

An Ethical Perspective on Police Misconduct in Thailand

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Abstract

Police misconduct has been a significant problem in Thai society for a long time. However, the police misconduct problem is not found only in Thailand; it also found in other civilized countries including the United States. This paper is generally intended to examine factors related to police misconduct and how society justifies these misbehaviors in both the United States and Thailand. The problem here would be what makes police officers engage in corruption and whether police misconduct in Thailand and the United States is similar or different. Another question would be whether police misconduct can be either morally or socially justified. Some police misconduct was somehow found in both Thailand and the United States, including hedonistic corruption, obligatory corruption, noble cause corruption, misconduct in police investigation and interrogation. Factors contributing to police misconduct include ineffective police training, lack of supervision, personal gains, police subculture, misguided loyalty, and egoism. Some potential resolutions to solve police misconduct include police ethics cultivation and training, increasing supervision, changing police subculture, and increasing police salary

Keywords: Police misconduct, Thai police, Corruption, Police subculture, Police ethics

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Introduction

Police misconduct or police misbehavior has been a most frequently mentioned problem in the criminal justice system. Some types of police misconduct are legally considered as a crime, but some are not, depending on the seriousness of misconduct. However, these types of police behavior somehow denigrate police credibility and trustworthiness. In Thailand the police have been accused for police misconduct since probably the Thai police department was established. Although the police in Thailand have been changed and improved in their effectiveness and services, Thai people still have some negative images on the police. In the past, before the 1980s, police officers were among the most influential persons in each community. They had exclusive authority in their jurisdiction; then, they were able to act arbitrarily. Therefore, civilians needed to obey what the police said or suggested no matter if it was right or wrong. If they did not obey the police, they would be abused or punished in some forms.

Although there are not many police officers who act in bad manners, their misbehavior tremendously defame positive police images that most of police officers have been cumulatively created. This problem has found not only in Thailand but also in other civilized countries such as the United States. Police misconduct can take place in several forms. Some types of police misconduct for personal gain are obviously unethical, but some forms of police misconduct that are committed for public interests are not clearly considered as unethical for many people, especially police officers. For example, police interrogators recently improve their strategies to fit in the legally-defined framework by focusing on deception, manipulation, and lying. However, police interrogation procedure related to deceptive and manipulative techniques are considered immoral and unethical.

Misconduct by police may occur in a variety of forms, but it generally becomes a controversial agenda when police officers misuse their legitimate authority or act contrary to professional ethics (Palmiotto, 2001). Police misconduct has drawn a lot of attention from the public since police officers are expected to do their sworn duties guided by the professional ethics and legal authority without any impropriety (Ross, 2003). Certain forms of police misconduct may more obviously reveal police impropriety than others. Other forms may raise some ethical questions whether they are morally accepted or justified by the society or not. Moreover, misconduct and corruption by police sometimes result in job terminations, organizational investigations, criminal prosecutions, civil liability, and citizen

protests and demonstrations (Lersch, 2002). Although police misconduct incidents are rare, these deviant incidents have defamed police organizations tremendously (Ross, 2003).

Police officers view the acceptance of a bribe, drug use, planting a weapon on a suspect, and theft of property as the most serious forms of police misconduct (Martin, 1994). Similarly, Ivkovic (2005) found that the serious forms of police misbehavior involve theft of confiscated items, a bribe, and kickbacks. In addition, the supervisors and line officers consider the acceptance of gratuities such as free meal, discount, or holiday gifts as the least serious forms of police misconduct, but the supervisors view this police misbehavior more serious than line officers do (Barker & Wells, 1982; Ivkovic, 2005). Moreover, most of police officers view the acceptance of gifts or other gratuities as a regular way of social communication (Barker & Wells, 1982; Chappell & Piquero, 2004).

Aims of the current paper

This paper is generally intended to examine factors related to police misconduct and how society justifies these misbehaviors in both the United States and Thailand. The problem here would be what makes police officers engage in corruption and whether police misconduct in Thailand and America is similar or different. Another question would be whether police misconduct can be either morally or socially justified. This paper will address the ethically controversial issue on misconduct in police practices and potential resolutions for police misconduct in Thailand or other societies.

