

8

Police Ethics and Police Deviance

After studying this chapter, the student should be able to:

- LO1** Define and describe ethics
- LO2** Discuss the various ways police actions are reviewed
- LO3** Identify the various definitions, types, and extent of police corruption and explore the reasons for police corruption
- LO4** Describe other forms of police misconduct including drug-related corruption, police deception, sex-related corruption, and domestic violence
- LO5** Define and discuss biased-based policing
- LO6** Discuss the definition, types, and extent of police brutality
- LO7** Explore various responses to police corruption
- LO8** Discuss the issue of liability and the effects of lawsuits on police officers and police agencies

LO1 Define and Describe Ethics

What is ethics? **Ethics** is defined as the study of what constitutes good or bad conduct. The term is often used interchangeably with *morals*, which is understandable because the terms have similar root meanings pertaining to behavioral practices or character. Applied ethics is concerned with the study of what constitutes right and wrong behavior in certain situations. (Pollock 10) Basic ethics consists of the rather broad moral principles that govern all conduct, whereas applied ethics focuses these broad principles upon specific applications. For example, a basic ethical tenet assumes that lying is wrong; applied ethics would examine under what conditions such a wrong would occur.

Aristotle defined virtue as what he called the Golden Mean or *Nicomachean ethics*. This philosophy suggests that life circumstances trigger a natural range of responses that include a mean between excessive and defective responses. A person's "character traits" are his or her habitual ways of responding, and the individuals who are the most admirable are those who find the norm between the two extremes regularly. The virtues cited by Aristotle more than 2,000 years ago include courage, self-control, generosity, high-mindedness, gentleness, truthfulness, and modesty. (Perez and Moore 49) These traits are still looked upon as evidence of good character.

Over the past few decades, there has been a growing interest in ethics in the academic and law enforcement literature, including textbooks, studies, journal articles, and media articles. Many departments and law enforcement organizations are promoting in-service training in the area of ethics. The International Association of Chiefs of Police

ethics

The study of what constitutes good or bad conduct.



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corruption

Acts involving misuse of authority by a police officer in a manner designed to produce personal gain for the officer or others.



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(IACP) offers courses in ethics, including “Ethical Standards in Police Service, Force Management, and Integrity Issues” and “Value-Centered Leadership: A Workshop on Ethics and Quality Leadership.”

The IACP and the Office

of Community Oriented Policing Services (COPS) have made a resource called the “Ethics Toolkit” available on their websites for increasing awareness of law enforcement ethics. These organizations recognize that trust is a vital element of community policing and that ethical people inspire trust but unethical people do not. They further realize that ethics training will help departments recognize their full potential.

It is important for police officers to study ethics for many reasons. Police officers use a lot of discretion, and one of their duties is the enforcement of the law. At the same time, it is their duty to protect the constitutional safeguards that are the basis of our legal system, due process, and equal protection. Lastly, they are public servants and their behavior involves the public trust. (Pollock 5) Education and training that address the issue of ethical decision making will aid officers in the decision-making process. As mentioned, the IACP and police departments across the nation have recognized this importance, and ethics training takes place in academies and is also a part of in-service training.

How do we measure police ethical standards? What standards have been established to determine how police officers should act? Joycelyn Pollock, in her excellent book *Ethical Dilemmas and Decisions in Criminal Justice*, identifies some of these standards:

Organizational value systems or codes of ethics designed to educate and guide the behavior of those who work within the organization

An oath of office, which can be considered a short-hand version of the value system or code of ethics

The Law Enforcement Code of Ethics, as promulgated by the International Association of Chiefs of Police (IACP). (Pollock 195)

Other standards governing police ethics are the U.S. Constitution and the Bill of Rights, case law as determined by appellate courts and the U.S. Supreme Court, and federal and state criminal laws and codes of criminal procedure.

Perhaps it is the police subculture, or perhaps the individual actions of officers or groups of officers that create police deviance. Whatever the reason, deviance certainly occurs in policing. However, remember, as most



- ▶ U.S. Constitution and Bill of Rights
- ▶ Appellate courts and U.S. Supreme Court
- ▶ Federal and state criminal laws

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officers know, that most of our nation’s police officers are highly ethical. Evidence also exists that the U.S. public believes to a great extent that our police are good, ethical, and do the right thing.

