THE CONDUCT OF A POLICEMAN
Eagle Police Manual
1933

First issued in 1933, the *Eagle Police Manual* was published as a volume in the Eagle Library, and was designed as a national reference manual that covered basic police skills—investigation, arrest, first aid, fires, etc. The individually authored chapters included "The Conduct of a Policeman" by Philip Sebold, then Deputy Chief of Police, Newark, NJ. Also included was a chapter on "Courtesy" by Wilbur J. Turner. By the fifth edition (ed. Arthur R. Macosky) of 1943, the chapter on "Courtesy" had disappeared. The manual's emphasis is heavily on efficiency and effectiveness, and only marginally on character.

Source: Henry J. Lee (ed.). *Eagle Police Manual: A Handbook for Peace Officers. National In Scope.* Brooklyn, NY: Eagle Library Publications, 1933, pp. 41-46.

When on Duty

A policeman is at all times on duty. Even though he be at times allowed periods for rest and recreation if, during such times, circumstances arise calling for action he should respond promptly. He should therefore always have his shield and be properly armed.

Duties and Qualifications

The duty of a police officer is to enforce the laws, to protect life and property, prevent the commission of crime and arrest all offenders. He should possess good judgment, be brave and fearless, honest, sober, neat in appearance and attire, obey and respect his superior officers and be courteous to citizens. An efficient police officer should have a thorough knowledge of police business, especially about his post; should avoid any chance of complaint and endeavor to earn the good opinion of the best citizens; be willing to learn and to carry out orders promptly and with judgment. He should also be most particular as to his personal appearance, and the cleanliness of his post.

Police officers should not engage in any religious or political discussions in the station house. They shall not engage in such discussions at any other place while on duty nor when off duty if in uniform or not, except to deposit such ballot as they prefer at the primaries and elections. They shall not solicit or make contribution in money, or otherwise, for political purposes, not be present at any rally, convention or other political gathering except as police officer there detailed for duty.

On Post

When on his route or post he should learn the location of police and fire signal boxes and convenient public telephones. He should also carry a memorandum giving the location of, and how best to get in quick communication with, the coroner or medical examiner, doctors, hospitals, ambulances, and other emergency aids such as a towing or wrecking car, gas masks, inhalators, etc. Watch persons known to have criminal records. Note time of their arrival on his post. Watch all suspicious vehicles, especially those parked with motors running. Have persons carrying bundles that appear suspicious open same for inspection. Report all street obstruction. Guard dangerous holes in streets with light at night, and barrel or similar object during the day. Report all contagious diseases not previously reported, as well as extreme cases of destitution.

When a patrolman is on his post he must not walk or talk with another patrolman, or with any other person, except on police business, and then only for such times as the business requires. He must especially avoid giving cause for gossip or scandal by conversing with women in the streets at night when he is in uniform, whether on his post or not. He must constantly patrol his post except for halts necessary to the proper performance of his duty; he must not sit down, lean against walls, posts or trees or conduct himself in any other respect than as a representative of law and order with important work to do.

He shall preserve the peace, detect and prevent crime, arrest offenders, protect the rights of persons and property, guard the public health, preserve order at all elections, public meetings and public occasions. Prevent and remove, if possible, nuisances on or in all streets, highways, alleys and other places.

Assist Citizens and Generally

When requested, he shall direct strangers and others by the nearest and safest way to their place of destination and furnish such information and aid to all persons as may be consistent with his duty.

Courtesy and civility towards the public should be shown by all police officers regardless of rank, and conduct to the contrary should not be tolerated.

A model police officer should be quiet, civil and orderly and should at all times be attentive and zealous in the discharge of his duties, controlling his temper and exercising the utmost patience and discretion.

He must at all times refrain from using coarse, violent, profane, or insolent language; but when required must act with firmness and sufficient energy to perform his duty. He should be quick to help the aged and

infirm, the blind, and persons injured or suddenly taken ill and temporarily unable to take care of themselves; he should be watchful of young children at all times, but especially before and after school hours, kindly warning them of the danger of playing in the busy streets or dangerous places.

Be punctual in reporting for duty.

Pay all just debts and legal liabilities.

Be responsible for the good care of Police Department property intrusted to his use and keeping.

Leaving Post

It is permissible for a patrolman to leave his post under the following circumstance: In pursuit of a criminal; to assist a brother officer in case of danger, or sickness; on discovering a fire on an adjoining beat; an accident on an adjoining beat.

If he hears a call for assistance he shall proceed to render aid with all despatch, taking every practical precaution for the protection of his post when he leaves it for this or any other purpose, preferably by informing the patrolman on the adjoining post, or if this be not possible, then by informing some reputable citizen on the post as to where he can be reached.

Fires on Post

Use every endeavor to prevent the causes of fires on the post, such as the accumulation of inflammable rubbish, etc. If the other officer on post suspects a fire in any building he should make an immediate investigation and if in any doubt whatever, notify the Fire Department. Then either remain at the fire signal box, or arrange for some other person so to remain, in order to direct the firemen and return to the scene of the fire to guard the safety of the public, and, if necessary, assist in saving life. If assistance is required call the station house, in the meantime remain near the building to prevent unauthorized persons from entering or property being stolen.

Reports

A most important part of a police officer's duty is that of making intelligent and accurate reports. These reports should be as concise as possible and give full details, with correct and full information and descriptions of all parties concerned. In order to be able to make such reports every officer should develop his "power of observation."

Power of Observation

This is one of the most necessary qualifications that an officer can acquire—the habit of observation—of noticing things. In fact, the usefulness of an officer largely depends on his developing his ability to observe things. It may need practice to acquire this power or habit of observation, but unless he does notice things going on around and about him an officer will lack in efficiency. Try when on post to practice noticing persons passing on the street. Describe them to yourself; their manner of walking, dress, color of hair, eyes, and all such matters—and if you see them again check up and see how nearly your description is correct. Pay attention to the different buildings on your post and memorize the wording of signs, etc. Describe to yourself the stock displayed in the various store windows, and observe the storekeepers so that you can describe them—and check this up when next you see them. Notice anything that appears unusual. The routine of the various business premises on your post, and the daily habits and actions of private persons in their homes, vary only slightly day by day. Note any variation from the usual, and, if of sufficient importance, follow it up till it is explained to your satisfaction. Police officers who successfully develop this habit of observation, and of noting matters which may even, at the time, appear trivial, have often found these matters the very key to the solution of a crime and the arrest of the criminal.

Contents of Report

Correct descriptions are essential to the value of any report. The information contained in a report should describe accurately:

(a) What happened and what crime was committed.

(b) When it happened, giving date and hour.

(c) How the crime was committed.

(d) Who committed the crime, if know. If not known, who are suspected persons.

(e) With what was the crime committed. If possible give a description of the weapon, and if such weapon is in the officer's possession, how he has marked it for identification.

(f) Also any apparent motive for the crime.

(g) Names and address of witnesses.

(h) Name, age and address of victim—or complainant's name, place of offence.

In Court

The police concerned in cases before the court are to be punctual in attendance, wearing the uniform, and clean and neat in appearance. Inspectors and men detailed for special service may appear in plain clothes, unless otherwise ordered by their commanding officer. Police officers shall have the cases in which they are complainants properly prepared, the witnesses present, and all property which is to be used in evidence suitably arranged for presentation to the court. They shall observe the utmost attention and respect towards the court at all times.

When giving evidence speak calmly and explicitly, in a clear distinct and audible tone, so as to be easily heard by the court and jury. Police officers shall give evidence with the strictest accuracy, confining themselves to the case then before the court, and neither suppressing nor overstating the slightest circumstance with a view of favoring any person, or from ill-will to either side.

When cross-examined they shall answer with the same readiness and civility as when giving evidence in support of the charge, remembering that the ends of justice will be best served by their showing a desire simply to tell the truth, whether it be in favor of or against the prisoner.

When the police are sufferers from injuries received, and are giving evidence against those they believe to be guilty, it is especially necessary that they should not allow any feelings or wishes as to the decision of the case to influence them.

