therefore demonstrate legitimacy.

The making of just laws, the just interpretation of laws and the just execution of such laws can all be potentially undermined by what Carlyle (1840) called the fourth estate. In a digital age, the fourth estate is no longer limited to the mainstream media. In a world where established followship online can be sold to the highest bidder and then used to promulgate 'fake news' (Miller, 2018), the transparent exchange of accurate and corroborated information is not enough to ensure legitimacy. There is now an ever-growing risk of 'Ad Hominem'.

Labossiere (2010) defines 'Ad Hominem' as a fallacious augmented strategy whereby genuine discussion of the topic in hand is avoided by instead attacking the character, motive or other attributes of the person making the argument, or persons associated with the argument, rather than attacking the substance of the argument itself. In policing and criminal justice, we have long been familiar with the tendency of some legal advocates to attack the process rather than the evidence. That principle is now applied to any argument in any context and used to develop echo chambers where the evidence base becomes irrelevant if the trust in the presenter of such evidence has been undermined through ad hominem (Syed, 2019).

West Midlands Police has sought to be more data driven whilst also recognising the risk to legitimacy that the introduction of an algorithm to decision making can bring. In doing so we have fallen back on our basic principles and looked again at the values and ethics that sit at the centre of our national decision-making model. As a result, we seek guidance from an independently established Data Ethics Committee and in the interests of transparency we publish all papers, advice and decisions in the public domain. This is a positive step towards maintaining legitimacy in policing, as we embrace the possibilities of a modern machine age. But ad hominem remains a risk. Now that intelligent machines are amongst us, not only does our capability grow, but so does that of those that would seek to undermine us, through the increased availability and velocity of attack vectors.

As Coleman (2019) suggests, being right is not enough and we must prepare for such intellectual challenges. We do this not through engagement in a technological 'arms race' but through traditional demonstration of our humanity. Hess and Ludwig (2017) suggest that in order to meet the demands of the modern machine age we must redefine what it means to be smart. They suggest that in doing so we should seek to excel in all that is the best of humanity, with humility sitting at the heart of this 'new smart'. Humility also sits at the heart of the Peelian principles. If we are to meet the challenges of 21st century policing therefore, our leaders must be sufficiently humble, as was indeed always suggested by our 19th century forbearers.

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## 5. Ethical Dilemmas in Policing

What are the most common ethical dilemmas that police officers find themselves faced with on a daily basis? Are they well equipped to address these dilemmas? Is there a role for moral character in negotiating these dilemmas or does it all come down to written rules and codified practices?

This paper was written to address the questions posed above as part of a presentation for the Police Ethics Webinar - The Complexities of Police Ethics in the 21st Century: Is There a Role for Moral Character? held on 20 January 2021 by the Jubilee Centre for Character and Virtues at the University of Birmingham. It draws on research and work undertaken by Macvean with the Police Service, Royal Marines and Naval Service from 2013 to 2020.

If the role of the police was simply to enforce the law, according to the law, then it would follow that police officers would not necessarily encounter ethical dilemmas; merely their concern would be restricted to establishing if the law had been breached and if so, gather the evidence for onward presentation at court. However, policing is more complex than merely upholding the law; it traverses a multiplicity of functions that often encompass officers operating in imprecise boundaries. To quote Bittner's definition, policing can be characterised as "something that ought not to be happening and about which someone had better do something now" (Bittner, 1990: 249). Two important strands fall from Bittner's definition that are pertinent to this paper. First, in order to fulfil their role, police officers are conferred with a range of powers that are morally intrusive and would be considered illegal in other circumstances. This alone locates policing as inherently an unethical profession in discharging of such powers. Second, the majority of incidents that the police attend are not crime-related; rather the reality of the police role is directed towards "congenial activities such as citizen protection, public reassurance and safeguarding rather than [...] fighting crime and catching criminals" (Charman, 2018: 6).

The introduction of the police Code of Ethics in 2014 offered a platform for the development and implementation of Ethics Committees/Panels to be established within police forces in England, Wales and Scotland. By 2020, these Committees/Panels were appended into a regional and national framework. This arrangement has, for the first time, enabled police ethical dilemmas to be raised by police officers and staff of all ranks which can be considered and reflected upon at the local, regional and national level. These ethical dilemmas offers an insight and understanding into the types of dilemmas police officers and staff encounter in their day-to-day operations.