Definitions and typologies of police misconduct

Police misconduct is the popular terms of police corruption or police misbehavior. It has been defined differently. Goldstein, father of community policing, defines police corruption as “acts involving the misuse of authority by police officer in a manner designed to produce personal gain for the officer or for others” (Goldstein, 1977, p.189). Whereas, Ivkovic defines police misconduct as a concept covering “a heterogeneous set of behaviors, from sleeping on duty, being on duty, being late for work, and using excessive force, to denying the 5th Amendment right to silence, testilying, forging documents, and accepting bribes” (Ivkovic, 2005, p.547). Ivkovic (2005) also characterizes police corruption as “an action or omission, a promise of action or omission, or an attempt of action or omission, committed by a police officer or a group of police officers, characterized by the police

officer's misuse of the official position motivated in significant part with the achievement of personal gain" (p.549).

Moreover, police misconduct has been classified differently. For example, Souryal (2007) identifies two broad types of police corruption: hedonistic (personal gain) corruption and obligatory (egotistical) corruption. While, Barker (2002) categorized police misbehavior into three groups: money corruption, organizational violations, and abuse of authority. Perez and Moore (2002) identify five categories of police misconduct: personal misbehavior, ineptitude, police crime, noble cause corruption, and corruption of authority. Barker and Roebuck (1973) categorize police corruption into eight types based on five dimensions of departmental reaction, required degree of delinquent agency, degree of peer group support, nature of norms that are violated, and act and actors involved. The eight corruption types of Barker and Roebuck include corruption of authority, kickbacks, shakedowns, protection of illegal activities, the fix, opportunistic theft, direct criminal activities, and internal payoffs. Some researchers identified police misconduct as FADO: the use of unnecessary Force, Abuse of authority, Discourtesy, and Offensive language (Henriquez, 1999; Walker & Wright, 1995).

Police hedonistic corruption

Hedonistic corruption refers to the type of corruption that is committed for personal gain including economic gain and physical pleasure (Souryal, 2007). One of the basic human nature is greedy that motivates human beings to engage in profitable activities including crime. Therefore, economic temptations become a major motivation for some police officers to get involved in misconduct. The forms of hedonistic corruption include the acceptance of holiday gifts, bribery, free meals, or other gratuities, theft, burglary, and sexual misconduct. However, certain forms of this police misconduct such as the acceptance of free meals, holiday gifts, or discounts are generally found in society and considered as a minor act of misconduct (Ivkovic, 2005).

Police obligatory corruption

Obligatory corruption is the type of corruption that violates organizational regulations and rules for egotistical purposes, entailing abuse of authority in performing one's duties for no gain other than egoism, power, or self-aggrandizement (Souryal, 2007). Examples of police obligatory corruption are illegal searches or arrests that are frequently committed to

punish persons believed to be involved in crime but protected by the formal process of criminal justice, not issuing tickets to fellow police officers, illegal stop-and-frisk, and omission of the laws (Heffernan & Stroup, 1985).

In doing daily jobs police officers may comply with the temptations of misconduct stemming from the scope and nature of the job. Police officers have large discretionary authorities in doing their jobs, which create wide opportunities for corruption (Ross, 2003). Police officers have been left in the field with individual discretion without direct control or supervision (Harrison, 1999). Discretion is defined as “the capacity to make choices among available courses of action in the performance of one’s duties” (Souryal & Potts, 1993, p.22). Therefore, police officers have authority and wide range of discretion in performing their duties, which somehow create opportunities for corruption. Police officers make their decision based on relevant circumstances and personal judgment, thus they may make a bad or unethical decision resulting in misbehavior. This could frequently occur when officers are left unsupervised or unchecked.

Police use of excessive force is one of the major concerns regarding to police misconduct. Use of excessive force is rare and primarily stems from arrest situations (Lersch, 2002). It has been found that most police officers are likely to use force at the minimum level (Lersch, 1999; Palmiotto, 2001) and they tend to use force against persons who disrespect them (Ross, 2003). When the use of excessive force occurs, it is often punished. The use of excessive force may be caused by a police subculture and individual errant officer (Ross, 2003). Since police officers are allowed to use force in accordance with case-by-case circumstances, excessive force including non-violent acts of misconduct such as harassment and offensive language becomes problematic when the facts are unclear and ambiguous (Lersch, 1999). Recently, legal definitions of excessive force and its legal and departmental guidelines are relatively ambiguous and unclear; thus, this issue remains largely problematic in society (Lersch, 1999).