A police officer shall not testify in any civil case without being legally summoned to do so, and unless he shall have received permission or order so to do, from the officer commanding his precinct, or from the Chief of Police. In criminal cases where he is the arresting officer he must of necessity appear with his prisoner.

F.B.I. PLEDGE FOR LAW ENFORCEMENT OFFICERS
Federal Bureau of Investigation
1937

Formed initially in 1908 as the Bureau of Investigation, the FBI was, from 1924 to 1972, headed by J. Edgar Hoover. The Pledge was authored by Hugh H. Clegg, at that time Assistant Director of the FBI Training Division. In August, 1937, the Executive Conference of the FBI recommended that the Pledge be referred to as "The John Edgar Hoover Pledge," but at the suggestion of Clyde A. Tolson, and with the Director's concurrence, it was approved and adopted as "The FBI Pledge for Law Enforcement Officers." Announced and printed in the December, 1937, issue of the *FBI Law Enforcement Bulletin*, Hoover envisaged it "for the voluntary consideration, acceptance, execution, and adherence by all law enforcement officers." As the April and August, 1938 editions of the *Bulletin* indicate, the Pledge was not intended simply for FBI agents and trainees, but was designed for police departments across the nation. In poster format, the Pledge was reprinted regularly in the *Bulletin* until December, 1944, but after that reappeared in the *Bulletin* only once, in the January, 1957, issue, immediately after the National Conference of Police Associations had announced the adoption of its own "Law Enforcement Code of Ethics" (see p. 91). Use of the form containing the Pledge was discontinued in September, 1980.

Source: "The FBI Pledge for Law Enforcement Officers," *FBI Law Enforcement Bulletin*, Vol. VI, 12 (December, 1937), p. 2.

Humbly recognizing the responsibilities entrusted to me, I do vow that I shall always consider the high calling of law enforcement to be an honorable profession, the duties of which are recognized by me as both an art and a science. I recognize fully my responsibilities to defend the right, to protect the weak, to aid the distressed, and to uphold the law in public duty and in private living. I accept the obligation in connection with my assignments to report facts and to testify without bias or display of emotion, and to consider the information coming to my knowledge by virtue of my position as a sacred trust, to be used solely for official purposes. To the responsibilities entrusted to me of seeking to prevent crime, of finding the facts of law violations and of apprehending fugitives and criminals, I shall give my loyal and faithful attention and shall always be equally alert in striving to acquit the innocent and to convict the guilty. In the performance of my duties and assignments, I shall not engage in unlawful and unethical practices but shall perform the functions of my office without fear, without favor, and without prejudice. At no time shall I disclose to an unauthorized person any fact, testimony, or information in any pending matter coming

to my official knowledge which may be calculated to prejudice the minds of existing or prospective judicial bodies either to favor or to disfavor any person or issue. While occupying the status of a law enforcement officer or at any other time subsequent thereto, I shall not seek to benefit personally because of my knowledge of any confidential matter which has come to my attention. I am aware of the serious responsibilities of my office and in the performance of my duties I shall, as a minister, seek to supply comfort, advice and aid to those who may be in need of such benefits; as a soldier, I shall wage vigorous warfare against the enemies of my country, of its laws and of its principles; and as a physician, I shall seek to eliminate the criminal parasite which preys upon our social order and to strengthen the lawful processes of our body politic. I shall strive to be both a teacher and a pupil in the art and science of law enforcement. As a lawyer, I shall acquire due knowledge of the laws of my domain and seek to preserve and maintain the majesty and dignity of the law; as a scientist, it will by my endeavor to learn all pertinent truth about accusations and complaints which come to my lawful knowledge; as an artist, I shall seek to use my skill for the purpose of making each assignment a masterpiece; as a neighbor, I shall bear an attitude of true friendship and courteous respect to all citizens; and as an officer, I shall always be loyal to my duty, my organization, and my country. I will support and defend the Constitution of the United States against all enemies, foreign and domestic; I will bear true faith and allegiance to the same, and will constantly strive to cooperate with and promote cooperation between all regularly constituted law enforcement agencies and officers in the performance of duties of mutual interest and obligation.

_____
Name

_____ _____
Date Title

_____
Law Enforcement Organization

BASIC TENETS OF GOOD LAW ENFORCEMENT
Federal Bureau of Investigation
1958

In the December 1957 issue of *The Police Chief*, the International Association of Chiefs of Police announced its adoption of "The Law Enforcement Code of Ethics." In his editorial to the January, 1958, issue of the *FBI Law Enforcement Bulletin*, J. Edgar Hoover invited "each law enforcement officer in the country to join us in considering the following resolutions which we in the FBI regard as basic tenets of good law enforcement."

Source: J. Edgar Hoover, Statement of Director, *FBI Law Enforcement Bulletin*, Vol. XXVII, 1 (January, 1958), p. 1.

1 Let common sense guide your judgment and courtesy control your actions at all times.
2 Be ready to serve the public interest staunchly and fearlessly twenty-four hours each day.
3 Strive diligently to free the innocent as well as to convict the guilty. Justice, not punishment, is the goal of law enforcement.
4 Avoid temptation to seek personal advantage from the knowledge and stature gained through your position.
5 Honor, don't abuse, your badge—the rights of individuals are most precious possessions.
6 Uphold the reputation of your organization—public esteem earned over the years by dedicated law enforcement work can be shattered by one act of misconduct.
7 Beware of favoritism—wealth, race, creed and influence have no place on the scales of justice.
8 Learn more—serve better—earn more: Grow with our profession by acquiring new skills and techniques in the modern law enforcement field.
9 Act always as a model to youth—a source of friendship and a modern example of old-fashioned integrity.
10 Properly prepare in body, mind and conscience to discharge your responsibilities—and then do your best in the service of community, country and God.

TO THE NEW POLICEMAN
(Suggested Remarks to Class of New Officers)
National Association of Chiefs of Police
no date

Origin unknown.

Source: Gerald S. Arenberg & Chief Joseph Hosford, Jr., *American Police Chiefs,Sheriffs and Command Officers Manual and Directory*, [North Miami, Fla.]: National Association of Chiefs of Police, 1981, p. 9. Reprinted by permission.

The law is a system of rules of behavior by which men determine to live. Law is that which keeps society from becoming a snarling jungle. Every civilization has had its law—from the earliest tribal customs to this, the mid-twentieth century. Man cannot exist as a rational being without law. The strong would destroy the weak. Evil men would kill the good. Anarchy would prevail. Each man—by tooth and claw—would fight to live to the end that none would survive as human beings but would revert to the status of animals.

To be universally observed, a moral justification for the law must exist. It cannot be regarded as a system of stratagems whereby one group—or individual—gains ascendancy over another by exploitation of the latter. Man made law—as contrasted to the Ten Commandments, for example—is imperfect at its best. In the Ten Commandments, God laid down simple rules. His "Thou shalt not" is binding on all men. In other words "equality before the law" is a God-given—as well as Constitutional—mandate.

As policemen you have a great potential for good or evil. If you enforce the laws fairly and effectively you will protect the life and liberty of every one. If you misuse the power entrusted to you—or evade your responsibilities by failure to exercise the functions of your office—you will do great harm.

Corruption does not consist merely of the "Judas" act—the selling out of honor and duty for the thirty pieces of silver—it also consists of not acting when there is a duty to act. You have a sworn duty to safeguard all the people by effectively enforcing the laws designed for the protection of all without regard to race, color, creed, poverty or wealth, or special privilege.

While every one is entitled to the full and equal protection of the laws—none is above the law. Least of all you: law enforcement officers. You must enforce the laws in accordance with "due process." It is not your function to punish any more than it is that of a mob to mete out punishment. that is the prerogative of the courts.

Remember always—let us have faith that RIGHT makes right, and in that faith let us to the end dare to do our duty as we understand it.

