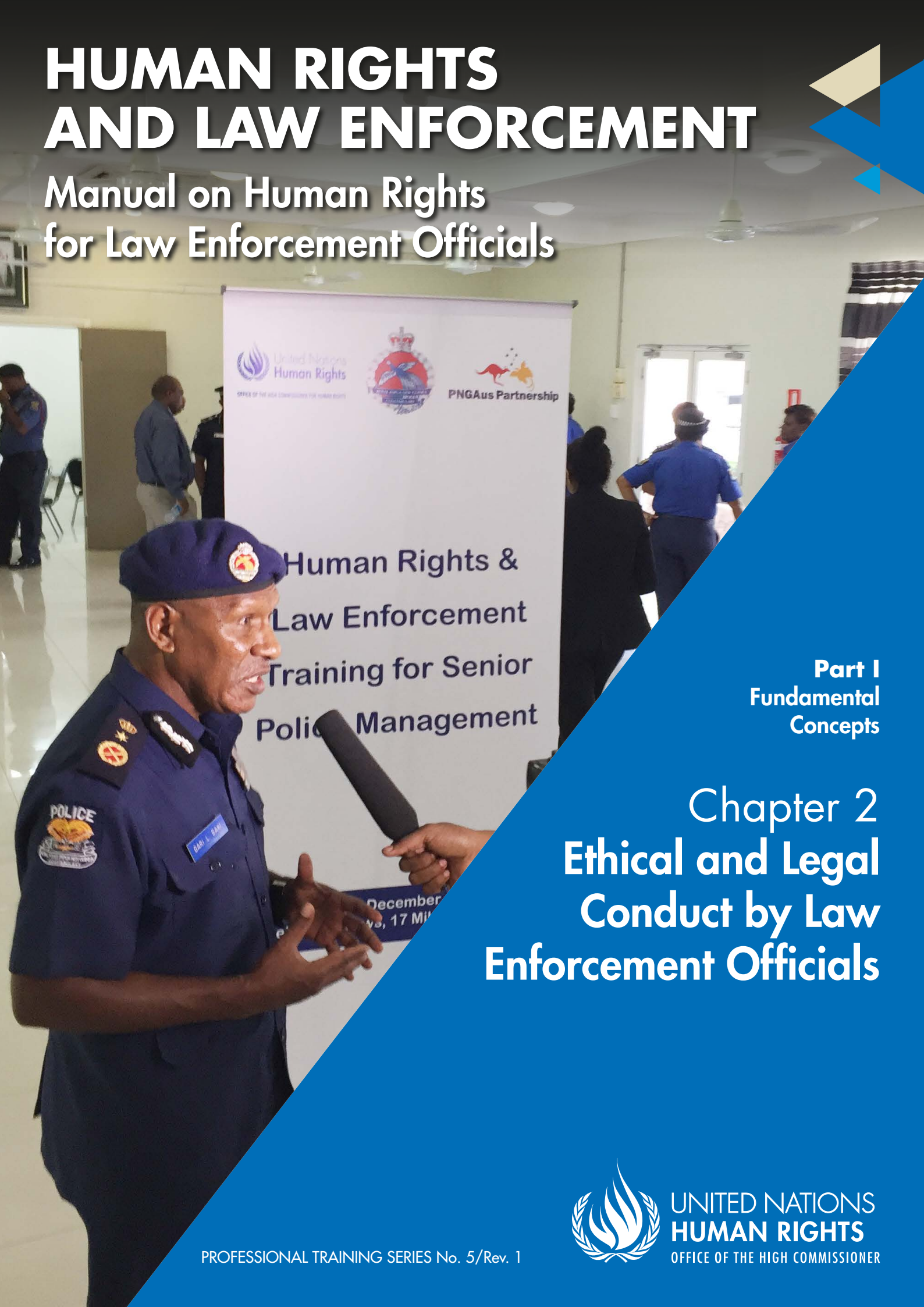
HUMAN RIGHTS AND LAW ENFORCEMENT

Manual on Human Rights for Law Enforcement Officials



Part I
Fundamental Concepts

Chapter 2
Ethical and Legal Conduct by Law Enforcement Officials

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ESSENTIAL PRINCIPLES

When considering ethical and legal conduct by law enforcement officials, the following principles are of priority:

Human rights derive from the inherent dignity that all human beings share equally.[1]

Law enforcement officials (LEOs) shall respect and protect human dignity and maintain and uphold the human rights of all persons.[2]

LEOs shall at all times respect and obey the law.[3]

LEOs shall at all times fulfil the duty imposed on them by law, by serving the community and by protecting all persons against illegal acts, consistent with the high degree of responsibility required by their profession.[4]

LEOs shall not commit any act of corruption. They shall rigorously oppose and report all such acts to supervisors or elsewhere, as appropriate.[5]

Torture or any other degrading or inhuman treatment is absolutely prohibited.[6]

LEOs shall report violations of those laws, codes and sets of principles which protect and promote human rights.[7]

All law enforcement action shall respect the principles of legality, necessity, non-discrimination, proportionality and humanity.[8]

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1 Universal Declaration of Human Rights, preamble and art. 1.

2 Code of Conduct for Law Enforcement Officials, art. 2.

3 Ibid., arts. 1 and 8.

4 Ibid., art. 1.

5 Ibid., art. 7.

6 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art. 2; Code of Conduct for Law Enforcement Officials, art. 5.

7 Code of Conduct for Law Enforcement Officials, art. 8; Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, principles 6, 11(f), 22, 24 and 25.

8 Code of Conduct for Law Enforcement Officials, arts. 2, 3, 5, 7 and 8; Principles on the Use of Force and Firearms by Law Enforcement Officials, preamble and principles 2, 4, 5, 9, 11, 13, 14, 15, 16, 24, 25 and 26.

A. INTRODUCTION

Ethics is generally described as the discipline dealing with moral duty and obligation and the distinction between "good" and "bad". In this chapter, the term "ethics" is used to refer to the body of morally permissible principles, requirements and prescriptions that are deemed fit to regulate law enforcement conduct.[9] Among the most fundamental principles underlying ethical conduct by LEOs are respect for human dignity and human rights and commitment to the rule of law. Human rights are founded on the notion of respect for the inherent dignity of the human person. These rights are inalienable: they cannot be taken away from any person or even voluntarily given away. Human rights are protected by international and national laws. As LEOs are agents of the State, it is imperative that they obey the law, including those laws enacted for the promotion and protection of human rights, and that they acknowledge the inalienability of the human rights of all persons. Ethical and legal conduct is therefore built upon a combination of respect for the law, respect for human dignity and, by those means, respect for human rights.

Furthermore, the concepts of professionalism and integrity are central to ethical and legal conduct. Professionalism in this context is, simply put, behaving in a manner that is consistent with the professional standards of law enforcement agencies. Professionalism requires a high degree of competence, knowledge of the applicable international and national laws and principles, and the skill set needed to uphold the law. Integrity is broadly defined as "the quality of being honest and having strong moral principles".[10] More specifically, police integrity entails a core set of clearly defined ethical values, such as impartiality, fairness, equality, justice, honesty and respect for human rights[11] that is attributable to both law enforcement agencies and individual LEOs. Respect for professionalism and integrity is undoubtedly a prerequisite for ethical and legal conduct.

A modern, professional law enforcement agency operates with ethical guidelines in accordance with all of the aforementioned standards and norms, as well as democratic accountability to the people being served. That said, some ethical issues may not be regulated by law or internal guidelines. Accordingly, it is crucial for LEOs to have a comprehensive understanding of ethics and institutional values, all of which should be guided by respect for human rights and human dignity.