Noble cause corruption

Recently, one of the most controversial issues on police misconduct is the so-called “noble cause corruption” in which actions of police corruption are rationalized in the name of a noble cause (Harrison, 1999; Lersch, 2002). Noble cause corruption is frequently acceptable for the public since society usually recognizes the need for public safety and would agree with the removal of bad persons (Harrison, 1999). It becomes problematic

when the means to the desired end conflicts with legitimate rules that regulate police behavior. Historically, police officers have faced the dilemma between enforcing the law and following rules.

It is argued that noble cause corruption is the most difficult form of police misconduct to prevent since police officers in fact use this form of corruption in performing their duties to remove criminal from the community and enhance safety (Lersch, 2002). This type of police misconduct has been committed possibly because the criminal justice system overly protects criminal rights (Ross, 2003). For example, in some cases actual criminal have been acquitted or released due to lack of evidence. Therefore, police officers have tried every way to find incriminating evidence in order to assure that the believed offenders get convicted.

In this sense, police officers act based on a self-perception of what is good for the greatest number or individual utilitarianism (Harrison, 1999). However, this personal interpretation may lead to ethical questions of police conduct or the means versus a desired outcome or the end. Some police officers may overly perform their duties for the public good, not for personal gain or revenge. It remains questionable whether society should excuse officers for breaking the rules, not for personal gain, but for a higher moral imperative.

Some police administrators may argue that there should not be illegal action being justified by an individual interpretation of laws since officers are sworn to uphold the laws (Harrison, 1999). This argument is consistent with Immanuel Kant's concept of duty that focuses on the act, not the outcome, as the gauge of desired actions (Souryal, 2007). In contrast, some administrators may agree with officers who decide to use extralegal means to ensure the public safety. This is supported by the utilitarianism perspective of the greatest happiness principle (Souryal, 2007). In this perspective, officers may elect to take any means necessary to achieve the desired end or to serve the interests of society or greater good. For example, officers who face with this dilemma could choose to kill murderers and justify harsh actions against criminals to deter others (Harrison, 1999).

According to utilitarianism, police officers rationally expect the violation of an individual's rights to promote a greater societal good of happiness for the greater number of individual (Harrison, 1999). However, since the right of the public or larger group always outweigh the rights of the individual in a true utilitarian perspective, it is not useful for resolving of true moral dilemmas (Harrison, 1999).

In contrast, it has been proposed that a good end may not justify a means in context that makes it evil and wrong. Any violations of individual rights and laws, abuses of power and authority, violations of oaths are wrong and may not be justified by any end since they are all the betrayals of public trust (Harrison, 1999). Superficially, saving innocent lives and deterring criminals who pose potential harm against society seems to establish large justification for noble cause corruption or acts necessary to achieve the greater societal end (Harrison, 1999). Police officers as society's guardians could rationalize any circumstances to neutralize or legitimize the violation of other personal rights. However, to do such violates basic human rights and the concept of liberty and equality upon which officers base their power and authority upon (Harrison, 1999). Once liberty and equality is eroded in general community by police officers, the government may not be able to fulfill its legitimate aims.

General discussion on police misconduct in Thailand

As mentioned early, there are many factors related to police misconduct. Among these factors, one of the most common motivating factors would be personal gain. Accordingly, many police misconduct cases in Thai society are related to economic gain such as the acceptance of free meals, discounts, holiday gifts, bribe, or other gratuities, stealing confiscated items, and sexual abuse. The most citizen complaints are involved the acceptance of bribe when traffic police officers stop vehicles and ask for a petty bribe in exchange with not ticketing. This problem has been consistently found in big cities where the heavy traffic frequently takes place. Traffic police officers in Thailand have authority and power to stop any vehicle they suspect, which provide many opportunities for them to secretly ask for some money in order not to give the stopped driver or rider a traffic ticket or citation that can cost more than the petty bribe. This frequently happens when lack of supervision. Of course, the acceptance of bribe is morally wrong and is not morally justified and accepted by Thai society and even among police officers. Nowadays, this problem has been largely improved by increasing supervision.