Police officers face ethical dilemmas every day. They make difficult decisions on a daily basis using discretion. Officers have to weigh many variables and sometimes contemplate accomplishing the most good for the greatest number of people. Whenever they do this, they are open to questioning and criticism. If they considered the wrong factors (race, ability to gain influence, pay-offs) in making these decisions, they could be on the slippery slope to **corruption**. The slippery slope concept suggests that when people begin to deviate, they do so in small ways. But once they have deviated, they begin to slide down a slope that leads to greater and more pronounced types of deviance. Therefore, there is no such thing as “minor” unethical behavior. (Perez and Moore 146)

LO2 Discuss the Various Ways Police Actions Are Reviewed

Police are constantly under review by government agencies, including federal, state, and local agencies; the courts; academics; the media; and the general public. Numerous national commissions have looked into the operations of the police. In addition to the national commissions, numerous state and local commissions, panels, and hearings have looked into the behavior and operations of the police. The most notable was the Knapp Commission to Investigate Allegations of Police

Reasons for Police Corruption

When we consider the enormous authority given to our police officers, the tremendous discretion they are allowed to exercise, and the existence of the police personality and police cynicism, it is easy to see that police work is fertile ground for the growth of corruption. Add to this environment the constant contact police have with criminals and

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free cup of coffee or a sandwich an act of corruption? It can be difficult to distinguish between genuine gifts (such as Christmas gifts) and gratuities, bribes, and corruption. At times, accepting any kind of gift is the beginning of the slippery slope syndrome, where it becomes easier to accept other, larger gratuities in the future and eventually bribes.

Is giving an officer a doing something. thing or for refraining from paycheck) for doing something (other than his or her value (benefit or something of a benefit or something of official capacity and receives she is acting in his or her officer is corrupt when he or purposes as follows: A police define corruption for our enough commonalities to definitions, but we can find Police corruption has many

Corruption in New York City, commonly known as the **Knapp Commission**. (Knapp Commission)

The police are also under constant review by the U.S. judicial system through the process of **judicial review**. Judicial review is the process by which the actions of the police in such areas as arrests, search and seizure, and custodial interrogation are reviewed by the U.S. court system at various levels to ensure the constitutionality of those actions. Judicial review has resulted in such landmark Supreme Court cases as *Mapp v. Ohio* (1961) and *Miranda v. Arizona* (1966). In addition, the police are reviewed daily by the media: newspapers, magazines, radio, and television. Finally, they are under constant review by citizens, many of whom do not hesitate to report what they consider to be deviant conduct to the media, to the police

LO3 Identify the Various Definitions, Types, and Extent of Police Corruption and Explore the Reasons for Police Corruption

themselves, or to other legal authorities. Officers' high visibility often puts them under the microscope.

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National Commissions	
1931	National Commission on Law Observance and Enforcement (Wickersham Commission)
1967	President's Commission on Law Enforcement and Administration of Justice
1968	National Advisory Commission on Civil Disorders
1973	National Advisory Commission on Criminal Justice Standards and Goals
1982	Commission on Accreditation for Law Enforcement Agencies

Knapp Commission
Commission created in 1970 to investigate allegations of widespread, organized corruption in the New York City Police Department.

Judicial review
Process by which the actions of the police in areas such as arrests, search and seizure, and custodial interrogation are reviewed by the court system to ensure their constitutionality.

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grass-eaters

Police officers who participate in the more passive type of police corruption by accepting opportunities of corruption that present themselves.

meat-eaters

Officers who participate in a more aggressive type of corruption by seeking out and taking advantage of opportunities of corruption.

gratuities

Items of value received by someone because of his or her role or job rather than because of a personal relationship.



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unsavory people, the moral dilemma they face when given the responsibility of enforcing unenforceable laws regarding services people actually want (illegal drugs, gambling, alcohol, and prostitution), and the enormous amount of money that can be made by corrupt officers. Based on all these factors, it is little wonder that corruption emerges in police departments.