This chapter provides an outline of relevant international and regional human rights standards on ethical and legal conduct by LEOs and explains the application and implications of key human rights standards in law enforcement practice. The chapter concludes with practical recommendations.

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[9] European Code of Police Ethics, Recommendation Rec(2001)10 adopted by the Committee of Ministers of the Council of Europe on 19 September 2001 and explanatory memorandum, p. 17.

[10] See www.oxfordlearnersdictionaries.com/definition/american_english/integrity.

[11] DCAF, *Training Manual on Police Integrity* (Geneva, 2015), p. 41, available from www.dcaf.ch/training-manual-police-integrity.

B. INTERNATIONAL INSTRUMENTS RELEVANT TO ETHICAL AND LEGAL CONDUCT BY LAW ENFORCEMENT OFFICIALS

1. Key international instruments

- Universal Declaration of Human Rights[12]
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- Code of Conduct for Law Enforcement Officials
- Basic Principles on the Use of Force and Firearms by Law Enforcement Officials

2. Other relevant international instruments

- Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power
- Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment
- Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions
- Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

3. Regional instruments

- European Code of Police Ethics

C. HUMAN RIGHTS STANDARDS AND APPLICATION

The international human rights standards that concern law enforcement are set out in a number of treaty and non-treaty instruments and provide a sound basis for ethical and legal policing. While some standards are particularly relevant to the ethics of policing procedures (such as the use of force and investigations), others raise broader ethical issues for law enforcement agencies and officials.

Three fundamental principles, all of which are protected by the Universal Declaration of Human Rights, are central to ensuring ethical and legal conduct:

1. Respect for the dignity of the human person;

[12] Preamble and arts. 1 and 29.

2. Respect for, and protection of, human rights;
3. Respect for, and obedience to, the law.

The key instrument concerning ethical and legal police conduct is the United Nations Code of Conduct for Law Enforcement Officials. One of the first human rights-related international instruments focusing exclusively on law enforcement issues, the Code of Conduct provides a framework of principles for law enforcement operations that incorporate international human rights provisions. The Code of Conduct was adopted by the General Assembly in Resolution 34/69 on 17 December 1979. Although it is not legally binding, it has gained almost universal approval and recognition. The instrument calls upon States to incorporate its standards into national law and practices, ultimately to become part of the creed of all LEOs, including command and supervisory officials. The Code of Conduct also serves as an ideal basis for the development of national codes of ethics for police officials.

The Code of Conduct's standards should be mainstreamed into all law enforcement activities through incorporation into education curricula, training activities and internal guidelines, and through senior managers actively promoting the values that the standards represent in their actions. Only through such mainstreaming will the standards be integrated into the daily practices of LEOs. Law enforcement agencies' implementation of the Code of Conduct also necessitates effective monitoring of its application.

The Code of Conduct consists of eight articles – each with an explanatory commentary – which may be summarized as follows:

- **Article 1** requires LEOs to fulfil the duty imposed on them by law. The term "law enforcement officials" is defined in the commentary as including all officials who exercise police powers, including the powers of arrest and detention.
- **Article 2** requires LEOs to respect and protect human dignity and maintain and uphold human rights. The commentary lists the international human rights instruments of relevance to law enforcement.
- **Article 3** requires LEOs to use force only when strictly necessary and to the extent required for the performance of their duty. The commentary refers to the principle of proportionality in the use of force and asserts that the use of firearms is considered an extreme measure.
- **Article 4** requires LEOs to respect the confidentiality of matters of a confidential nature which come into their possession, unless the performance of duty or the needs of justice strictly require otherwise.
- **Article 5** asserts the absolute prohibition of torture or other ill-treatment. It also states that no LEO may invoke superior orders or exceptional circumstances, such as war or national security threats, as justifications for torture.
- **Article 6** requires LEOs to ensure the full protection of the health of persons in custody.
- **Article 7** prohibits LEOs from committing any act of corruption.
- **Article 8** requires LEOs to respect the law and the Code of Conduct, and to prevent, rigorously oppose and report any violations of them.