Introduction: Ethical Codes in Professional Life

Ethical codes, broadly understood, have a long and distinguished history. The Decalogue of Judaeo-Christian tradition and the Eight-fold Path of Buddhism are universal or at least general codes that for many still retain their normative power. Only slightly less distinguished is the history attending several more restricted codes. The Code of Hammurabi and Athenian Oath are cases in point. But their distinction is also shared by a few codes that have been associated with particular occupations or professions. The fourth century BC Oath of Hippocrates, although controversial in its time, came to acquire a preeminence in medical practice that has only recently been challenged. It has had its revered counterparts in other traditions (Konold, 1978).

Yet despite their antiquity, it has been only in the past century or two that occupational and professional codes have multiplied and begun to play an important public role. Until the nineteenth century, medicine was virtually the only profession to have bound itself via a code. In 1803 the Hippocratic Oath was supplemented by Thomas Percival's *Medical Ethics; Or, A Code of Institutes and Precepts Adapted to the Professional Conduct of Physicians and Surgeons*. The first American Medical Association (AMA) Code of Ethics was drawn up soon after its founding in 1847. Codes of legal ethics have their roots in the resolutions of David Hoffman's *A Course of Legal Study* (second ed., 1836) and George Sharswood's *Essay on Professional Ethics*, first published in 1854. From them the Alabama State Bar Association derived its Code in 1887, and this in turn provided the basis for the first American Bar Association (ABA) Code in 1908. The early part of the twentieth century, however, saw a great burgeoning of codes. Edgar Heermance's 1924 collection of some two hundred codes gives impressive testimony to the widespread interest in formal occupational codes. Although this interest appears to have waned from the 1930s to 1950s, it has gathered momentum since then, and currently shows no

signs of diminishing (Davis, 1990).

The precise reasons for this flowering are not easily generalizable, though there is a confluence of social factors that is likely to have had considerable influence. Advances in technology, increasing specialization, occupational autonomy, rising corporatism, population growth, and rapid urbanization have considerably affected our social life. We are required increasingly to put our trust in people and organizations to whom we are significantly vulnerable and over whom we are able to exercise relatively little control. It is, as we have learned, a fragile trust, easily and far too often betrayed. The formation of occupational and professional associations, whose members are bound by a code of ethics, has been part of a response to this social breakdown. These associations offer to a consuming public some assurance that the services on which they depend will be delivered in a manner that will not exploit or otherwise take advantage of their vulnerability.

There is, of course, more to occupational and professional codes of ethics than this, but this much at least will allow us to begin a more detailed study of their nature and place. I commence with a discussion of terminology, and then take up the questions of their nature, role and value.

Codes and their kindred

To this point I have used the phrase "code of ethics" as a general carry-all for a fairly wide range of commitments intended to mediate the formal relations between providers of goods and services and their public recipients. But as any survey of such codes will make abundantly clear, the forms taken by such public commitments, and their precise focus or foci, show considerable variation. Not only do we have "codes" of "ethics," we have "canons" of "professional responsibility," "statements" of "values," "principles" of "conduct," "standards" of "practice" or "performance," and "oaths" of "office," along with "pledges," "vows," "maxims," "credos," "prayers," "tenets," and "declarations," in varying combinations. The rubrics are not strictly interchangeable, but neither are they precisely defined or always clearly separable. At the same time such commitments are sometimes found in association with but distinguished from statements of "goals," "mission," "philosophy," and "objectives," in which the scope of the service is articulated and generally set in the context of some wider social purpose.

It would be overly fastidious to attempt a neat differentiation of these different forms and foci, since some of them are treated interchangeably by their promulgators, and even where distinguished they may be accounted for in different ways. Nevertheless, some broad distinguishing features may be noted.

Pledges, credos, prayers, and oaths generally take the form of personal affirmations. Prayers are directed to God, and oaths more generally to some superior. Codes, canons, standards, maxims, declarations, and principles may be expressed personally, but they may just as easily be expressed impersonally.

Despite these differences in form, it would probably be fair to say that most codes of ethics can be interpreted as public promises, vows or at least commitments by the provider of goods or services that certain minimum standards will be observed in their provision. Some codes, such as the 1957 Law Enforcement Code of Ethics, are explicitly formulated in a promissory fashion. They are really pledges. Others, such as its 1989 alternate, are expressed declaratively, the promise here being implicit—or perhaps explicit—as one enters into associational or adopting agency membership. It is not uncommon for organizations to have two versions of their code—a shorter, promissory version, which can be framed for public display or used on ceremonial occasions, and a longer, declaratory version, which may contain not only statements of principle, but also detailed explanatory commentary. Codes of the latter form are becoming increasingly common as decision making becomes more complex and public demands for accountability grow.

If codes are seen as promises or commitments, then it is easy to see how they bind. But there is an important objection to this account, based on the fact that professional codes are now used by courts as a basis for appraising practitioners who have never—explicitly or implicitly—affirmed them (Fason, 1986; Edmonds & Shampton, 1990; Constantinides, 1991). Thus, the AMA Code of Ethics may be invoked against a physician who has never joined the AMA, and its obligations may not be avoided by refusal to join. As Michael Davis puts it, the obligations of a professional "do not seem to rest on anything so contingent as a promise, oath or vow" (1991a: 156). Professional obligations are, he thinks, only quasi-contractual, "resting not on an actual agreement (whether express or tacit) but on what it is fair to require of someone given what he has voluntarily done, such as accepted the benefits that go with claiming to be a [professional]" (ibid.).

There is surely something to be said for Davis' argument. For it is hardly open to the beneficiary of a privileged social position to claim that his refusal to join a professional or occupational association should exempt him from the obligations articulated in the professional code. Codes, after all, are intended to *reflect* and *express* but not to *create* the public obligations of professional or occupational life. In an important sense the professional code is a secondary rather than a primary expression of

professional obligations. Nevertheless, this need not gainsay the fact that the code itself is primarily promissory in character, and that it is intended, by those who *affirm* it, to manifest a commitment to honor what the profession or occupation requires.

It is understandable that for purposes of public accountability (some) codes should acquire the more general function of articulating not simply what members of a professional or occupational association have committed themselves to, but what a society may reasonably expect of those engaged in those professions or occupations. For the privilege of controlling what they do, and, in some cases, of having a social monopoly on their activity, professionals, and members of many other occupational groups, must expect that with their privilege will also go a commensurate responsibility. Professional codes articulate that responsibility in a public manner.

If the reference to "codes" is complex, no less complex is their object, "ethics." Although the language of ethics, values, conduct and practice is sometimes used interchangeably, it is just as often distinguished. Statements of values tend to be broader than statements of ethics, and both may focus more pointedly on dispositional attitudes and character than do principles of conduct or practice. But to some extent at least we are dealing here with a difference of emphasis, since the interiority of values and ethical standards is intended to have external expression, and the enunciated principles of conduct or practice are generally associated with the possession of practical virtues. Nevertheless, statements of values and ethical standards are likely to be briefer and more general than codes of conduct or practice. The latter usually spell out in some detail what and how acts may or may not be done by service providers or associational members. And codes of practice or performance, as distinct from codes of conduct, may also embody some reference to technical standards that the provider is expected to maintain.

Some writers have gone further to distinguish moral from ethical standards, according universality to the former and group relatedness to the latter. Honesty is seen as a moral requirement, truth in advertizing as an ethical standard for business. These are distinctions that can be made, and that might appropriately be made in certain contexts, albeit with only partial linguistic support. But they cannot be claimed as exclusively and exhaustively implied.

Of greater though problematic importance is the more general ethical distinction between those things that are to be regarded as mandatory or strictly obligatory, those that are general obligations or principles, and those forms of conduct that are to be seen simply as desirable or as ideals to be aspired to. Some codes restrict themselves to requirements of just

one kind, others include all three indiscriminately, and yet others, such as some of the ABA codes, make an effort to distinguish them. Although some of the code terminology is sometimes employed to make these distinctions—as in the 1969 ABA Code's "mandatory rules," "ethical considerations," and "canons"—the terminology does not seem to have been crafted with such distinctions in mind.[1]

Codes and their public

Although it is probably true of all codes of ethics that they are intended to mediate the provision of goods or services by an organization or associational member, not all codes are intended as equally public documents. Whereas some codes are produced in a form and format that is clearly meant to inform or assure a public of what it may expect from some provider, other codes seem to be designed for internal use—as instruments of group cohesion, as disciplinary tools, or as guides to providers. As already noted, some organizations have even formulated separate "codes"—a brief one for public display, and a more detailed one for internal guidance and discipline.