Samuel Walker and Charles Katz cite several possible theories of corruption:

- **Individual officer explanations:** Blame is placed on the “rotten apple” in the department.
- **Social structural explanations:** Certain social structures in America tend to encourage and sustain corruption, including criminal law, cultural conflict, and local politics.
- **Neighborhood explanations:** Neighborhoods with social disorganization have higher levels of poverty, lower levels of social control, and higher levels of corruption.
- **The nature of police work:** Officers work alone and with little supervision and with constant exposure to wrongdoing. This can lead to the feeling that “everyone is doing it.”
- **The police organization:** Corruption flourishes in departments in which the organizational culture tolerates it.
- **The police subculture:** The emphasis on loyalty and group solidarity can lead to lying and cover-ups. (Walker and Katz 455–460)

Any or all of these issues can be at work in influencing the existence and extent of corruption in police agencies. But some view the police subculture and the values associated with that subculture as particularly problematic in regard to the corruption issue. The informal code of policing seems to contradict the formal codes as presented by the IACP. (Pollock 203)

The code of silence—often referred to as the “blue curtain” or “blue veil,” which is the tendency of law enforcement personnel to not share information with others—can make it difficult to get at the truth. The belief that others outside the police profession couldn’t possibly

understand the challenges officers face is absorbed early in the training and socialization process and is reinforced with time on the job.

Types and Forms of Corruption

Corruption is not limited to the present day. Lawrence W. Sherman reports, “For as long as there have been police, there has been police corruption.” (Sherman, *Police Corruption* p. 1) Goldstein says, “Corruption is endemic to policing. The very nature of the police function is bound to subject officers to tempting offers.” (Goldstein, *Police Corruption* p. 218)

When the Knapp Commission reported on the police corruption in New York City in the early 1970s, it distinguished between two primary types of corrupt police officers. **Grass-eaters** are more passive and will accept what is offered to them. **Meat-eaters** are more aggressive and search out opportunities to exploit for financial gain. Most officers who accept bribes are grass-eaters. (Knapp Commission 4)

Walker and Katz describe four general types of police corruption: taking gratuities, taking bribes, theft or burglary, and internal corruption. (Walker and Katz 452–454) **Gratuities** are small tips or discounts on goods purchased. Pollock defines gratuities as items of value received by someone because of his or her role or job rather than because of a personal relationship. (Pollock 235) Whether to define the acceptance of gratuities as corruption has been and continues to be hotly debated by both police professionals and the community. The concern of those who feel it is corruption is that it may be the beginning of

Grass-eaters are a more passive type of corrupt officer.



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There is an ongoing debate as to whether accepting a free cup of coffee is a form of corruption.

For the past few decades, police misconduct has made headlines far too often. This gives a black eye to the

Effects of Police Corruption

a noble cause type of corruption. (Perez and Moore 134) behavior to get the bad guys behind bars and consider it are not doing so for personal gain. They rationalize the police officers misusing their legal authority, but they bad guy in jail where he belongs. These behaviors involve

Noble Cause Corruption refers to situations where a police officer bends the rules to attain the "right" result. This is also often referred to as the *Dirty Harry* syndrome. In the extreme situation, an officer might justify violating a suspect's rights to save someone's life. More commonly, the rights violation would be justified in the officer's mind by the ultimate good of putting the bad guy in jail where he belongs. These behaviors involve police officers misusing their legal authority, but they are not doing so for personal gain. They rationalize the behavior to get the bad guys behind bars and consider it a noble cause type of corruption. (Perez and Moore 134)

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noble cause corruption stems from ends-oriented policing and involves police officers bending the rules to achieve the "right" goal of putting a criminal in jail.

"rotten apple" theory is believed that individual officers contribute to a police officer with the intent of subverting the aim of the criminal justice system.

Meat-eaters tend to search out opportunities for corruption.



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that slippery slope and may make it easier for officers to justify participating in more serious acts of wrongdoing. Police corruption also may involve taking **bribes**—the payment of money or other consideration to police officers with the intent of subverting the aims of the criminal justice system. This is a far more serious form of corruption and often involves payment for nonenforcement of laws or ordinances.