The following subsections delineate and apply relevant standards of ethical and legal conduct promoted by the Code of Conduct and other international treaty and non-treaty instruments.

1. Individual responsibility

The notion that LEOs are individually responsible for their acts or failures to act regardless of the lawfulness of superior orders is a founding principle of police accountability and closely linked to ethical and legal conduct. This principle of individual responsibility when superiors or command officials issue unlawful orders must be documented in law enforcement policies and clearly articulated to all LEOs working in a well-disciplined and clearly hierarchical organization.

A number of international human rights instruments state that responsibility lies with the command official who issues any unlawful orders and the individual LEO who commits the unlawful act. The individual responsibility of LEOs is addressed in a number of instruments.

For instance, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment explicitly states that orders from superior[13] officials cannot be invoked as justification. This provision applies to any public official or person acting in an official capacity, including LEOs.

Article 5 of the Code of Conduct for Law Enforcement Officials affirms this prohibition of torture and invocation of superior orders as justification.

▼ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, article 2(3)

An order from a superior officer or a public authority may not be invoked as a justification of torture.

Principles 24 and 26 of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials clearly stipulate the individual responsibility of supervisory and subordinate officials. In addition, principle 25 emphasizes that officials who refuse to carry out unlawful orders should not be sanctioned. This principle is key to enforcing ethical and legal conduct as it affirms the absolute requirement for LEOs to act strictly in conformity with the law, regardless of superior orders. As mentioned earlier, strict commitment to the rule of law is a key principle of ethical and legal conduct.

UN Photo/William Bwewusa

[13] Note that this instrument refers to "superior officials". This chapter understands "superior" officials to be interchangeable with "command" or "supervisory" officials.

▼ Basic Principles on the Use of Force and Firearms by Law Enforcement Officials

Principle 24

Governments and law enforcement agencies shall ensure that superior officers are held responsible if they know, or should have known, that law enforcement officials under their command are resorting, or have resorted, to the unlawful use of force and firearms, and they did not take all measures in their power to prevent, suppress or report such use.

Principle 25

Governments and law enforcement agencies shall ensure that no criminal or disciplinary sanction is imposed on law enforcement officials who, in compliance with the Code of Conduct for Law Enforcement Officials and these basic principles, refuse to carry out an order to use force and firearms, or who report such use by other officials.

Principle 26

Obedience to superior orders shall be no defence if law enforcement officials knew that an order to use force and firearms resulting in the death or serious injury of a person was manifestly unlawful and had a reasonable opportunity to refuse to follow it. In any case, responsibility also rests on the superiors who gave the unlawful orders.

The Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions also includes provisions on the right to defy unlawful orders from supervisory officials and the individual responsibility of officials.

▼ Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions

Principle 3

Governments shall prohibit orders from superior officers or public authorities authorizing or inciting other persons to carry out any such extra-legal, arbitrary or summary executions. All persons shall have the right and the duty to defy such orders. Training of law enforcement officials shall emphasize the above provisions.

Principle 19

Without prejudice to principle 3 above, an order from a superior officer or a public authority may not be invoked as a justification for extra-legal, arbitrary or summary executions. Superiors, officers or other public officials may be held responsible for acts committed by officials under their authority if they had a reasonable opportunity to prevent such acts. In no circumstances, including a state of war, siege or other public emergency, shall blanket immunity from prosecution be granted to any person allegedly involved in extra-legal, arbitrary or summary executions.

2. Duty to report violations

In addition to the requirements to refuse to carry out unlawful orders and/or take individual responsibility for unlawful acts, ethical and legal conduct also entails an obligation to report violations by colleagues, including subordinates, peers and supervisory officials. In practice, reporting one's colleagues is one of the most difficult ethical dilemmas that LEOs face. As in most professions, law enforcement has a unique internal culture, one that is often characterized by companionship among LEOs, which often includes strong ties and an inclination to protect each other. However, such solidarity can lead to LEOs ignoring violations of the law by colleagues, which can result in serious breaches of ethical and legal conduct.

