

Professional Courtesy

Ethics in Policing

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A short narrative on understanding and dealing with the complex issues surrounding the use of Police Discretion by Professional Law Enforcement Officers in an ethical and meaningful way.

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A police officer pulls over a vehicle for failing to come to a complete stop at a stop sign before pulling out onto a busy thoroughfare. Although it appears to be just another routine traffic stop, the police officer, in keeping with his training, approaches the driver cautiously. Nothing appears out of the ordinary with the driver, who is alone in the vehicle, so the police officer asks the driver if he knows why he, the officer, stopped him. The driver responds he's not sure why he was stopped, so the officer explains and then requests that the driver hand over his driver's license, registration, and proof of insurance. The driver then opens his wallet and holds it up in such a manner that the officer can't help but notice the police badge pinned prominently inside. "Any chance you can give another officer a break?" the man asks. Now, the officer who'd pulled the man over is facing a small dilemma. Obviously, the driver is a police officer and is asking that he, the officer who pulled him over, to extend him the professional courtesy of not issuing him a citation for the small traffic violation. How should the officer respond? Should he cite the offender, give him a warning and let him go, or just laugh it off and wave the offender on his way? This is the dilemma facing many of us almost every day in police departments throughout the free world.

While some officers would never cite a fellow officer for a traffic violation, others would not hesitate to write their fellow officers a ticket. Professional Courtesy, what it means and how, if at all, it should be used, varies widely from officer to officer. Still, there should be some guidance from which an officer can gain insight as to how to handle matters involving professional courtesy. The insight officers need begins first with a thorough understanding of professional courtesy and the ramifications behind it, as well as how and under what circumstances it should or should not be extended. In order to understand and address the complex issues surrounding professional courtesy, we must explore 5 factors which lend itself towards developing a personal guideline from which we and our fellow officers can use to ethically deal with the issues surrounding the use of professional courtesy in law enforcement.

These 5 factors are:

- Defining Professional Courtesy
- Understanding the Historical Perspective
- Legal/Policy issues involving officer discretion
- Deciding factors in extending Professional Courtesy
- Effects of Extending Professional Courtesy

In covering the 5 factors listed above, it is hoped that this information will help provide officers with the information they need to develop the personal guidelines they need to effectively deal with the issues and dilemmas surrounding the use of professional courtesy.

Defining Professional Courtesy

Professional Courtesy means different things to different people.

Wolfe (2012),

Some would say an officer letting another officer go is professional courtesy. My definition differs. To me professional courtesy means that when you are in my jurisdiction you conduct yourself so that your behavior doesn't require that I come into contact with you. You act like a professional and show me courtesy by not placing me in the position of having to deal with you. In return I do the same." (p. 2).

As you can see, he covered both extremes (his view verses some others) in his definition. These extreme views, while understandable, hardly fit in with the role of the professional police officer in today's society.

Professional Courtesy, by any definition, must begin and end with the proper use of *Police Discretion*.

Wikiquote (2012) states,

Discretion means both the ability to make wise choices or decisions, and the freedom to make one's own judgments. The term is frequently applied to the ability of a person to be discrete, that is, to have the wisdom to avoid speaking of private matters. In legal parlance in particular, it refers to the power of a judge to make certain decisions about the conduct of legal proceedings.

This definition covers the freedom of a judge, or officer, to choose what he will do in each circumstance and covers the professional need to make wise choices or decisions, thus, allowing for an officer to use his or her discretion in decision making, but it does not cover all the various areas and issues surrounding "professional courtesy" in particular.

My definition of *professional courtesy* is "the courtesy or special privilege extended by a professional engaged in his or her professional calling, to another person who shares the same or like calling, as a matter of respect, support, or solidarity. Professional Courtesy is not a mandated privilege, but is freely given at the discretion of the party extending the courtesy."

Just of few examples of Professional Courtesy include: a physician treating another physician's family for free, a lawyer waving legal fees for a consultation to a family member of another lawyer, a police officer letting another officer go on a minor traffic violation, or even a hairdresser fixing another hairdresser's hair for a special occasion without payment.

Understanding the Historical Perspective

Having defined professional courtesy, it is now incumbent upon us to understand the history behind how it developed in law enforcement. Such a historical perspective will help us understand how professional courtesy has come to be part of our heritage, in fact, how it is ingrained in our very culture today.