Another hedonistic corruption is police sexual misconduct in which police officers sexually exploit the suspects, mostly female, in exchange with case dismissal or decreased charge. These cases are often involved illegal prostitution. Police officers may request for sex from illegal prostitutes or may be offered sex for not arresting prostitutes. In some cases, police officers who feel satisfied with the female suspects or defendants who engage in illegal activities may request for sex in exchange with avoidance of arrest or prosecution.

In contrast, the acceptance of free meals, discounts, and holiday gifts is commonly accepted among police officers and some groups of Thai citizens such as pub and restaurant owners, merchants, and businessmen. As mentioned previously, police officers consider this as a means of communication and the providers are willing to give those things to officers in exchange with some police protection or omission, similar to American society. This becomes a police subculture and is widely accepted in Thai society. This form of police misconduct, like American society or most countries, is seen as the least seriousness of misconduct or not even a deviant act by police in Thailand. In Thai society, the patron system has inherently existed since the Sukhothai era which is the foundation of Thai society and traditionally supported this type of misconduct. Therefore, police subculture becomes another factor other than personal gain that contributes to police misconduct. However, in the ethical perspective the acceptance of free meals, discounts, and holiday gifts is not morally justified since it is based on unethical reciprocity and violates the equality of public service.

In addition, there are a dozen cases of police misconduct presented in the Royal Thai Police Department for the last couple years in which the corrupt police officers stole confiscated methamphetamines and then became a drug dealer. The main cause in these cases would be personal economic gain. It has been widely argued that the low salary of Thai police officers is a primary motivation of police misconduct. In fact, noncommissioned police officers in Thailand who are the majority and normally work in the field have a salary ranging from 4,100 baht (\$110) per month for a new police officer to 59,000 baht (\$1,800) per month. Moreover, a new commissioned officer gain a salary of 7,000 baht (\$200) a month. Since police officers earn low salary which is not enough for them and their families to live in the highly-cost society especially those who live in Bangkok, therefore, they need to find a way to gain more money. This leads to several forms of police hedonistic corruption such as the acceptance of bribe, selling drug, and opportunistic theft. It is clear that these forms of police corruption are morally and social unjustified.

Obligatory or egotistical corruption including excessive force and not issuing traffic tickets or citations for fellow police officers is also found in Thai police community. This type of police misconduct primarily stems from police subculture. For example, due to Thai police subculture, police officers generally do not give traffic tickets to fellow police officers who violated the traffic law. This omission of the law is a means for police officers to show respect to other officers who have higher ranks than them. This form of police misconduct is

also supported by police hierarchical and patron system in Thai police department as well as the misguided personal loyalty to superiors, like American policing. In the ethical perspective, police officers as law enforcers should be legally responsible and should not violate any laws. Thus, when they violate the law, they should get more serious punishment than normal citizens. Therefore, not issuing tickets for fellow police officers who violated the law is unethical and cannot be socially and morally justified.

Police use of excessive force may range from the use of offensive language to the use of deadly force, but the most frequent complaint on excessive force found in Thai society is involved harassment by offensive/improper language. There are not many citizen complaints on excessive force of violence. Since police is traditionally viewed as a noble and respectful career, certain Thai police officers are egoistic and proud of themselves; therefore, they also expect other people to respect and obey them. Thus, they may approach citizens or suspects in an arrogant or rude manner by using offensive or improper language as they think that they are superior to citizens. The excessive force by police may be motivated by police subculture and individual personality as well as lack of supervision and training. Proper training may help police officers make a right decision or moral judgment in using the force according to situation and circumstances. Since all levels of excessive force by police violate individual rights and public civility as well as ethics of police profession, it is not morally or even socially justifiable.