Even so, it is probably one of the distinguishing features of codes—as we currently understand them—that they do not function as purely internal documents, but manifest from within—or are intended to do so—the public accountability of organizations, agencies, and members of associations. Quite apart from various forms of external regulation and review to which the providers of goods and services are subject, codes are put forward as public evidence of a determination, on the part of the providers themselves, to serve in ways that are predictable and acceptable.

There are, apparently, a few exceptions to this public dimension of codes (Harris, 1989: 5). Some organizations do not wish their codes to be publicly—or at least generally—available, even though their codes are intended in part to regulate interactions with the public. One can only conjecture why this is so. Possibly it is because they are sensitive to uncontrolled scrutiny. On the one hand, they may believe that their code will be used against them; on the other hand, they may calculate that their possession of a formal code—albeit for only restricted circulation—will secure them against certain forms of external regulation. Nevertheless, such secretiveness does not bode well for the ethical significance of the code.

Here again we must consider an objection raised by Davis. On his account, the purpose of a code is not primarily to mediate between the providers and users of goods and services, but between the providers

themselves. As Davis understands it, "a code of ethics is primarily a *convention between professionals*" (1991a: 153), and is intended to optimize the coordination of their professional activities. A code of ethics prescribes how professionals, if they are to pursue the *telos* or ideal that is implicit in their activity (whether it is health, justice, or peacekeeping), can do so with the best results, and with the least cost to themselves and those they care about. What is at stake in the code is the integrity of their activity. And it is only because professions are organized "to help members serve *others*" that the code will also mediate the provision of services to the public. This public orientation, according to Davis, is simply a contingent feature of the code. The code's primary focus is internal.

As a comment on professional ethics generally, and on one of its distinctive features, I think Davis' position is particularly perceptive. Professional ethics is not just general ethics writ small or in different garb, but ethical reflection that is articulated through the particular ideals and purposes that are constitutive of the profession. And it is precisely because of this that professionals are sometimes confronted with hard choices between the ethical demands of their professional excellence and other, or more general, ethical demands (see Davis 1991a).

Professional codes, too, are not to be seen as comprehensive codes of conduct. They view conduct primarily from the perspective of the professional services rendered. As Lon Fuller has expressed it, "a code of ethics must contain a sense of mission, some feeling for the peculiar role of the profession it seeks to regulate. A code that attempts to take the whole of right and wrong for its province breaks down inevitably into a mush of platitudes" (1984: 83). Nevertheless, such codes, as particular expressions of professional ethics, are, I believe, to be viewed more as public assurances than as integrity-enhancing conventions between professionals. This is not, of course, a strict matter of either/or. Maintaining the integrity of the professional activity will generally contribute to public assurance. Yet the history of codes themselves generally points to a more public role for codes, albeit one that is largely served by ideals, principles and requirements that will also further the common pursuit of a particular professional *telos*. Maybe some statements, like the various modern ABA Codes, or the Association of Chief Police Officers' (ACPO) Code of Practice for Police Computer Systems, are more internally oriented. They are characterized by a degree of detail that is more appropriate to practitioners than to a client public. But I do not see these as exceptions that prove a rule. There is no strict rule. They are best seen as legitimate variations on a central but not exclusive theme.

The role of codes

When looking at the proliferation of occupational and professional codes, we need to keep distinct (though not completely separate) the issues of *explanation* and *justification*. Explanations of the formation of codes—whether in individual cases or as part of a general social phenomenon—look to causal or historical factors in their production. Such factors might include the desire for social enhancement, the protection of turf, a defense against external controls, a heightened sense of moral and social accountability, or the desire to consolidate group identity and provide a group ethos. Explanatory factors may reflect well or badly or not at all on the organizations or associations in question.

Justificatory reasons, on the other hand, are directed to the question of desirability—to the legitimating grounds for promulgating or retaining a code. It is natural for organizations and associations to cast the reasons for formulating their codes in the language of justification, though in actual fact their motivations may be less commendable. Most likely, organizations will be moved to develop, retain and revise their codes for a variety of reasons, some of which will be justificatory, but others of which will be only of explanatory significance—or, if also of justificatory significance, may serve only to call the organization's high purposes into question.

Professionalization. Occupations and professions are frequently distinguished. Whereas employment in an occupation need imply no more than remuneration for the exercise of skills, membership in a profession is a social status, often taken to apply exclusively to those whose socially important and discretion-dependent expertise can be acquired only after long, arduous and theoretically enriched training. The according of professional status is often registered, on the public side, by some form of licensure that restricts the use of a particular professional title (and ability to charge for services) to those who have satisfied some professional test. On the side of the profession, the code of ethics is intended to register its members' dedication to provide the services in question in a spirit that transcends economic motives and honors the public's trust.

In practice, the distinction between occupations and professions is very murky. The classic "learned" professions of medicine, law, theology and architecture are probably easily distinguished from the occupations of clerk, shop assistant, mechanic and bus driver. But there are many forms of employment that fall between these paradigm cases—engineers and business executives/consultants have now practically "made it" into the ranks of the professions, and there are many—particularly within their ranks—who believe that nurses, accountants, police officers, stockbrokers

and realtors have also made it. Or are just about to.

Codes of ethics are often taken to be a hallmark of professional status. Occupations aspiring to or claiming professional status frequently seek to display this determination or achievement by promulgating a code. This is intended to show two things. On the one hand, it is taken to show that the trust placed in and the discretion available to providers of the goods or services in question will be responsibly exercised; on the other hand, it is put forward as evidence of a capacity for self-regulation.

But although codes of ethics may be central to professionalization, they are not constitutive of it; and so, while many organizations and associations may seek to improve their social standing through the development of a code of ethics, this will not, of itself, achieve that end.

It may not be a bad thing if code-producing occupations fall short of professional status. There is no reason why codes of ethics should be limited to the professions. But more important, there are dangers to professionalization that have all too often gone unheeded by members of the traditional professions. Paternalism, alienation, and discrimination have often plagued the professions, whose human members have frequently transformed what are mere social consequences of their status (high remuneration, prestige, power) into social ends. What is more, professionalization has separated itself from professionalism. What ought to be the goal of those who provide a public service—professionalism—is often lost in the press for professionalization. Whereas professionalization is a social process in which some purveyors of a service organize themselves to be the primary or recognized providers of that service, establishing that title through such means as certification, continuing education and a code of ethics, professionalism is manifested in a dedication to doing what one does out of a commitment to it, with a determination to do it to the best of one's ability.

Accreditation. Ever since the 1936 publication of August Vollmer's *The Police in Modern Society*, police departments and associations have fairly consistently sought professional recognition. A 1938-39 Report of the International Association of Chiefs of Police (IACP) Committee on Professions stated that an essential element of professionalization consisted in the promulgation of a code of ethics that would prescribe standards of conduct for relations of members of the professions with the public and each other, and provide a grounding for public service that would go beyond exclusively economic considerations.

But even before then there had been calls for police professionalization. In 1928, Vollmer's protegé, O.W. Wilson, was appointed Chief of the Wichita Police Department, and one of his first acts was to produce a code

of ethics—the Wichita "Square Deal" Code. Although Vollmer's and Wilson's understanding of police professionalization focussed on centralized bureaucratic reorganization, technical sophistication, specialized training programs and efficiency, more than on the enhancement of line officer discretionary competence, it had much of the moral highmindedness that is traditionally associated with the professions.

