Everyday Ethics for the Criminal Justice Professional

Everyday Ethics for the Criminal Justice Professional

Third Edition

Kelly Cheeseman Claudia San Miguel Durant Frantzen Lisa Nored



Copyright © 2023 Carolina Academic Press, LLC All Rights Reserved

Library of Congress Cataloging-in-Publication Data

ISBN 978-1-5310-2122-1 eISBN 978-1-5310-2123-8

See catalog.loc.gov for Library of Congress Cataloging-in-Publication Data.

> CAROLINA ACADEMIC PRESS 700 Kent Street Durham, North Carolina 27701 (919) 489-7486 www.cap-press.com

Printed in the United States of America

In Memoriam: Kelly Cheeseman

Dr. Kelly Cheeseman will be fondly remembered as an energetic champion of criminal justice. Kelly was devoted to her discipline and her students. She was a talented classroom instructor, avid researcher and faithful colleague. She was always sensitive to the bridge between the academy and the profession and sought to find the appropriate balance between the two in her research, teaching and service. Kelly is missed dearly among those of us who were fortunate enough to work with her. This book was one of her cherished projects, and we are honored to continue with a new edition in her memory.

Contents

Acknowledgments		XV
1.	An Introduction to Everyday Ethics in Criminal Justice	3
	Introduction	3
	What Is Ethics?	7
	References	17
2 •	The Theory Behind the Practice: The Origins of Thought	
	on Ethics and Its Relationship to the CJ Professional	19
	Introduction	19
	A Glimpse at Ethical Perspectives	20
	Basis of Ethical Principles in Criminal Justice	32
	The U.S. Constitution	33
	Ethical Codes	35
	Punishment and Ethics: How Our Personal Philosophy	
	Impacts Our Daily Practice	37
	Retribution	38
	Deterrence	41
	Incapacitation	43
	Rehabilitation	44
	Conclusion	46
	References	47
3.	Ethics and the Evolution of Police	49
	Introduction	49
	Evolution of American Police Systems and Practices	51

viii	Contents	
	Eras of Policing and Ethical Principles	54
	The Political Era	54
	The Reform Era	56
	The Community Policing Era	62
	Does Community Policing Create Ethical Dilemmas	
	in Policing?	65
	Homeland Security Era: A Fourth Era of Policing?	70
	Conclusion	72
	Scenarios	73
	References	75
4 ·	Ethics and Police Work	79
	Introduction	79
	Police Work	80
	Learning Ethics	83
	The Values-Learned Perspective	84
	Learning to Justify Unethical Conduct	87
	Rewards and Punishments	89
	Rational Choice Perspective of Learning Behavior	91
	Predispositional Perspective	93
	The Noble Cause: What Really Happens	94
	Is It Too Late to Change?	96
	Conclusion	101
	Scenarios	102
	References	104
5.	Officers of the Court: Ethical Responsibilities of a Lawyer	107
	Introduction	108
	Responsibilities of a Zealous Advocate	109
	Duty of Competence	110
	Duty of Diligence	114
	Duty to Communicate	115
	Confidentiality	117
	Conflicts of Interest	121
	Lawyers as Witnesses	126
	Representing Individuals Accused of Crimes	127
	Candor with the Court	127

Contents	ix
Duty to Provide Effective Representation	130
Conflict of Interests in Criminal Cases	131
Trial Publicity	132
Public Communication	132
Lawyers as Authors	134
The Cost of Legal Representation	135
Types of Fees	135
Written Fee Agreements	137
Indigent Clients	138
The Unauthorized Practice of Law	141
Abuse of Power and Privilege: When Lawyers Cross the Li	ne 142
Bribery	143
Misuse of Client Property	144
Conclusion	146
Scenarios	146
References	149
6 · Prosecutors and Judges: Ethical Responsibilities	
of Public Servants	151
Introduction	151
Ethical Issues and Judges	153
Integrity and Independence of the Judiciary	153
The Duty to Judge	155
Judicial Discretion	156
Judicial Decorum and Conduct	157
<i>Ex Parte</i> Communications	158
Recusal and Disqualification	159
Judges as Witnesses	161
Extra-Judicial and Political Activities of Judges	161
Practice of Law	162
Speech	162
Political Activities	163
Items of Value	164
Ethical Issues and Prosecutors	165
Prosecutorial Discretion: Minister of Justice vs. Advoca	te 166
Interaction with Unrepresented and	
Represented Individuals	168