Our heritage in law enforcement dates back to the beginnings of our country (early 1700s-early 1800s), through the civil war and pioneering western days (early 1800s-today) to include the modern era which began with the establishment of the London Metropolitan Police Department in 1839 and Robert Peel's nine "Principles of Policing." Our heritage in law enforcement is rich, but throughout the years police officers have always shared one thing in common, it's the "us against them" mentality. When everything hits the fan, we always know that our brothers in blue have our back. The good guys verses the bad guys. The cops verses the crooks. Society might, at times, lend a helping hand, but only another officer can always be trusted to be there when we need help. This mentality has served law enforcement officers for generations and continues to be the commonality that all of us hold to today. Only another officer understands the feelings we share. Officers everywhere put their lives on the line every day they put on a uniform. That is the brotherhood of police work. This is a brotherhood that is worthy of special recognition, trust, and professional courtesy from those of us who share the dangers, the values, and the heritage passed down to us from others wearing the badge. We stand between civilized society and anarchy, but we don't stand alone, we stand shoulder to shoulder with our brothers and sisters who wear the badge. Just as we can depend on our fellow officers, they can depend on us to be there in their time of need. That is our heritage.

NJLawman (2012) wrote,

None of us on the job today created professional courtesy. We inherited it from those who came before us, and we'll hand it down to those who come after us. Law enforcement is a culture and is no different from other cultures. We have certain rules, certain language, certain music, certain days and periods of remembrance and

celebration, and, for the most part, we enjoy being around each other. Professional courtesy is just part of the culture." (p.1).

Modern Technology has taken away some of the isolation that officers use to feel when dealing with the criminals on the street. This coupled with modern training methods, education, and community oriented policing programs have decreased the "us verses them" mentality to some degree, but that mentality still appears to be prevalent and is a driving force in the attitudes of most police officers today.

Legal/Policy Issues Involving Officer Discretion

Legal issues, including both criminal and civil liabilities, are primary considerations when it comes to officers exercising discretion and deciding whether or not to and to what degree to extend professional courtesy. An officer who fails to arrest a fellow officer for driving while intoxicated and lets the officer go, can find himself in hot water, if that officer should later get behind the wheel of another car and kill someone. According to Mike Rainwater, an attorney and senior partner of the law firm "*Rainwater, Holt, and Sexton*," when he addressed the School of Law Enforcement Supervisors at the Arkansas Criminal Justice Institute (2012), stated that, "the courts have long held that police officers have no *legal obligation* to arrest those who might break the law. To do so would make them (officers) legally responsible for all criminal conduct that might occur." This, however, does not automatically relieve officers of the moral

responsibility to stop criminal conduct occurring in their presence. Civil liabilities could result from a "failure to act." Less likely, but still a concern, is that criminal charges, possibly in the form of violating one's civil rights in a Federal Court, could possibly result. This is especially true if someone were to sustain substantial injuries as a result of "negligence" in the form of an officer ignoring dangerous conduct under the guise of extending professional courtesy to the culprit. As such, officers must exercise due care when confronted by the dilemma of a fellow law enforcement officer acting in such a manner as to endanger the welfare of himself or others. In such cases, the failure to act responsibly can not be excused under the pretext of using one's discretion.

Administrative action against an officer is also a concern in such cases. Dereliction of Duty findings could result in substantial disciplinary action to include possible termination.

Today, few, if any, police departments address professional courtesy directly in their policies, but it is nonetheless understood that it is forever present. What police departments do to address these issues is to address them in a broader sense, by way of making policies and/or directives dealing with "officer discretion or dereliction of duty." One such example is found in the Little Rock Police Department's policy on *Limits of Authority*, Little Rock Police Department General Order 107, (2010), which states,

F. Use of Discretion by Officers-

1. A decision not to arrest when there are grounds to arrest is, at times, considered good law enforcement practice. Public empathy can be enhanced by the careful use of discretion, and potential ill will can be avoided between police contacts and officers of the department.