Nevertheless, despite the persistent rhetoric of professionalization, the widespread achievement of professional status has been very difficult for an occupation lacking national cohesion. In the 1960s and 1970s, three major efforts to develop programs for upgrading the quality of law enforcement were instituted—the President's Commission on Law Enforcement and the Administration of Justice (1967), the National Advisory Commission on Criminal Justice Standards and Goals (1973), and the ABA/IACP Standards for the Urban Police Function (1973; 1979). It was not until 1979, however, that a serious effort was made to operationalize these attempts at police professionalization. At that point, four major law enforcement organizations—the International Association of Chiefs of Police (IACP), the National Organization of Black Law Enforcement Executives (NOBLE), the National Sheriffs' Association (NSA), and the Police Executive Research Forum (PERF)—sponsored a Commission on Accreditation for Law Enforcement Agencies (CALEA) to develop and administer a set of national law enforcement standards. In 1980, CALEA was incorporated as a private, non-profit corporation, applications for accreditation were accepted in 1983, and the first police department was accredited in 1984. Accreditation now functions as an "independent" statement that the quality of service offered by a particular law enforcement agency is what one might expect from professionals.

To be accredited, law enforcement organizations must not only meet several hundred individual standards of competence, but also adopt a statement of mission or purpose and values, as an expression of their commitment to public service. By 1992 well over two hundred departments (including one in Canada) had been accredited, with almost one thousand others in various stages of the accreditation process. Many of the current law enforcement codes have emerged directly out of the accrediting process.

External functions. Most codes of ethics are directed primarily to an indeterminate client public—its size largely a function of the number of people who wish or need to avail themselves of the goods or services provided. Sometimes, as in the case of police, the code will be of indirect as well as direct significance. Even if an individual does not actually require the direct services of a police officer or lawyer, it may be impor-

tant to know that certain standards are affirmed by those who provide police services. Otherwise one may be "caught in the crossfire" as police perform their otherwise legitimate tasks. But there may also be other groups to whom a code is partially directed. Codes of ethics sometimes seek to determine the forms of contact that their adherents may have with the media, with other professions, and even with government. More subtly, but no less really, a code may be intended to deflect or pre-empt judicial scrutiny.

What follows are some of the major external functions that codes are expected to have. Obviously, not all codes will have all of these functions. Indeed, most codes will not have all these functions, though most will have more than one. And the importance given to these various functions will differ from code to code. So will their justificatory value.

(1) *Assurance.* Seekers and users of goods and services are to varying degrees dependent on others for the provision of those goods and services. For many goods and services the dependence can be very significant. And obtaining the goods or service may require considerable sacrifice and/or risk—of privacy, of resources, of effort, and/or of well-being. It is hardly surprising that people should want to be assured that the goods and services will meet certain expectations. On the other side, it is hardly surprising—certainly where the environment is a competitive one—that providers of those goods and services will have some interest in assuring their public that what they provide will meet at least some of those expectations. Systems of certification, and professional codes promulgated by associations of those who qualify, proffer that assurance.

So far as police codes are concerned, competition in any narrow sense is not likely to be a major factor—though voluntary and private police services are sometimes viewed as competitors by police themselves. In the case of police, the need to provide assurance is demanded by the enormous social power with which they are vested. That need is reinforced by the media's relish for stories of police corruption and misconduct. Although there is probably more public trust in the police than police themselves recognize (for most of us there are, after all, few widely available alternatives), that trust must be secured in the face of constant media scrutiny. It is no doubt for this reason that a number of police codes (and regulations) restrict the liberty of first line officers in regard to their dealings with the media.

In many cases the code of ethics has the appearance of a compact between the service-using public and the service provider. An exchange is involved. Service providers are accorded certain social privileges in virtue of the service they provide. Police, for example, have certain entitlements in respect of the use of coercive force, certain rights to command and rights of entry. For the granting of such privileges the public can expect a certain return. Although codes of ethics generally originate from within the association and organizations to which they apply, and have not been formulated as the result of a public interchange, they may be couched as an appropriate exchange for the privilege that is given. One of the main privileges may be that of being the (almost) exclusive provider of a particular range of services.

Occasionally codes spell out rights and duties not only of service providers but also of service users. The earliest AMA Code outlined not only the rights and duties of physicians, but also the duties of patients: "The obedience of a patient to the prescriptions of his physician should be prompt and explicit. He should never permit his own crude opinions as to their fitness, to influence his attention to them. . . ." Even recent ABA Codes have articulated rights and duties of clients that correspond to those of lawyers (Patterson, 1981). The assurance compact, then, is grounded not only in privileges given, but is also dependent on duties observed.

Codes provide assurance, not simply by notifying a public what standards they may expect to find observed, but also, through their being enshrined in a public document, by giving service users a "handle" in the event that the service fails to live up to expectations. In some cases, the codes themselves indicate resources that are available for the handling of dashed expectations.

(2) *Improved public relations.* To say that codes of ethics provide assurance is to view them from the perspective of service users. There is a flipside to this in the perspective of service providers. That is a public relations function. Associations and organizations frequently view the promulgation of a code of ethics as one of the ways in which they can improve their public image and increase their clientele. By assuring the public they enhance their standing and make their services more attractive. Several major police codes were drawn up in the wake of the scandals of the early 70s, at a time when trust in the police was under severe challenge. Although law enforcement associations were motivated by a genuine concern to lift police performance and to re-establish trust, there is little doubt that the promulgation of these codes was also an exercise in public relations.

Although there has often been a mercenary dimension to the public relations function of codes, the ends have been as much social as financial. It has become a hallmark of professional status that one is governed by a code. The code speaks of self-governance, of autonomy and dedication.

The acquisition of professional status is important to the self-image and social acceptance of those who have it. Thus one of the first projects of an occupation seeking to improve its place in the world—socially, as well as economically—is the formulation, adoption and promulgation of a code of ethics.

(3) *Liability limitation.* To the extent that a police code of ethics sets out certain standards that are to operate in the provision of police services, it may be seen as constituting a constraint on excessive and unreasonable demands and in certain circumstances a hedge against liability for failures with which police may be charged. Where, as in the United States, the legal environment promotes contingency fee representation, and the judicial environment is often open to deep pocket decision making, the police, as public employees with power to injure, are fair game for predators, both civilian and legal. In theory at least, the code of ethics will constitute a public benchmark against which police conduct can be tested, and police can be secured against unwarranted—frivolous and vexatious—claims.

But of course a written document can be a two-edged sword. A document that may be used for protection in some situations may be used to convict in others. And so some organizations, including police departments, have at times shown an unwillingness to put standards (or more often procedures) in writing lest they be used against them at a later point. And, to the same end, when standards are reduced to written form, they are sometimes stated in a manner that will not allow breaches—even when they occur—to be easily established.

There is a different way in which a code of ethics may limit liability. A hallmark of professionalism—at least in theory—is self-regulation. Those who provide professional services consider that they are best placed to appraise the delivery of those services. For the most part—except, perhaps, when blatantly criminal behavior is involved—professionals are strongly resistant to outside regulation. A code of ethics, particularly if it is associated with mechanisms for its monitoring and enforcement, is frequently appealed to as evidence that external review would be redundant and intrusive. Answerability within obviates the need for answerability without.

Even if there is some form of outside scrutiny, and the members of an occupation or profession have to answer for their conduct to an outside body, the code of ethics may enable the members of that association or profession to have some—and perhaps the major—say in determining the criteria of judgment to be employed. So far as civil liability is concerned, it is becoming increasingly common for courts to appeal to code provisions in deciding whether a particular failure should be actionable.

Internal functions of codes of ethics. Although the paradigm code format tends to mediate between providers and users, assuring each in relation to the other, it is becoming increasingly common for codes to be used as internal documents, setting out guidelines for individual providers and managers, and developing organizational or professional commitment and cohesion.

(1) *A personal standard.* From the point of view of those who are members of an association or who are employees of an organization, the code of ethics might be expected to represent at least a minimum commitment —a standard of behavior that service users may demand, a commitment to which the provider must adhere. What, externally, users may *expect*, internally, providers *promise* to deliver. Of course the code may also gesture towards a maximum—it may comprise ideals as well as duties. What, externally, users may *anticipate*, internally, providers *aspire to*.