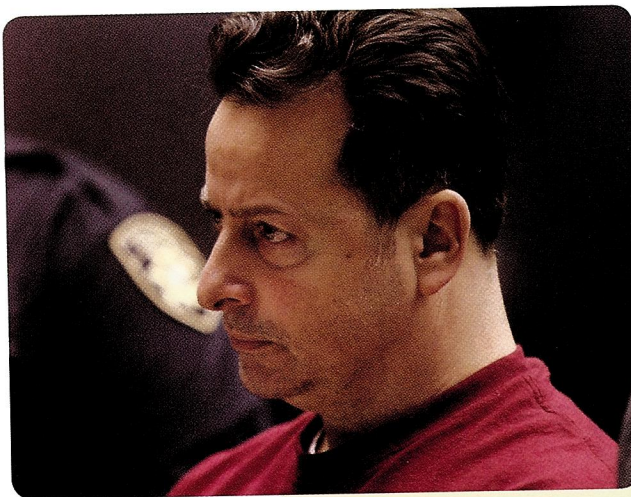
Theft or burglary—the taking of money or property by the police while performing their duties—is another form of police corruption, according to Walker and Katz. The police have access to numerous premises, including warehouses and stores, while investigating burglaries, open doors, or alarms. They also have access to homes while on official business. This is especially true of and tempting at narcotics investigations. There are often huge amounts of cash or drugs lying around, and often no one, not even the suspects, knows exactly how much is there. Until an official cash count or drug inventory is done (which can take hours), exact amounts of contraband are unknown. A corrupt police officer thus has plenty of opportunity to take property from others.

Walker and Katz's final type of police corruption is internal corruption, in which officers pay members of their departments for special assignments or promotions. Sherman discusses three general levels of police corruption based on the pervasiveness of the corruption, the source of the bribes, and the organization of the corruption (Sherman, *Police Corruption* p. 7) The first is the "rotten apples and rotten pockets" theory of police corruption, which holds that only one officer or a very small group of officers in a department or precinct is corrupt. The second level of corruption that Sherman found might exist in a police department is pervasive, unorganized corruption, where most of the officers are corrupt but are not actively working with one another on an organized or planned basis. Sherman's third level of corruption is pervasive, organized corruption, where almost all members of a department or precinct are working together in systematic and organized corruption.

officers who have never, and would never, consider any type of misconduct as well as to agencies with similar standards. Police misconduct also affects the reputations of police officers and police agencies in general. Misconduct committed by an officer affects that officer, the department that the officer works for, the community he or she serves, and every police department and police officer in America. (Palmiotto 39–40) It also affects the police–community relationship in general and can and will undermine the public’s trust in the police.

LO4 Describe Other Forms of Police Misconduct Including Drug-Related Corruption, Police Deception, Sex-Related Corruption, and Domestic Violence

Police corruption and police brutality are the most serious forms of police deviance. Police brutality will be discussed later in the chapter. Other types of police deviance also exist. Chief among them are drug-related corruption, sleeping on duty, police deception, sexual violence, and domestic violence.



A narcotics officer in Providence, R.I. is arraigned on charges that he aided a cocaine ring.

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Drug-Related Corruption

Drug-related corruption is similar to other types of corruption, but it is an added concern to modern law enforcement agencies because of the frequency with which these incidents can occur. Drug users and dealers make good targets for corrupt officers because they are less likely to report being victimized. There is also an opportunity to make a lot of money simply by looking the other way.

Sleeping on Duty

Fatigue is an issue for all involved in police work, and, consequently, sleeping on duty intentionally or unintentionally is an important concern. With officers working the night shift and the rest of the world functioning on a day-shift schedule, conflicts arise. Officers attend court and meetings during the day when they should be sleeping. Their sleep is also interrupted by phones, delivery personnel, repair people, children, and family responsibilities. Because of the nature of police work and the

Sleeping on duty, whether intentional or accidental, is a safety issue.