2. If an arrest is not made at the time of the offense, officers, if they find it necessary, may obtain a warrant of arrest against the offender at a later date.
3. If an officer makes a decision not to arrest, his decision should be based on but not limited to :
 - a. The arrest would cause greater danger to the public than not attempting to arrest the offender.
 - b. The arrest would cause harm to an offender who poses no threat of danger to the public: such as a juvenile offender whose wrong doing could best be handled by a warning or informal discussion with parents.
 - c. The officer should always consider the seriousness of the offense and its consequences.
 - d. Should any questions arise concerning a particular incident, the officer involved should confer with a supervisor. (p. 3)

Such policies seek to limit an officers discretion (and professional courtesy) by limiting the use of such discretion to those cases where the use of discretion is in the best interest of law enforcement and the general welfare of the community as a whole. Still, these policies help protect the officer as well as the department. They may also help reduce complaints of police bias in the community, as citizens see that the law is effectively and efficiently enforced equally across the board without regard to social position or employment, race, sex, etc. "Discretionary enforcement can result in complaints of racism, sexism, and abuse (Meese, 2004)."

Deciding Factors in Extending Professional Courtesy

The choice of whether or not to extend professional courtesy is strictly an individual choice. It is also up to each individual to determine to how much or what limits he or she will place on or go to in offering professional courtesy to others. Cost verses benefits, ethical and moral issues, and how such offers might be perceived by others are just three of the factors that should be considered prior to offering or denying others special benefits by way of professional courtesy. Professional courtesy in law enforcement can range from something as simple as assisting another officer to obtain a copy of an accident report, to letting another officer, who is highly intoxicated behind the wheel of a car, go without charges. The moral question then becomes, how far should an officer go in extending professional courtesy and what limits should an officer place on professional courtesy? Again, each individual officer must make his own decisions on these issues and develop personal guidelines to follow that are well thought out, to include considering all of the issues and considerations mentioned here. More (1982) wrote, "The very nature of the profession requires that officers have the flexibility to make on-the-spot determinations in a limitless variety of situation." (p.78).

The first consideration is determining who you feel qualifies for professional courtesy. This list can be extremely long, but just some of those who are normally included for consideration include:

- Fellow Officers

- Their Immediate Family
- Their Friends
- Dispatchers or other Civilian personnel
- EMS personnel
- firemen
- politicians or VIPs
- Military personnel

Who may qualify for professional courtesy not only depends on the judgment of the individual officer, but changes in accordance with the type of incident and the subject's involvement in that incident.

The next consideration is the type of incident and its seriousness. If a fellow officer or a member of his family is in need of assistance, i.e. car broke down, accident, in need of monetary assistance, etc., then there is little to no question that extending professional courtesy could go a long way in building a positive image within the law enforcement community for all concerned. However, if the subject(s) coming in contact with an officer are behaving in an unacceptable manner, then before an officer considers or attempts to extend professional courtesy to the offender, the seriousness of the incident itself must be evaluated. Felonies, violent misdemeanors, and immoral conduct demand immediate law enforcement action without regards to the offender's status or position. The same holds true for any offense, regardless of classification, where another person, group, or organization is victimized as a result of the

offending person's actions. In cases, such as minor traffic violations, where no real injury or damage occurred, the officer has some discretion and may offer professional courtesy. Discretion is the key word when considering extending professional courtesy. When a situation allows for the officer to use his discretion, then using this discretion in the form of giving a fellow law enforcement officer every benefit of a doubt and offering a professional courtesy "might" be the best course of action, depending on the specific circumstances. This does not, however, excuse an officer who abuses his discretionary powers to let obvious criminal conduct go unchecked in the name of professional courtesy.

Another consideration involving professional courtesy is to determine the *intent* of the offending officer or the seriousness of his or her involvement. Was the offending person's action purposeful, gross carelessness or negligence, or strictly an accident? The seriousness of the offender's action has direct relation to his or her culpability. Purposeful conduct is serious and indicates that the subject meant to engage in such conduct, reflects poorly on the offender, and indicates stern action should be taken by the responding officer to prevent a reoccurrence of the unacceptable behavior. Gross carelessness/negligence is serious and indicates that the offending subject lacks a sense of responsibility for their actions. In these cases, the responding officer should probably respond in a stern manner also. Accidents, however, can occur to anyone and does not indicate a problematic attitude on the part of the offender. The responding officer in this case can afford to show leniency and may use his or her discretion in extending professional courtesy, if otherwise appropriate.