Duty to Disclose Exculpatory Evidence	171
Duty of Full Disclosure to Grand Jury	172
Dissemination of Information to the Public	173
Use of Agents to Avoid Ethical Obligations	
and Limitations	174
Conclusion	176
Scenarios	177
References	180
7 · Correctional Institutions: Ethics in Prisons and Jails	181
Introduction	182
The Institutional Environment	183
The Building/Facility	184
Prison Design	184
Facility Location	184
Custody Level	185
Correctional Staff	188
Non-Custodial Staff/Personnel and Volunteers	189
Correctional Officers	192
Offender Management	193
Training	193
Managing Offenders	195
The Correctional Officer Subculture: Influences on	
Ethical Behavior	198
Gender and Ethics in Corrections: Cross-Gender Supervis	ion
and Beyond	201
Women Supervising Male Offenders	202
Men Supervising Women	205
Inmates	207
Personality of Inmates	208
Inmate Subculture/Code	210
Avoiding Offender Manipulation	211
Conclusion	218
Scenarios	219
References	222

	Contents	xi
8.	Ethics in Probation, Parole, and Community Corrections	225
	Introduction	226
	The Personnel of Community Corrections	229
	The Probation and Parole Officer Subculture	231
	Fulfilling the Dual Roles: An Ethical Challenge	
	for Probation Officers	233
	Supervision in the Community	236
	Treatment Programs	239
	Intensive Supervision	241
	Community Corrections and Caseload Supervision	243
	Liability Issues Facing Probation and Parole Officers	246
	Invasion of Privacy	246
	Supervision Issues	247
	State-Created Danger	249
	Corruption	250
	Conclusion	252
	Scenarios	253
	References	254
	Appendix A: Conditions of Probation and Parole	255
9.	Ethics in Private Security	265
	Introduction	265
	Privatization and Public Service	266
	Professionalization of the Private Security Industry	268
	Establishing a Culture of Ethical Behavior	268
	Loss Prevention and Retail Security: General Duties	271
	Shoplifter Apprehensions	274
	Organized Retail Theft	275
	Use of Force against Shoplifters	277
	Police Relations and Ethical Dilemmas	279
	The Ethics of Interviewing and Interrogation	281
	Common Pitfalls in Lie Detection	282
	Ethics and the Use of Closed-Circuit Television	287
	Conclusion	289
	Scenarios	290
	References	292

10 · Ethics and the Criminal Justice Supervisor	295
Introduction	295
Commissions on Police Deviance	295
Leadership and Ethics	297
Discretion	303
Official Misconduct and Civil Liability	305
Abuse of Authority Laws	307
Police Misconduct	309
Sexual Harassment	310
Accepting Gratuities	311
Mismanagement of Criminal Justice Organizations	312
Implicit Bias in Policing	314
Body-Worn Cameras	315
Citizen Review Boards	317
Probation and Parole Officer Supervision	320
Prison Culture and Correctional Supervisors	325
Ethical Pitfalls for Correctional Supervisors	327
Conclusion	328
Scenarios	329
Police Supervisor	329
Correctional Supervisor	330
References	332
11 · Ethics and Fighting Terrorism	335
Introduction	335
Defining Terrorism	336
Ethical Issues in Policing Terrorism	337
Police Ethics Training	338
Interrogation Practices	339
Interrogation Practices Abroad	341
Police-Corrections Partnerships	342
Preventative Detention: A Tool to Fight Terrorism	344
Case Study: Entrapment as a Defense to	
Counter-Terrorism Stings	345
Case 1	346
Case 2	346
The Prosecution of Terrorists	347

Contents

xii

Contents	xiii
Substantive Law and Prosecutorial Discretion	348
The U.S.A. Patriot Act	348
Fighting Domestic Terrorism	352
Concerns Regarding Civil Liberties	354
Domestic Terrorism as a Threat From Within	355
Conclusion	358
Scenarios	358
References	360
12 · Ethics and Contemporary Issues in Criminal Justice	365
Introduction	365
Mental Illness	366
Sex Offenders	372
HIV/AIDS	374
Prison Rape	376
Conclusion	380
References	380
13 · Ethics and Forensic Science	383
Introduction	384
Forensic Science Associations and Organizations	384
Professional Standards: A Call for Action and Integratio	n 387
Who Do I Work For? Scientific Integrity	389
Professional Qualifications and Experience	391
Expert Witnesses and the Objectivity Requirement	392
Qualification as an Expert Witness	394
Expert Opinions	395
Court-Appointed Experts	397
Wrongful Convictions	400
Conclusion	402
Scenarios	402
References	404
About the Authors	407
Index	409

Acknowledgments

Claudia San Miguel would like to thank her family and loved ones for all of their support over the years.

Durant Frantzen would like to thank his wife, Lana Frantzen, and his two sons — Cole and Chad — for giving him the inspiration, love, and fortitude to achieve his goals.

Lisa S. Nored would like to thank her co-authors for their hard work and the opportunity to collaborate on this project with such talented scholars. She would also like to thank her husband, Deron, and her children, Hunter, Holden, Hayden, and Hayes for their continued patience and support.