Several instruments have addressed the duty to report violation, including the Code of Conduct for Law Enforcement Officials. Article 8 requires LEOs who believe that a violation of the Code of Conduct has occurred or is about to occur to report the matter to superior authorities and, where necessary, other appropriate authorities or organs vested with review or remedial powers.

▼ Code of Conduct for Law Enforcement Officials, article 8

Law enforcement officials shall respect the law and the present Code. They shall also, to the best of their capability, prevent and rigorously oppose any violations of them.

Law enforcement officials who have reason to believe that a violation of the present Code has occurred or is about to occur shall report the matter to their superior authorities and, where necessary, to other appropriate authorities or organs vested with reviewing or remedial power.

The commentary to this article acknowledges the need to maintain the internal discipline of an agency. LEOs are only to file reports outside the chain of command when no other remedies are available or effective.

As discussed in the previous subsection, principle 25 of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials calls for no disciplinary action to be taken against those who refuse to follow an unlawful order and those who report unlawful acts by fellow officials.

▼ Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, principle 25

Governments and law enforcement agencies shall ensure that no criminal or disciplinary sanction is imposed on law enforcement officials who, in compliance with the Code of Conduct for Law Enforcement Officials and these basic principles, refuse to carry out an order to use force and firearms, or who report such use by other officials.

The Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment also requires that violations be reported.

▼ Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, principle 7(2)

Officials who have reason to believe that a violation of this Body of Principles has occurred or is about to occur shall report the matter to their superior authorities and, where necessary, to other appropriate authorities or organs vested with reviewing or remedial powers.

It is important to note that both article 8 of the Code of Conduct for Law Enforcement Officials and principle 7 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment stipulate that LEOs should first exhaust all internal reporting mechanisms and only then, if necessary, take the matter to other appropriate bodies, including external accountability actors. It is imperative therefore that law enforcement agencies review their existing complaints and disciplinary mechanisms and ensure that they function effectively and efficiently. They should also ensure that complaint mechanisms are strictly confidential and provide anonymity to LEOs who report their colleagues. If LEOs do not trust that their reports will be handled properly, taken seriously and dealt with confidentially, they will be less likely to risk reporting their colleagues.

The role of internal accountability mechanisms in this context is discussed in more detail in chapter 21, "Law Enforcement and Accountability for Human Rights Violations".

3. Exceptional or emergency situations

When exceptional circumstances such as public emergencies or national security threats arise, LEOs may come under considerable pressure to be immediately effective and "get results". This pressure may derive from political sources, public opinion, law enforcement agencies and even LEOs themselves. Such situations raise both ethical and legal dilemmas for LEOs. It is imperative that LEOs remember in such situations that there is an absolute prohibition on illegal and unethical policing, and exceptional circumstances or public emergencies cannot be invoked as justification. International standards on human rights, which are very clear on the matter, provide an invaluable reference point for LEOs and law enforcement agencies.

The Convention against Torture, Code of Conduct for Law Enforcement Officials and Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions all address the absolute prohibition on invoking exceptional circumstances or public emergencies as justification for unlawful and unethical behaviour.

▼ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, article 2(2)

No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.

▼ Code of Conduct for Law Enforcement Officials, article 5

No law enforcement official may inflict, instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment, nor may any law enforcement official invoke superior orders or exceptional circumstances such as a state of war or a threat of war, a threat to national security, internal political instability or any other public emergency as a justification of torture or other cruel, inhuman or degrading treatment or punishment.