In some cases these commitments may not seem to amount to very much. It is not uncommon for codes of ethics—such as the 1957 Law Enforcement Code of Ethics—to speak largely in generalities, pledging forms of conduct—self-restraint, courteousness, honesty—that might reasonably be expected of people in almost any situation. Nevertheless, we should not too readily characterize them as platitudinous. Or at least not merely platitudinous. For it is generally because the provision of a particular kind of service is associated with certain characteristic temptations that these ordinary forms of conduct are highlighted by a code.

In more detailed codes, declarations may involve distillations of practical wisdom that inexperienced practitioners are not likely to have, even if they are morally sensitive. As the working environment has become more complex and pluralistic, and traditions have become less evident, codes may constitute a beacon or anchor for service providers who do not yet or perhaps no longer have a sure sense of the normative constraints governing their work. There is an internal as well as external dimension to these normative constraints. In a complex and in some ways novel environment, providers of services may have no clear sense of "the thing to do." A code may help to crystallize issues and provide criteria for wise decision making. But as well as that, it may, in a pluralistic and normatively heterogeneous social milieu, provide something approaching a map of public expectations that will help the service provider to understand the social circumjacencies of decision making.

(2) *An organizational ethos.* Codes, even if individually affirmed, are not constituted by individual declarations; they are associational and organizational constructs. And one function they serve is to unite service providers through the creation or advancement of an associational or organizational ethos that is ostensibly promotive of the service to be provided. There are very few workplaces that can operate successfully simply by providing a location or vehicle for work. Associational ties and organizational cohesion generally require some sort of shared culture or ethos, and a code of ethics is frequently used to help foster that shared way of being. Where the providers of a service are at a geographical distance, and where there is a turnover of service providers, the code may be a major bonding agent, providing continuity from one generation to another. Professional and occupational loyalties are embedded in the ideology of code commitment.

The associational ethos usually involves a representation of the members to themselves that they are professionals. That may be interpreted in more than one way. One may see oneself as a privileged service provider; but equally one may understand it simply as a social status. For the social reality of being a professional is as much a matter of status as it is of expertise and service, even though the status purports to piggyback on expertise and service.

The duality here may create or at least embody a deep tension. On the one hand, the code serves the important socio-psychological purpose of binding and motivating service providers. On the other hand, it provides a moral framework and standard of conduct for what is done, one that is responsive to the concerns of a wider community. There is, therefore, an implicit tension between serving others as the binding *raison d'être* of the association or organization, and a loyal commitment to fellow professionals or service providers. The stronger the organizational ethos, the more service to the public tends to be vulnerable to compromise. For personal loyalty to fellow professionals tends to take precedence over the commitment to a more impersonally construed public. In policing this is a particularly acute problem; police officers will rarely turn in or testify against a fellow officer who violates the terms of his or her oath. This is so even if the code attempts to surmount the tension by explicitly demanding that police report violations by their fellows. Codes and other associational rituals may have a psychic and symbolic and social significance that is not strictly tied to their content. The many who bound themselves by the 1957 Law Enforcement Codes of Ethics not to "permit . . . friendships to influence [their] decisions" did not hesitate to exempt fellow officers from the consequences of traffic violations.

(3) *An organizational benchmark.* Codes that are dedicated primarily to creating and promoting an organizational ethos tend to be aspirational. They enunciate ideals rather than establish minima. In the precursor to the ABA's current Model Rules of Professional Conduct—the Model Code of Professional Responsibility—a distinction was drawn between mandatory disciplinary rules and aspirational ethical considerations. Although the old rules were later considered unworkable, they pointed to a distinction—well, at least one—that is often ignored. Are breaches of a code actionable, and if so by whom? To the extent that a code's provisions are seen as aspirational, failure to live up to them may be viewed as a shortcoming, a reason for shame, perhaps, or even for others' social withdrawal. But where they are seen as benchmarks, as moral minima, they may serve a regulatory function. The more detailed and declarative a code is, the more likely it is that the standards it sets out will be regulatory (in intent, at least) rather than merely aspirational.

As an organizational benchmark a code may function in any of at least four ways. (i) Generally the code is used to maintain membership quality control. By reference to its expectations, providers of a service may be admitted to or excluded from membership, and assessed or reprimanded or ejected. Less formally, the code and its provisions may serve to deter unethical conduct. (ii) The code may also be used to exercise control of a more political kind. Some years ago, Edwin T. Layton, Jr. observed that the AMA codes "have been used with great ruthlessness to punish dissidents who have taken the public's side on issues such as group medicine,"[2] and Philip Shuchman argued that the ABA Codes assert the power of "Big Law Firms" over "Little Lawyers" (Shuchman, 1968).[3] (iii) There may, however, be a double edge to this, since ethics codes can also be used as vehicles for internal dissent—as means whereby members of an association or organization may hold their own hierarchy to account. (iv) Less adversarially, codes may sometimes provide a basis for the adjudication of internal disputes.

(4) *A teaching device.* It has not been uncommon for codes of ethics to function as the core of or framework for the ethical training of service providers. That at least has been one way in which medical and legal codes have been used in medical and law schools. Police academies have followed suit. A once widely used programmed text in police ethics, Allen P. Bristow's *You . . . and the Law Enforcement Code of Ethics*, is a particularly good expression of this approach (Bristow, 1975). Each of the clauses of the 1957 Law Enforcement Code of Ethics is articulated by means of problem cases in which trainee officers are called upon to make an ethically sensitive decision.

The use of professional codes in a teaching context has often left much to be desired. Whatever merit the codes themselves may have had, their use as a teaching device was often directed to keeping professionals out of trouble rather than to their ethical sensitization. The approach was legalistic rather than ethical.

In medical and legal ethics education, however, other approaches, less Sinaitic and self-serving, are now more common, and medical and law students are encouraged to develop ways of reflecting on what they are doing and on the hard cases that are likely to present themselves in the course of their work. They are taken behind and beyond what the traditional codes are able to provide. A similar change has been occurring in police training.[4]

Codes and their Problems

To say, as I have, that codes of ethics may have the various external and internal functions I have outlined is not to say that they do, always do, or should have those functions, or that those functions are always compatible. Sometimes, indeed, individual codes give the appearance of being an uneasy compromise of several functions. But neither do I want to give the impression that these functions are always or easily separable. Thus, for example, unless there is some reasonable semblance of conformity with the provisions of a code, it is not likely that the code will constitute a very effective public relations document. Nevertheless, we should have no illusions that the foregoing catalogue provides an unproblematic justification for the promulgation of codes of ethics. Several difficulties need to be addressed.

Some of these problems tend to be associated with the code form itself, whereas others are more closely connected with contingent features of code formation and use. I will, somewhat artificially, distinguish the latter as external and the former as internal problems.

External problems of codes

(1) *Enforceability.* Occupational and professional codes are "necessitated" by the exigencies and temptations of social life—the need to give assurance to a consuming clientele or public that the goods or services they are seeking will be provided in a spirit of service. The adoption of a code is supposed to signal a commitment on the part of members of provider organizations that they will abide by its terms or at least aspire to its ideals. Yet, just because of the circumstances that generate the "need" for a code, its provisions are most likely to be observed only if there is also some recourse to sanctions.

In some codes, the need for sanctions is recognized and procedures for their imposition are set out. But even where this is so, and more so where sanctions are not explicitly indicated, members of occupational associations are usually extremely reluctant to support their enforcement. There is great unwillingness to report breaches or to testify against those who are the subject of a complaint. This is particularly true of ideologically cohesive groups such as the professions, but it is also characteristic of law enforcement related organizations. The so-called "blue wall of silence" is notorious. The very code that evokes and reinforces group loyalty also encourages its ineffectiveness.