Noble cause corruption that may be classified as one of obligatory corruption of Heffernan and Stroup (Souryal, 2007) is also commonly found in Thai society, similar to American society. As mentioned previously, the main motivation for police officers to engage in noble cause corruption is for public safety and societal interests. The forms of noble cause corruption can be found on the streets and in the interrogation rooms. On the streets, police officers may conduct searches and arrests without a warrant in order to punish persons whom they believe to be engaged in illegal activities and to improve public safety in society. During the investigation and interrogation processes, police officers may employ any means such as physical and mental torture as well as lying and deception to elicit confession that can be used to prosecute the suspects. More details on ethical concerns of police interrogation will be addressed in the following section.

In Thai society this type of police conduct is widely accepted and justified by Thai citizens and officers. In some police jurisdiction, this noble cause corruption is supported by administrators and police subculture. Therefore, supervision is not a main factor causing

police noble cause corruption as well as training. In some police divisions, officers have been trained to commit this form of misconduct since they perceive it as a necessary to control crime in society. This social justification is consistent with utilitarian and teleological perspective of ethics that focuses on the desired ends (social greater good) rather than the means (police noble cause corruption). However, this may not be justified in the ethical perspective, since the means police officers used to achieve the end of greater social good are unethical and morally wrong in nature as argued by Harrison (1999). According to deontological perspective, a good end cannot be used to justify a bad means; only means itself can morally justify what is right or wrong (Souryal, 2007). Therefore, any desired ends such as public safety achieved through the unethical means such as noble cause corruption cannot be morally justified.

Resolutions for police misconduct from the ethical perspective

In this section, potential resolutions that could reduce the likelihood of police misconduct will be addressed. Firstly, ethics may be effectively used to deal with police misconduct (Lersch, 2002; Palmiotto, 2001; Ross, 2003). It is necessary to reaffirm a commitment for police to perform the job within ethical boundaries framed by a code of ethics in order to deter police corruption (Ross, 2003). In other words, each police individual needs to subscribe to an ethical code of profession and act within ethical guidelines. However, a code of ethics for controlling police behavior would be effective when officers are well addressed in training and the code of ethics is strictly enforced by supervisors (Palmiotto, 2001). Therefore, ethics must be taught and approached seriously in the academy or other police training facilities in order to deter police misconduct.

Moreover, Lersch (2002) suggested that unethical behavior of police can be curbed through a recommitment to inner control and organization-initiated controls such as external accountability, early warning systems, peer group control, and supervisory control. Therefore, supervisors in each department need to address police unethical behavior according to the merits of the situation (Palmiotto, 2001). In addition, police administrators should embrace and support ethical behaviors that can be modeled and set as the example for other officers. Each police organization must consistently remind officers of their professional and ethical responsibilities and punish errant officers appropriately as well as reward officers who act in accordance with the code of ethics, which may avert acts of police misconduct (Ross, 2003). It has been suggested that strong and consistent leadership

of the organizational administration is indispensable to reduce police misconduct (Lersch, 2002).

To deal with adverse effects of police subcultures, learning ethics of public service is a necessary means so that officers would be able to think individually and morally without influence of organizational subcultures (Souryal & Potts, 1993). Police administrators must clearly inform officers what behaviors they are expected and will not be tolerated (Ross, 2003). Effective leadership is, therefore, critical to lower the likelihood of police misconduct. Police cultures must change to become a better culture that espouses ethical behaviors, instead of accepting some extents of questionable behaviors (Palmiotto, 2001).

The ethical lessons from misguided personal loyalty to superiors include (a) police officers both superiors and subordinates should be held accountable for achieving their duties ethically and legally, (b) although subordinates are inferior in rank, they are not inferior in professional judgment, and (c) superiors should not hold that a good end justifies a means, besides the means is legitimate (Souryal, 2007). To deal with misguided loyalty, police officers or criminal justice practitioners should be educated on the ideals of duty and ethic of public service (Souryal, 2007). Moreover, Souryal (2007) suggests that three cultural changes should be implemented to handle misguided personal loyalty to superiors: (a) in context of relationship between superiors and subordinates, collaboration, cooperation, and support should be used while the use of the word “loyalty” should be avoided; (b) dutiful supervision should be strengthened; and (c) maximizing professional accountability is also important.