▼ Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, principle 1

Governments shall prohibit by law all extra-legal, arbitrary and summary executions and shall ensure that any such executions are recognized as offences under their criminal laws, and are punishable by appropriate penalties which take into account the seriousness of such offences. Exceptional circumstances including a state of war or threat of war, internal political instability or any other public emergency may not be invoked as a justification of such executions. Such executions shall not be carried out under any circumstances including, but not limited to, situations of internal armed conflict, excessive or illegal use of force by a public official or other person acting in an official capacity or by a person acting at the instigation, or with the consent or acquiescence of such person, and situations in which deaths occur in custody. This prohibition shall prevail over decrees issued by governmental authority.

4. Use of force

The Basic Principles on the Use of Force and Firearms by Law Enforcement Officials not only sets out the principles for legal conduct with respect to the use of force (namely, legality, necessity and proportionality) but also calls upon governments and law enforcement agencies to consider and review associated ethical issues. LEOs are entrusted with a certain degree of discretion in their determination of what degree of force is necessary and proportional in any given situation. Beyond these considerations, LEOs should, at all times, consider whether their acts are ethical in terms of their intentions, justifications and consequences. For instance, when an arrested person "gives trouble" and LEOs exert further restrictions such as tightening handcuffs, LEOs should ask themselves whether the heightened measures are really needed because the arrested person might cause harm to others or to him/herself, or whether the measures were undertaken due to an instinct to "punish" the suspect, which is by no means the role of an LEO.

The constant consideration of one's inner motives helps to contribute to the internalization of ethical conduct.[14] Accordingly, law enforcement agencies must establish operational systems with the purpose of instituting constant review of ethical issues, as stipulated by principle 1 of the Basic Principles.

[14] John Kleinig, *The Ethics of Policing* (Cambridge University Press, 1996), p. 99.

▼ Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, principle 1

Governments and law enforcement agencies shall adopt and implement rules and regulations on the use of force and firearms against persons by law enforcement officials. In developing such rules and regulations, Governments and law enforcement agencies shall keep the ethical issues associated with the use of force and firearms constantly under review.

Education and regular training programmes can also contribute to the enforcement of principle 1 by distilling both the theoretical and the practical aspects of ethical conduct in the context of the use of force and applying them to issues of concern to LEOs and their agencies.

Human rights and the lawful use of force are considered in detail in chapter 5, "Human Rights and the Use of Force".

5. Investigations

LEOs must strictly comply with the national and international legal and human rights frameworks during investigations and interrogations. Lawful conduct during investigations is discussed in detail in chapter 7, "Human Rights and Detention". However, beyond the legality of conduct during investigations, there are serious ethical considerations to which LEOs should pay the utmost attention.

In some countries, certain deception methods, such as the use of "agents provocateurs" or withholding of certain information when interrogating suspects, may be allowed in order to gather evidence. However, the question of how far LEOs should go in deceiving suspects for the purposes of investigation raises serious ethical dilemmas. For instance, so-called "false evidence ploys", where LEOs claim to have non-existent evidence that implicates the suspect, can lead to false confession and wrongful conviction, leading to persons being imprisoned for crimes they did not commit.[15]

As a principle, investigative processes should always derive from existing evidence. The process of seeking a confession through questionable deceptive means and then looking for evidence to support it afterwards can lead to serious mistakes by LEOs, including violations of human rights and miscarriages of justice.[16]

Law enforcement agencies should put in place detailed rules on investigations in their ethical codes of conduct and subject the use of deceptive methods to internal controls and judicial scrutiny.

6. Corruption

There is no universally accepted, comprehensive definition of corruption. However, the commentary to article 7 of the United Nations Code of Conduct provides a general definition of corruption as "the commission or omission of an act in the performance of or in connection with one's duties,

[15] Krista D. Forrest and William Douglas Woody, "Police deception during interrogation and its surprising influence on jurors' perceptions of confession evidence", *The Jury Expert* (November 2010), pp. 9-22.