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The International Association of Chiefs of Police (IACP) has developed a model policy regarding police-involved domestic violence, and some departments are building on that policy and becoming proactive. The IACP policy stresses that zero tolerance toward domestic

shelters are. The offender knows the legal system and knows where the offender has friends and supporters in the department who may not believe the allegations; the offender has a gun; and the victim is a spouse of a police officer, then the offender is beginning to be addressed, and it is an uphill battle. If the victims are hesitant to report it. Domestic violence is only more prevalent in police families than in the general population. (National Center for Women and Policing) Such violence has traditionally been a hidden problem because victims are hesitant to report it. Domestic violence is only more prevalent in police families than in the general population. (National Center for Women and Policing) Such violence has traditionally been a hidden problem because

Domestic Violence in Police Families

Some studies indicate that domestic violence may be more prevalent in police families than in the general population. (National Center for Women and Policing) Such violence has traditionally been a hidden problem because victims are hesitant to report it. Domestic violence is only more prevalent in police families than in the general population. (National Center for Women and Policing) Such violence has traditionally been a hidden problem because

Examples of warning signs might include a male officer pulling over female drivers, spending a lot of time outside bars at closing time, spending an inordinate amount of time at any place women tend to congregate, or conducting follow-ups that he wouldn't conduct for the average citizen. Most of these activities can be explained away in the context of performing good police service, but together they could be a pattern of behavior worth watching. Law enforcement agencies also need to communicate to all personnel a zero tolerance for this type of violation. A well-written policy outlining the process for reporting, documenting, and investigating these incidents will further strengthen an agency's position.

Police administrators need to be aware of this type of violation and vigilant in looking for warning signs. Often, behavior can signal a potential problem; if that behavior is handled quickly and effectively, administrators might be able to avert a bigger problem or give the organization documentation of behavior for a discipline case.

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Sex-Related Corruption

Police sexual violence incorporates many behaviors and involves situations in which officers use their authority to extort sex from female citizens or conduct some type of invasion of privacy of those female citizens. (Pollack 236–237) These are very serious offenses against the public trust. Most police officers detest this behavior of the few who perpetrate it. The community is also shocked to think an officer would use his position of trust to violate some of the most vulnerable citizens.

Police Deception

Another form of police misconduct is **police deception**, which includes perjury while testifying in court, attempts to circumvent rules regarding searches and seizures of evidence, and falsifying police reports. Deception is a serious issue. Police administrators will tell you that honesty is the most crucial trait of a police applicant and police officer. Deception in the hiring process will disqualify applicants, no questions asked, and deception by police officers will result in termination. With officers routinely swearing to the truth in everything they do and write, deception cannot be tolerated. Yet, as administrators will tell you, deception can be difficult to prove, as it is often one person's word against another's. When deception is discovered in any aspect of the job, it can taint any case the officer has ever been involved in. A U.S. Supreme Court decision, *Brady v. Maryland*, requires prosecutors to notify defense attorneys whenever a cop involved in their case has a record of knowingly lying in an official capacity. (*Brady v. Maryland*) These cops have become known as "Brady cops" and can be liabilities to their agencies.

Police officers, a prosecutor and a judge appear at their arraignment in Detroit for allegedly allowing the police and a key witness to give false testimony.



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Form of misconduct that includes perjury and falsifying police reports.
police deception
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biased-based policing

Any police-initiated activity that relies on a person's race or ethnic background rather than on the person's behavior as a basis for identifying that individual as being involved in criminal activity.



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violence should be established in agencies through the education and training of all personnel as well as the development of clear and comprehensive policies and procedures. The 1996 federal law (18 U.S.C. 925) widely referred to as the Laut-

enberg Act, which prohibits anyone convicted of a misdemeanor from owning or using a firearm, further complicates the law enforcement issue.

A tragic domestic violence case occurred in Tacoma, Washington. On April 26, 2003, David Brame, the Tacoma chief of police, fatally shot his wife and then himself in front of their children in a parking lot in a neighboring community. This came several days after allegations of abuse and impending divorce had become public, despite his wife's efforts to minimize his anger and embarrassment by filing the divorce papers in a neighboring county. Brame's wife, Crystal, had filed these divorce papers and moved out of the home with the children in February,

alleging that her husband was abusive and possessive. Brame was assistant chief and a 20-year veteran of the department when he was named chief in December 2001, and there were allegations that the city manager knew of the rumors of abuse and an acquaintance rape issue in Brame's past but did not investigate them thoroughly before appointing Brame chief. The state of Washington concluded an investigation of the incident in November 2003 and found no grounds for criminal charges but significant evidence of mismanagement within the city of Tacoma. Relatives of Crystal Brame filed a \$75 million wrongful-death civil suit, with the belief that the city's inaction or inappropriate actions ultimately led to Crystal's death. (Ko) The family settled the suit, with the city of Tacoma paying the family \$12 million in addition to establishing a city-county domestic violence center named after Crystal and implementing new policies and procedures regarding police officer-involved domestic violence.