Moreover, police executives may play an important role on regulation of police interrogations since it was found that police culture and departmental policies have certain influences on police actions (Culhane et al., 2008). It could be strengthened if police administrators devote “greater attention to the conditions of legality within their own departments, although the Supreme Court could assist well-meaning police chiefs by taking the constitutional rights of citizens more seriously” (Zalman & Smith, 2007, p.937). Police executives may be important in improving police actions since police departments are directly responsible for creating trainings and procedural rules for police officers.

Community policing may assist in reducing police misconduct since community policing is designed to improve organizational climate and eliminate certain negative effects of previous policing (Ross, 2003). Philosophically, more participation is allowed during the process of decision-making by police officers in the community policing model. Moreover,

training as a critical component of community policing can be employed to address the code of ethics for officers (Perez & Moore, 2002). Therefore, philosophical concepts of community policing may be used to decrease the likelihood of police misbehavior in society and improve social trust and cooperation (Skolnick & Leo, 1992).

In addition to internal controls, external controls can be used as a supplemental means to internal controls of police behavior (Ross, 2003). External controls, such as criminal prosecution, Section 1983 lawsuits, external review board, and Section 14141 of Title 42 of the Violent Crime Control and Law Enforcement Act of 1994, may be viable when internal controls are not effective (Lersch, 2002). Among these external controls civil liability has become the primary means to legally deal with allegations of misconduct by police including illegal searches and seizures, false arrest, excessive force, and assault and battery (Palmiotto, 2001).

Conclusions

The main temptation for police misconduct in Thailand may be the economic gain. The effect of economic incentives on police corruption in Thai society may differ from America. In Thai society, economic gain may have more influence on police since Thai police officers have a much lower salary than American police officers. Other than economic gain, police subcultures have played a critical role in police misconduct in both American and Thai societies. In some extent, police subcultures motivate or support certain forms of police misconduct. Thai police subcultures have traditionally originated from patron and hierarchical systems that have inherently existed in Thailand for a long time.

Moreover, the motivation of greater social good that drives police officers to engage in certain types of police misbehavior for the purpose of public safety, known as “noble cause corruption.” This motivation of police misconduct may be difficult to remove in Thailand or even in America since it is widely accepted and justified by society. However, this form of police corruption is not morally justified in the ethical perspective. Although noble cause misconduct is committed based on the good or moral desired end, it cannot be justified due to the unethical means used to achieve the desired end.

Police training may be another factor affecting police misconduct in Thailand. The majority (90%) of the Thai police population which is about 300,000 is noncommissioned police officers who have a rank from Police Constable to Police Senior Sergeant Major. Most

of these police officers have only high school of education and have been trained only one year before getting into the field. When police officers first get into the field with little experience and without proper training, they are vulnerable to be possessed by police subcultures that lead to certain police misbehaviors. In fact, there is only one training facility in Thailand which is the Police Cadet Academy that effectively and formally provides higher police education and training. This becomes a problem since it is almost impossible to train all police officers with only one available training facility. The Royal Thai Police Department has been recently aware of this problem; therefore, it is required that new police recruits at all ranks from 2010 must have a bachelor's degree of education. This change is expected to improve all police problems including police ineffectiveness and police misconduct.

For Thai commissioned police officers who need to be trained at the Police Cadet Academy, there is only one course on police ethics available for them in both the eight-month training and four-year curriculum. Obviously, the course of ethics has not been emphasized as much as the courses of professional skills such as investigation, interrogation, and other social sciences. Since commissioned police officers who have the responsibility as a leader of a police unit have not been ethically trained well enough, they may not be able to control their subordinates and even themselves to act ethically and make moral decisions. Therefore, any police training facilities should focus more on ethics and morality.

In conclusion, since there are several external factors that contribute to police misconduct, many measures have been created to prevent or reduce the likelihood of police misbehavior by controlling the temptation of these factors. In addition to external factors, internal factors of each individual officer are also play a major role in causing police corruption. Therefore, education and training focusing on ethics for individual police officers are indispensable to control police misconduct. This strategy would help police officers to be able to think individually and make a judgment and decision based on the moral principles. Finally, police misconduct has been found in all (civilized or less civilized) societies; but the difference may be that in the more civilized societies police corruption may be less serious than the less civilized.

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