(2) *Reinforcement of privilege.* Although the language of ethical codes tends to be service-oriented, they may in fact have the effect of helping to create or perpetuate a superior social rank. This may come about in several ways. The code itself may promote it through its emphasis on the "high" calling of its adherents, and on the importance of manifesting that in their dealings with others. The original AMA Code of Ethics enjoined physicians to study "in their deportment, so to unite *tenderness* with *firmness*, and *condescension* with *authority*, as to inspire the minds of their patients with gratitude, respect and confidence." Codes produced in recent years have not generally been so explicit about image creation; nevertheless, there is often an undercurrent of priggishness that magnifies the social place and importance of the service provider.

This overweening pride in what one is "called" to do is sometimes reflective of "internal" divisions within a profession or occupation. If Philip Shuchman's critique of the ABA Codes is correct, then the ABA Codes reinforce the decency of large firm lawyers, and warn against unseemly tendencies on the part of "little lawyers" (Shuchman, 1968). Until recently, the AMA Codes were used to strengthen what were essentially the ideological claims of allopathic medicine against those of homeopathic therapies.

Where codes have the effect of securing the claims of what is essentially a faction, then the client public may well be the losers. Forbidding lawyers and doctors to advertize—as some of the earlier codes did—supposedly because it was contrary to the "dignity" of the profession, no doubt prevented some people from securing more competitive or effective services. And in the case of restrictive medical codes, there were undoubtedly many needy people who were prevented or dissuaded from alternative therapies that could have helped them. Of course—and this is the rub—such restrictive practices also shielded people from charlatans, gougers and others who may not have had a strong commitment to their

clients' interests, and it is often easier with hindsight to see how matters would have best worked out. Perhaps every "denomination" must first have its day as a mere "sect."

(3) *Cynicism.* Whereas some codes are pretty matter-of-fact and realistic in their demands, others, especially those that are aspirational, may place global, unnecessary, or unreasonable demands on those who are called to affirm them. Police codes, particularly where police are made out to be communal role models, may sometimes make excessive demands and thereby encourage a cynical response. Police cannot be expected to enforce "all" the laws or, quâ police, to keep their private lives "unsullied." They can be expected to maintain the public peace through the enforcement of laws, and to conduct their private lives in a manner that will not derogate from their public authority.

Cynicism, however, may have its source not only in the content of code provisions, but also in the manner of their introduction. Very often, codes of ethics are top-down productions, creations of board or management, and not the result of co-operative dialogue and community consultation. They are seen as alien impositions, motivated not by a commitment to service, but by the desire for control, or by political exigencies or just plain arrogance. This may have very little to do with the content of the code. The *Principles of Policing*, produced for the [London] Metropolitan Police in 1985, is one of the most remarkable and thoughtful attempts to offer police general and specific ethical guidance. Yet it caused barely a ripple, and by 1990 had been replaced by a brief, unelaborated statement of values. One reason for this was undoubtedly the manner in which it was disseminated—as though it were a Sinaitic deliverance whose acceptability needed no participation by those for whom it was intended.

Another source of cynicism can be found in the "do as I say not as I do" ethos that may accompany management directives. If a code of ethics is to be taken seriously—especially if it is a top-down creation—it needs to have not merely the endorsement but also the commitment of management. In police departments, where the chain of command is central, leadership by example will have as much to do with the effectiveness of a code as the provisions of the code itself.

(4) *The danger of minimalism.* Although aspirational codes tend to bespeak a self-sacrificial ideal of dedication and service, codes that focus instead on the "mandatory" requirements of professional life may dissuade sacrifice altogether. Practitioners may feel that so long as they stay within the mandated boundaries of the code they are doing all that may be expected of them. Though such requirements may deter conduct that is clearly detrimental to the users of goods and services, they may also discourage providers from giving more than is absolutely necessary. In occupations where the demands or competition are heavy, the pressure to stay with the minimum may be considerable.

Internal problems of codes

(1) *The behavioral bias.* One of the more obvious features of a code of ethics is its focus on outcomes—on ensuring that behavior meets certain standards. The emphasis tends to be on *doing* rather than *being*. Not that codes are always of this form. The more confessional statements are often interlarded with the language of virtue. Those who uphold the 1957 Law Enforcement Code of Ethics, for example, pledge themselves to show "courageous calm in the face of danger," and to be "honest in thought and deed," etc. And the recent move towards "statements of values" also reflects a concern for the possession of certain attitudes and not simply the performance of certain behaviors. Nevertheless, there is a natural gravitation towards behavioral standards. It is, after all, not easy to test dispositions, intentions and motivations apart from their behavioral manifestations, and, furthermore, those behavioral manifestations do represent some sort of "bottom line" so far as the public function of the code is concerned.

Given the general regulatory purpose of codes, the emphasis on conduct is probably to be expected. After all, what a public seeks are certain assurances about the delivery of services, and not (usually) some general statement of character or whole-of-life guarantee. It is concern with the *dealings* between police and public that leads us to construct such statements in the first place. Yet we should not confuse a certain kind of outcome optimization with acting ethically. *Moral* worth attaches to conduct not just by virtue of the good that it does or the evil that it prevents, but because it was done for certain kinds of reasons or was expressive of a certain kind of character. If a police officer pursues and apprehends a fleeing mugger, what motivates him is not relevant to our assessment of the good that was done. Indeed the same good could have been accomplished by a falling piece of timber. But motivation is relevant to any *moral* assessment of what he did. Concern that a violator was escaping is one possible motivating factor; so was his doing his duty; so was his delight in pursuit and dislike for perpetrators who belong to a particular minority group. Why we do what we do is of central moral importance; not just that we do it. Not that it should not be done at all if it is not done for the right reasons; but our assessment of moral worth must take our reasons into account. There is more to morality than an optimization of outcomes. Indeed, part of the point of a professional code is to inspire *service*, to

point members beyond economic and personal reward as the basis for their conduct.

(2) *The encouragement of inauthenticity.* Morality, I have claimed, is not just a matter of conduct but of conduct that is informed by some reasons rather than others. Some contribute to moral praiseworthiness, others do not. But there is a further issue beyond that of the appropriateness or inappropriateness of reasons to moral merit. It is also important that the reasons be *one's own.* Codes encourage an externalization of conduct not just by divorcing conduct from its appropriate springs, but by detaching it from a certain kind of subjectivity that makes it an authentic expression of the person whose conduct it is. The reasons for engaging in ethical conduct must ultimately come from within, and not without. True, a code may prompt one to reflect in certain ways that one might not otherwise have done. That is not being questioned, and may, in fact, be an important value to be preserved in codes of ethics. But unless what is ultimately done or not done is done or not done for reasons that are one's own, and not simply because "the conduct was prescribed or proscribed," it will lack authenticity and *moral* value, whatever other values it may possess. In some cases, no doubt, a person may be authentically committed to following the prescriptions and proscriptions of a code, and thus the conduct will possess an indirect authenticity. But there tends to be a certain superficiality about this kind of authenticity—the kind of superficiality that made the Nuremberg defenses unworthy of human beings.

(3) *The danger of ossification.* Associated with the foregoing deficiencies is a further one. Even if we grant—as I would—that ethical questions are generally amenable to definite and correct answers (there is a proper way to be, and a right thing to do), there is no decisive reason for assuming that those answers will be encapsulated in a given code of ethics. Actual codes do not usually exhaust the legitimate moral options and may even prescribe some illegitimate ones. Even if the provisions of a code reflect some widely shared understanding, that is no guarantee of their general correctness. We might, for example, consider how the Hippocratic Oath, for so long the physician's *torah,* has now been "historicized" and called into question. And although police officers who find their own understanding at variance with that of their code of ethics have a problem on their hands, we cannot just assume that the provisions of a particular code are defensible. True, given the generality of most codified provisions, this is likely to be uncommon. But it will sometimes occur. And even when we are generally sympathetic to the provisions, it is usually better to see them as presumptive than as absolute. For example, the commitment made in the 1957 Law Enforcement Code of Ethics not to "permit personal feelings

. . . or friendships to influence my decisions" and not to "accept gratuities" is probably reasonable enough if seen as a general statement of intent. But "never," as the code enjoins? We do not need to work too hard to think of situations in which conduct of the excluded kind would be, if not praiseworthy, then advisable, and even if not that, at least a matter for debate. Few officers would ticket a fellow officer for a minor traffic violation. True, ticketing is discretionary, and there are surely limits to "professional courtesies,"[5] but when the renunciation is stated as baldly as it is in the Law Enforcement Code of Ethics it obscures the much finer nuancing that ethical reflection provides. And, of course, such absolutism lowers the code's status in the eyes of officers. There is an ongoing character to ethical reflection that is jeopardized by the institutionalized closure that often accompanies the adoption of a code.