LO5 Define and Discuss Biased-Based Policing

Biased-based policing has emerged as an important issue in communities in the last two decades. But, in reality, the government has faced this problem since *Plessy v. Ferguson* (1896) and *Brown v. Board of Education of Topeka* (1954). Providing equal protection and equal opportunity is a critical issue to the American people. The behavior that has led to the coining of the phrase *biased-based policing* has existed for years. When the behavior increased in frequency and severity in the 1980s and 1990s in an attempt to fight the rising crime rate and escalating drug problem, the community began to notice and speak out. The issue of whether this practice of stopping individuals based on their race or ethnicity was proper police procedure or ethical police behavior was raised.

Racial profiling, the term commonly used for bias-based policing, is generally defined as any police-initiated activity that relies on a person's race or ethnic background rather than on the person's behavior as a basis for identifying that individual as being involved in criminal activity. Police may not use race or ethnicity to decide whom to stop or search, but they may use it to determine whether an individual matches a specific description of a suspect. (U.S. Department of Justice, *Resource Guide* 10)

The validity of stops may be questioned when police are investigating a crime committed by a group of



Domestic violence can be a problem in police families.



Agencies are training their officers in the area of racial profiling and ensuring that data regarding stops are collected and analyzed to determine if there is a problem.

individuals who may share ethnic or racial characteristics. Some criminal enterprises are composed of persons with similar ethnic or racial or national origins, but using this characteristic as a determining factor could be interpreted as racial profiling. (U.S. Department of Justice, *Resource Guide*)

During the 1990s, racial profiling became a hot topic in the media. New terms were coined, such as "driving while black" (DWB). Media attention brought the topic up for discussion in communities. Recently, the Department of Justice found that nationwide, among all traffic stops, though all races were stopped at similar rates by police, blacks (9.5 percent) and Hispanics (8.8 percent) were more likely to be searched during their stops than whites (3.6 percent). (Durose, Smith, and Langan 1)

Most recently, the issue of biased-based policing has often involved individuals of Muslim descent. In the aftermath of 9/11, the community as well as the police began to report an increased awareness of the activities of people who appear to be of Middle Eastern descent.

Regardless of whether racial profiling occurs, the mere perception of its existence can result in problems in the community. Realizing this, many states have instituted legislation requiring the gathering of data and the implementation of racial profiling policies. In fact, most police academies in the country address racially biased policing as part of their basic training program, and according to the Department of Justice's Survey

of Local Police Departments, 67 percent of departments have written policies about racial profiling by officers. (Reaves, *Local Police Departments*, 2007)

Police officers have a lot of discretion in their jobs, and this is particularly evident in traffic stops. First, officers decide whether or not to stop a car; then, they decide how to handle the stop—that is, whether to remove occupants from the vehicle, call for a drug dog, ask for a consent search, and so on. Citizens have questioned how officers make these discretionary decisions, and some allege that these decisions are based on race or ethnicity. Many members of minority groups feel they are being stopped for petty traffic violations, such as failure to use a turn signal or an equipment violation, just so that officers can use the opportunity to question occupants or search vehicles.

More data are needed to better determine if there is a specific problem in various cities and states across the country. In response to the community outcry, most states have implemented some type of data collection system.

Collecting these data will either help the community see there is no problem with the activities of their police or help the police and community understand the scope of the problems. This data collection will also send a message to all concerned that racial profiling is unacceptable. Analyzing the data and initiating an early warning system can also help identify the officers or squads who may be prone to inappropriate stops. The data should be looked at as part of a big picture, however. Characteristics of a particular jurisdiction can skew the data—major highways, large shopping centers, and large employers can affect the amount of nonresidential population traveling to or through a jurisdiction. Some agencies may not be pleased with the analysis of their data, but others will be reassured.

If analysis of these data reveals a problem, it can be addressed. New procedures, training, or counseling can be employed to make changes. Some departments are reassured when they find there is not a bias-based policing problem, and the data can help them counter allegations of unfair treatment. A community that trusts its police department is more likely to work with the department in making the community safe, and this is a good thing for all concerned.