[16] Ibid.

in response to gifts, promises or incentives demanded or accepted, or the wrongful receipt of these once the act has been committed or omitted".[17]

The Interpol Group of Experts on Corruption has developed a list of what constitutes "police corruption":

- The solicitation or acceptance (directly or indirectly) by police personnel of any money, article of value, gift, favour, promise, reward or advantage, whether for himself/herself or for any person, group or entity, in return for any act or omission (failure to act) already done or omitted to be done or omitted in the future in or in connection with performance of any function of or connected to police work;
- The offering or granting (directly or indirectly) to police personnel of any money, article of value, gift, favour, promise, reward or advantage for the police personnel or for any person, group or entity in return for any act or omission (failure to act) already done or omitted to be done or omitted in the future in or in connection with the performance of any function of or connected to police work;
- Any act or omission (failure to act) in the discharge of duties by police personnel which may improperly expose any person to a charge of or conviction for a criminal offence or may improperly assist in a person not being charged with or being acquitted of a criminal offence;
- The unauthorized dissemination of confidential or restricted police information whether for reward or otherwise;
- Any act or omission (failure to act) in the discharge of duties by police personnel for the purpose of obtaining any money, article of value, gift, favour, promise, reward or advantage for himself/herself or any other person, group or entity;
- Any act or omission (failure to act) which constitutes corruption under a law of the member State;
- Participation as a principal, co-principal, initiator, instigator, accomplice, accessory before the fact, accessory after the fact, and conspirator or in any other manner in the commission or attempted commission of any act referred to in the preceding provisions of this Article.[18]

Corruption is an insidious phenomenon present in all countries and poses an enormous challenge to the protection and realization of human rights. When corruption is pervasive in the criminal justice system, implementation of existing legal frameworks and efforts to reform them are impeded. Corrupt practices compromise the rights to equality before the law and a fair trial and, above all, undermine the access of disadvantaged groups to justice. Importantly, corruption weakens the very accountability mechanisms that are responsible for protecting human rights and contributes to a culture of impunity whereby illegal actions are not sanctioned and laws are not consistently upheld.[19]

States should ensure that the definition, identification and punishment of corruption are effectively addressed in their legal framework. Law enforcement agencies should put in place organizational structures and internal control mechanisms to identify corrupt behaviour, effectively investigate allegations of corruption and cooperate with other criminal justice actors and external oversight

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[17] General Assembly resolution 34/169.

[18] Interpol, Global Standards to Combat Corruption in Police Forces/Services, art. 2.

[19] OHCHR, "Human rights and anti-corruption", available from www.ohchr.org/en/stories/2013/03/human-rights-case-against-corruption.

mechanisms.[20] The United Nations Convention against Corruption provides for the establishment of specialized authorities to combat corruption through law enforcement.

▼ The United Nations Convention against Corruption, article 37(1)

Each State Party shall, in accordance with the fundamental principles of its legal system, ensure the existence of a body or bodies or persons specialized in combating corruption through law enforcement. Such body or bodies or persons shall be granted the necessary independence, in accordance with the fundamental principles of the legal system of the State Party, to be able to carry out their functions effectively and without any undue influence. Such persons or staff of such body or bodies should have the appropriate training and resources to carry out their tasks.

Regardless of how diligent and conscientious law enforcement agencies might be in recording and investigating complaints made by the public about its officers, best practice suggests the need for an independent body that provides effective oversight for complaints procedures. Many States have established separate institutions that oversee police complaints procedures and are equipped with a full range of investigative and regulatory powers. Such bodies can re-examine complaints where internal investigations in law enforcement agencies have concluded that there is no case to answer, take over supervision of investigations of a very serious nature (such as deaths or serious injuries that have resulted from actions taken by LEOs) and reopen and reinvestigate historic cases where LEOs were alleged to be involved in acts of corruption, serious breaches of the law or human rights violations. Standards regarding independent oversight bodies are explained in further detail in chapter 21, "Law Enforcement and Accountability for Human Rights Violations".