(4) *The failure to prioritize.* Even though codes sometimes provide fairly detailed guidance on specific issues, and may therefore assist the inexperienced, they are often of limited usefulness in those cases where assistance is most needed. "Hard cases" are not uncommon in police work. The very nature of the work often involves a careful assessment of individual and social interests that cannot be reconciled, and the wise exercise of discretion is required. Codes are rarely helpful to the making of such discretionary judgments. They enumerate goals and standards without indicating priorities or procedures for handling conflicts between code requirements. A police officer who must decide how to deal with a traffic violator needs to take into account not only the seriousness of the breach (itself a matter of judgment), but also the kinds of reasons that may have led to it, the sort of effects that a particular decision may have, the social and institutional environment in which the breach occurred, and so on. A police officer who is pledged to "keep the peace" and "enforce all the laws" is not likely to be greatly helped by such formulae. There is, after all, no simple choice between enforcing and not enforcing the law. There are several different ways in which the law may be enforced and not enforced, and though the officer's department may have, in addition to the code, some procedural regulations or rules of thumb, they are unlikely to accommodate all the complexities with which the officer is confronted.

In some respects, it is not surprising that codes fail to give this kind of detailed attention to priorities and exceptions and situational factors. To do so would undermine some of the functions they are generally intended to have. The more a code is prepared to address specific issues, the more likely it is to arouse controversy both outside and within. And since codes are usually intended to inspire confidence without and unity within, there

is a certain counterproductivity associated with detail. Both the ABA and AMA have found that to their cost.[6]

Despite the foregoing problems—external and internal—they do not in themselves support the conclusion that codes ought not to be promulgated. The absence of codes is also problematic, and some of the problems, if recognized, can be diminished, even if not always eliminated. To anticipate, I do not believe there is any fixed formula for occupational and professional codes, and, provided that we are aware of what they are intended to do, and of their limitations, they may serve valuable external and internal functions. What the problems referred to may do is point us in the direction of codes that, on the one hand, provide a more systematic and integrated statement of the standards that can be expected of service providers, along with a recognition of their own limitations.

The value of codes

In some respects ethical codes are like firearms. They have their value; they have their dangers. It is often difficult to maintain their value without risking their dangers; and it is difficult to eliminate their dangers without sacrificing their value.

Codes of ethics remind us that the provision of public services involves certain kinds of social cooperation, certain sharings of experience and insight, and that if these services are to be provided in an orderly manner their providers need to create an environment of trust. They remind us that trust requires a measure of trustworthiness. At the same time, however, as we examine "the life and times" of professional codes, they also remind us of the power of ideology—of the way in which an appearance can mask reality, and self-interest can exploit the conditions for social living.

Codes of ethics are also like barometers. They register fluctuations of pressure—social pressure, and reflect a society's or service association's dominant concerns. They constitute one means whereby service providers may look at themselves, to see what they are responsive to, and thus represent an opportunity for them to assess and refocus their endeavors.

One of the most important functions that a code can fulfill is a processual one. The very task of drawing up a code should be an opportunity for an organization or association to look at itself—to ask itself what it is really about, what it is reasonable to expect of its members, what standards should determine its internal as well as its external affairs. It should also be an opportunity for a wider community to ask itself what it may reasonably expect of the providers of particular goods and services. Too often, unfortunately, codes of ethics are seen statically, as outcomes or

products, as fixed determinations, and not as active expressions of the self-awareness of a community within a community.

In a helpful overview of professional ethics, and of professional codes, John Kultgen has remarked that every code should be treated as an hypothesis to be tested and adapted while following it (1988: 216). This contains just about the right amount of paradox. At the point where he makes this remark, Kultgen challenges the mechanical application of codified rules. For even if the rules are adequate to a situation at hand, they do not obviate the need for a personal acceptance that enables following them to be an authentic expression of the decision maker. The judgment that the rule is adequate must be a judgment that the service provider makes. Authenticity, however, is not enough. Judgment too is required in applying the rule to the situation at hand. Courtesy may be a reasonable expectation to have of police. But there are many ways of being courteous, and some situations make some expressions of courtesy more appropriate than others. Firmness is not necessarily excluded. A police officer who recognizes that courtesy is grounded in a respect for the persons of those with whom he or she must deal will not confuse it with gentility but will see in it an expectation of considerateness in dealing with others.

The paradox implicit in Kultgen's advice is to be found in the conjunction of rule following with the idea that rules are hypotheses to be tested. The conjunction is well-chosen, however. There is no necessary opposition between fidelity to the standards that are implicit in the goals of a particular profession or occupation and a critical engagement with their articulation in specific provisions. A questioning faith need not be a doubting one. One may criticize from within as from without.

In pledging themselves to their code of ethics, police officers signal their willingness to enter into an occupational culture that is defined by certain aims and standards. What is believed to justify this code—its creation and preservation—is the importance that a culture or ethos so defined has to the fulfillment of the ends of police service. In terms of their relations to each other and to their department and to the public they serve, it is essential that there exist a framework of mutual understanding and trust. That at least seems to be something of the background to the pledge. But as with other pledges, one does not sacrifice one's capacities and standing as a reflective being once one has made the pledge. And officers may well find, as they acclimatize themselves to their occupational environment, that their codes are not fully adequate to the situational and moral demands that are placed on them. To a degree, it is not inconsistent for them to press for some revision of their code. It is always appropriate for them to see the code itself as a stopping point in the

ongoing deliberative enterprise that constitutes human life.

The very fact of variety in law enforcement (and other) codes should itself provide some reason for believing that though codes may play a very important part in defining and preserving a police culture, and in enabling police culture to flourish within a larger communal arrangement, they do not require a *sacrificium intellectus*. The police community is, as it must always be, a community of moral agents committed to the reflective and self-reflective task that is the task of every human being. That this reflection takes place within an environment shaped by the ends and tasks of policing need constitute no barrier to that deliberative enterprise, though it may well affect the way in which one goes about it. How one sets about repairing Theseus's ship will depend significantly on whether one is sailing in it on the high seas or one has it in dry dock.

NOTES

[1]This is not the place to engage in an extended discussion of the appropriateness of each of these kinds of standards in an ethical code. Presumably, though, if a code is to have some practical bite, it will need to have some mandatory rules at its core. For an elaboration, see Davis (1991b).

[2]"Engineering Ethics and the Public Interest," in Robert Baum & Albert Flores (eds), *Ethical Problems in Engineering*, second ed., Troy, NY: Rensselaer Polytechnic Institute, 1980, II, p. 26.

[3]Cf. the cynical old-timer who is quoted as saying that "ethics are rules old men make to keep young men from getting any business," (in Jack McMinn, "Ethics Spun from Fairy Tales," *ibid.*, I, p. 30).

[4]It may, however, be occurring more slowly there, because police training is still academy-based rather than university-based. The openness to inquiry that should characterize university life is more difficult to create in the paramilitary environment of the police academy. This is a pity, since police on the street are still advised to "forget what you learned in academy."

[5]See John Kleinig & Albert J. Gorman, "Professional Courtesies: To Ticket or Not to Ticket," *American Journal of Police* , XI (1992). On gratuities, see Richard R.E. Kania, "Should We Tell the Police to Say 'Yes' to Gratuities?" *Criminal Justice Ethics*, VII, 2 (Summer/Fall, 1988), 37-49.

[6]I would not, of course, want to deny that there have also been gains from such endeavors. One person's alienation is another's attraction.