In addition to the considerations above, we must also consider the offending party's attitude before extending them professional courtesy. NJLawman (2012) stated, "Professional Courtesy begins with the officer being stopped, not with the officer making the stop." (P.2) This single

statement says it all. Professional courtesy is just that... a courtesy. It is a privilege, not a right. Those who act offended or demand special treatment are not generally the type who will exercise more care in the future after receiving a simple warning. If their attitude demands a citation, then by all means give them one. However, should the offender be apologetic and appear sincere, then professional courtesy in the form of a simple warning will serve the cause just as much as a citation would. "Keep in mind that only good people feel guilty. Unethical people rarely feel guilty because they deny, they justify, they rationalize, and they refuse to accept their share of responsibility" (Whisenand, 2007).

Effects of Extending Professional Courtesy

Cops talk and without doubt, both you and the agency you work for will bear the burden for whatever decisions you make. Whether you extend professional courtesy or not, your actions will soon become known throughout the law enforcement community. Either you'll be known as an officer and agency that promotes respect for the brotherhood, or one who treats your fellow officers with disdain. Or, you'll be known as an officer and agency that plays things by the book or one who lets officers get away with anything. The difference is often determined in large part by the seriousness of the incident itself. No one will blame an officer for arresting a criminal with a badge, but at the same time, it'll be difficult for your agency to find support in the local

law enforcement community if you or others in your agency are known to cite their fellow officers for the slightest violations.

Summary

I've personally met officers who represent both extremes when it came to extending professional courtesy. An officer I once knew told me that barring a major felony, he'd never arrest another officer. Still another officer told me that he'd never give a warning to a police officer because they should know better and they had to be held even more accountable than everyone else. Both extremes are wrong in that they both lead to a lack of respect for both the officer and the agency they represent. A thoughtful balance can be found that is acceptable to both the officer and those he represents. Understanding the five elements discussed here, an officer can develop his or her own personal guidelines, based on ethical standards, to deal with professional courtesy on a day by day basis. Using his own personal guidelines, an officer can show respect for those who share in the dangers of his profession, while ensuring that his moral and ethical standards are not compromised.

As a supervisor, I've often had to deal with ethical issues involving my officers actions. I often tell them that when it comes to my making decisions concerning their actions, I will extend to them every professional courtesy I can. I will always attempt to give them the benefit of a doubt and support their actions when I can. While I have a duty to them, however, I have a

higher duty to my God, my country, and my family. Included in these are the people I work for and represent. While I will attempt to extend to my officers every professional courtesy, I will not compromise my ethical obligations to those whom I owe a higher duty. While I might overlook some minor mistakes, I will not compromise to the point of jeopardizing my position. Simply put, I will not let their bullshit threaten my job, my family, or my morals. Having explained this to my officers, I encouraged them to adopt this same standard when it comes to professional courtesy or professional conduct. In other words, don't let other people's bullshit compromise your position, your job, your family, or your morals. Your first priority must be to those people or things you hold as most important. While on the surface, this might appear to be a crass way of getting my message across, it nonetheless has proven effective and serves as a sound basis for officers to use in developing their own personal guidelines for handling matters of professional courtesy.

References

- Little Rock Police Department General Order 107 (2010), *Limits of Authority*. Little Rock, AR: City of Little Rock.
- Meese, Edwin III & Ortmeier (2004). *Leadership, Ethics, and Policing: Challenges for the Twenty First Century*. Upper Saddle River, NJ: Prentice Hall.
- More, Harry W. Jr. (1982). *Critical Issues in Law Enforcement*. San Jose, CA: Anderson Publishing Company
- NJLawman (2012). *Professional Courtesy*. Retrieved from <http://njlawman.com/Feature%20Pieces/Professional%20Courtesy.htm>
- Whisenand, Paul M. (2007). *Supervising Police Personnel: The Fifteen Responsibilities*. Upper Saddle River, NJ: Pearson Prentice Hall.
- Wikiquote (2012). Definition of: Discretion. Retrieved from <http://wikiquote/wiki/Discretion>
- Wolf, Duane (2012). Defining Professional Courtesy. *PoliceOne News*. Retrieved from http://www.policeone.com/pc_print.asp?vid=1839305