Three examples of ethical dilemmas that police officers find themselves faced with on a daily basis include: 1) Incidents involving mental health issues; 2) Officers attending or



dealing with issues in which the police process conflicts with the officer's own moral values;  
3) Policing in times of national crisis and where law and guidance are enacted hastily leading to a precipitant approach in the use of discretion.

The examples highlight above can be illustrated by the following three case studies, drawn from ethic committees and the Police Regional Ethics Network in the South West, Wales and London (2015-2020):

#### Case Study One

Responding to incidents involving mental health issues.

On arriving at the incident, it is clear to the police officer that the person is suffering from a mental health crisis and represents a danger to themselves and perhaps others. The person needs to be medically assessed as a matter of urgency by the mental health team. Often the response from the NHS to the police is that they do not have any available staff to attend to the person until the following day and neither do they have any available beds to detain and assess the person. The police officer has to make the decision of staying with the person suffering a mental health episode to ensure they and others remain safe or go and support his colleagues in dealing with a number of other significant incidents occurring in town. What does s/he do?

#### Case Study Two

Responding to incidents of children who have child abuse images.

The police are frequently notified by schools that child sexual abuse images have been found on the computers of young children. The schools have an obligation to inform the police. On investigation, it transpires that the images are part of a practice where the children have either shared pictures of themselves naked and/or inadvertently 'clicked-on' a link in which they were not aware that such images were going to be accessed and downloaded. Once the police have confirmed child abuse images have been downloaded, they are duty-bound to consider a number of actions, all of which will result in the young child receiving a criminal record which may have an impact on their life choices later. For example, it may prevent them from taking up certain professions. These children are often between the ages of 10 and 12 years. Should the police officer adhere to the police policy they are supposed to when attending these incidents that will dictate a young child will receive a criminal record or not when it is clear that they are not perpetrators or victims in such crimes?

#### Case study three

Discrepancy of what is law and what is guidance in times of national crisis.

The revised laws for Covid19 Lockdown 3 states the exercise "should be limited to once per day, and you should not travel outside your local area". Additional information further down the guidelines under the travel section states: "Outdoor exercise - This should be done locally wherever possible, but you can travel a short distance within your area to do so if necessary (for example, to access an open space)." The police have to interpret the law for

the purposes of policing. However, policing is built on trust and relations with the community and the police need to retain that trust which is hard to achieve and easy to break. An officer has stopped and engaged with a law-abiding member of the community where it is clear they have made a minor infringement of this law. Should the police officer issue a penalty or not and by doing so, potentially risk alienating a member of the community who has previously engaged with and supported the police?

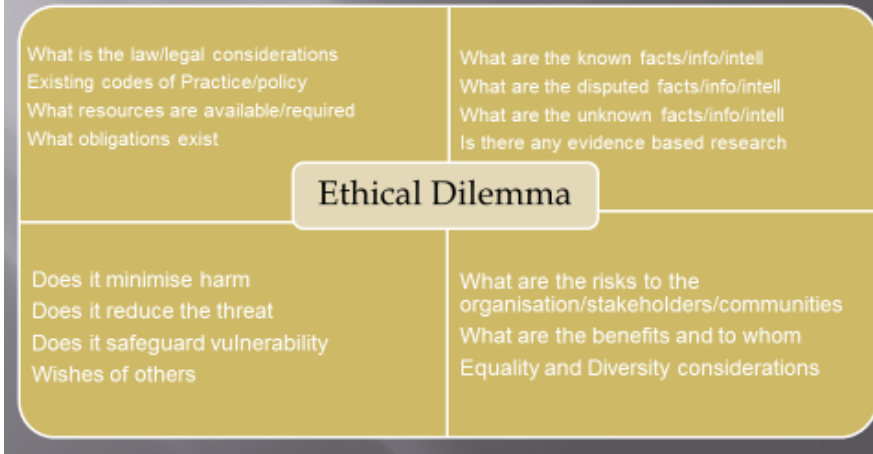
There is a strong argument to propose that police officers are accomplished decision-makers as they probably make more decisions in their professional role than most other professions. They draw upon discretion to assist them in making decisions in complex and confusing situations where information is often incomplete, changing, competing or incorrect. However, ethical dilemmas require more consideration than merely routine decision-making; particularly as whatever decision is made may inflict significant harm on one party or other. Thus it requires a rich understanding of the concept of such dilemmas as well as skills to support decision-making processes when faced with an ethical dilemma. These skills include:

- The ability to recognise an ethical dilemma;
- Determine the nub of a dilemma and the need for consideration;
- Be able analyse moral uncertainty or conflict;
- Be assured that the decision made can be delivered; and
- Be able to justify the decision made. (Macvean 2015)

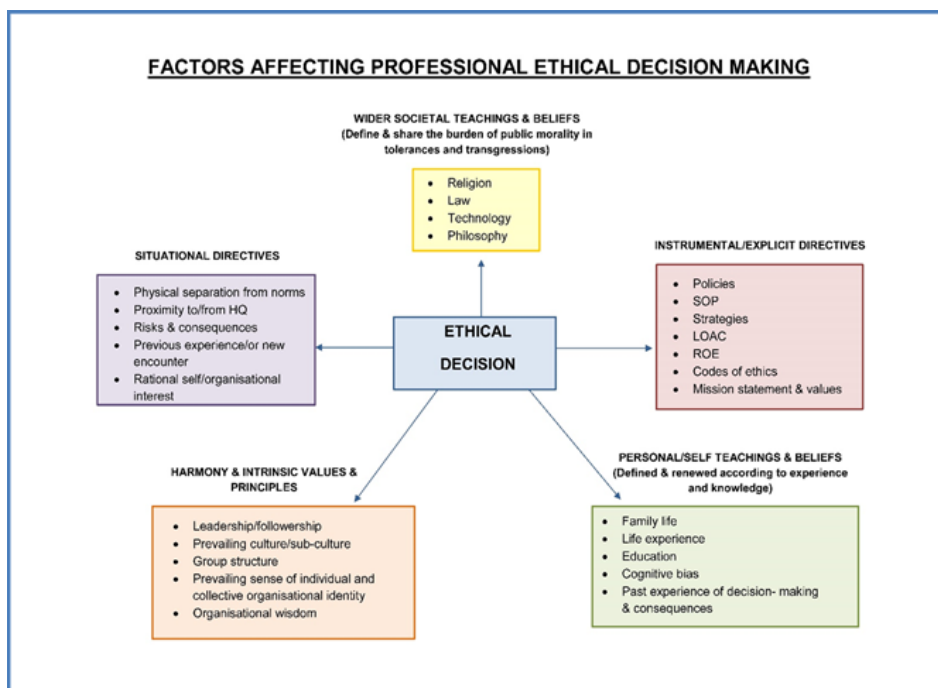
The above skills require a set of competencies and knowledge that the Code of Ethics does not necessarily address. Although the Code of Ethics provides a set of values and principles of which all police officers are bound in statute, there has been little guidance or discussion for officers in how the Code informs and contributes in making ethical decisions or considering ethical dilemmas. While the Code of Ethics has been located within the police National Decision-making Model (NDM), it has been with little guidance (College of Policing, 2021).

Drawing on research and investigation of ethics panels in the Police Regional Ethics Network in the South West, Wales and London, Macvean (2017) developed a model for members of ethics committees/panels to consider when considering ethical dilemmas. There are a number of established models for ethical decision-making that are premised on elements appropriate to the context in which the decision is being made.

# Police Ethical Decision Model



Application of the model keeps the decision-making focussed as well as ensuring that the same factors are considered in every case. Moreover, it supports that similar dilemmas will have similar solutions over time while taking into account varying or fluctuating factors. The application of a statutory Code of Ethics is itself morally problematic. How can officers adhere to the values and principles of the Code when necessarily deploying illegal tactics? Therefore, for police officers to achieve good outcomes, albeit using morally dubious methods, requires them to think, act and behave as moral agents (McCormack, 2016). Moral agents, by the very definition, draw upon their own values and virtues. Research from the Royal Navy and Royal Marines show the complexity of factors that influence and inform professional ethical decision-making including moral character (table 2 below).



Written rules and codified practices are challenging for police officers, for not only the reasons mentioned above but in the right to exercise discretion. The complexity of policing juxtaposed with the intricate factors that influence decision-making implies that moral character is as important as written codes when officers encounter ethical dilemmas (Macvean and Theodosopoulou, 2018). However, the decisions made by officers are subjected to scrutiny and challenge within the prism of judicial process and due application of the law.

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## 6. Ethical Conflicts Between the Public Good and Personal Interests of Police Officers

There is, to my knowledge, no widely used database of common ethical dilemmas that police officers face. Such a database would, to my mind, prove to be a popular teaching tool and raise awareness among police officers of prevalent 'danger zones', but nothing substantial, beyond mere ad hoc examples, has been published by the Independent Office of Police Conduct (IOPC), the College of Policing (CoP), or any other relevant national body in England and Wales. One common explanation is that cases are usually too complex and unique to be comparable, therefore police officers should be encouraged to exercise a considerable degree of discretion unencumbered by strict prescriptions of situational ethics. I will now sketch out some common ethical dilemmas, i.e. those situations where it may not be obvious to a police officer what the right course of action is, usually because one moral imperative compelling a police officer to act conflicts with another, which I will argue are so similar and widespread that more prescriptive written rules could be formulated to help guide and shape trade-offs and prioritisation decisions. In most of these areas, there are written rules (such as the Code of Ethics) and statutory requirements (such as the Police and Criminal Evidence Act), but they accommodate large grey areas within which officers' moral characters can be a more persuasive element.

The first ethical dilemma I will cover is the use of handcuffs at the outset of a stop and search. Police officers provided with exactly the same information can justifiably decide to apply handcuffs at the outset or proceed, at least initially, without recourse to them (the use of biological handcuffs is an option too). Personal safety training (and the associated manual) delivered to police officers provides for a series of 'impact factors' that are sufficiently broad to allow an officer to justify using handcuffs on the basis of their confidence in self-defence techniques (skill factors) and even differences in height and weight. This means that two officers faced with exactly the same scenario may take entirely different approaches on the basis of their prior experience, confidence and height/weight, relative to the civilian subject (who remains the same). Although handcuffing, particularly of young black males, has a cultural resonance and may likely be viewed negatively by the detained person or viewed as an arbitrary arrest by members of the watching public, officers can legitimately attach significant weight to their personal feelings of safety even if the same concerns are not shared by a random sample of their colleagues and those perceptions and emotions are not entirely shaped by the immediate environment. In other words, officers' pre-existing values and approaches to personal safety can come into conflict with public (and detainee) perceptions of fairness and legitimacy on the ground. Requiring police officers to simply justify their decision is not the primary issue here, the roots of the ethical dilemma arguably lie within the wide-ranging 'impact factors' that can

be used to routinely justify such occurrences.

A second common dilemma concerns cases of police misconduct. Recent research has shown that police supervisors, in many police forces across England and Wales, are systematically referring BAME officers to Professional Standards Departments (PSDs) for low-level conduct allegations due, often, to a lack of confidence in their 'cultural competence' to deal with matters raised, and out of fear of being called racist for challenging BAME officers (NPCC, 2019). Where white officers may be dealt with for minor conduct or performance issues through informal 'corridor conversations' with their supervisor, BAME officers are often only made aware that their performance is in question when their supervisor inform them that they had been reported to PSD. Several police supervisors interviewed in the NPCC's study acknowledged that they did this to protect themselves from allegations of racism and out of fear of being exposed for not having the cultural competence and awareness to supervise BAME officers (and the implications this may have for their career). New police conduct and complaints regulations introduced in 2020 have placed greater responsibility on line managers to deal with conduct issues at the outset, without forwarding them to PSDs in the first instance, but there is nothing to suggest that these widespread feelings of fear and cultural incompetence have been addressed. This ethical dilemma continues to be resolved largely within the moral characters of individual line managers, where clearer guidance could be of significant assistance.

A final ethical dilemma concerns officers who are subjected to misconduct investigations and are subsequently exonerated and return to duty. Research shows that the experience of being under investigation can affect officers' levels of trust in the police force and directly affect how they exercise their powers in future (McDaniel et al, 2020). The experience of being under investigation can manifest into a reluctance to use physical force upon an officer's return to work (even to restrain someone for the purposes of arrest). Conflicts can ultimately arise between their desire to carry out a public service, and their moral imperative to return home as functioning partners and parents without the sword of Damocles hanging over their heads (ibid).

New guidance and written rules could better enable police officers to resolve these ethical dilemmas, arguably in a fairer manner. At present, it appears as though too much weight is attached to self-preservation, whether applying handcuffs, dealing with conduct allegations concerning BAME officers, or returning to duty after a potentially career-ending misconduct investigation, when more detailed guidance and better institutional support structures and training programmes could address some of the underlying confusion and anxieties. New algorithms and decision-models could help to address these, often undisclosed, dilemmas that police officers face.

For those interested in dilemmas of this kind, similar conflicts can be found in the prioritisation of resources by Police and Crime Commissioners (PCCs) (McDaniel, 2018); the use of predictive and machine learning algorithms to identify crime hotspots (McDaniel and Pease, forthcoming); the disclosure of information to vetting applicants; and reporting colleagues for using offensive language, among many others.

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