D. IMPLICATIONS IN LAW ENFORCEMENT PRACTICE

LEOs represent the most visible symbol of state power and authority. They often provide the first contact between individuals and the wider criminal justice system. Law enforcement agencies will be trusted, admired and respected by the public if they consistently demonstrate that their officials are professional, competent, ethical, open and accountable. In States where there are high levels of corruption and unethical behaviour in law enforcement agencies, or where there are many instances where LEOs abuse their authority, use excessive force, conceal wrongdoings, fail to explain their actions and ignore legitimate complaints, public trust will decline and, consequently, considerable suspicion will be directed towards all LEOs.

Ethical law enforcement practices use a rights-based approach and strive to establish good relations with the public. Law enforcement agencies should consider a number of factors in fostering ethical and legal conduct, as follows.

1. Leadership and management

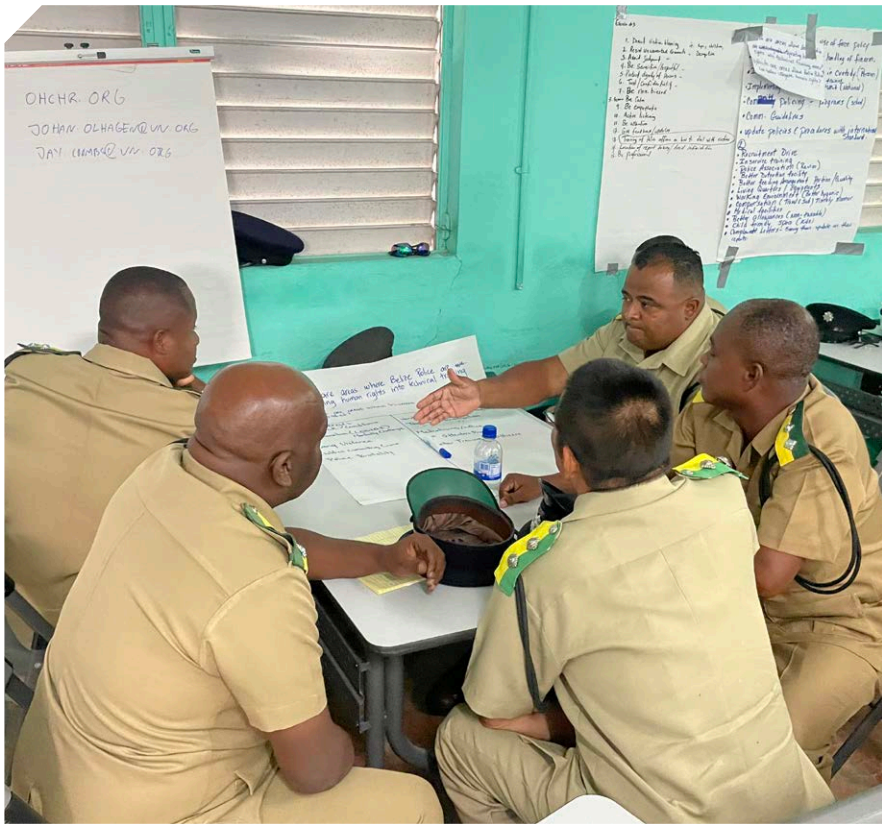
The senior leadership and management personnel of law enforcement agencies play a key role in establishing and maintaining a strong commitment to ethical values. This can be achieved, first and

[20] European Code of Police Ethics, para. 21.

foremost, by leading by example. Command and supervisory officials should demonstrate a high degree of integrity in their conduct in order to be good role models for their subordinates and their entire agencies.

When developing a code of ethics, senior management should ensure that the drafting process is as inclusive and participatory as possible so that there is collective ownership of the code. Officials of all ranks should be consulted and invited to contribute. If a code of ethics is developed in this manner, it will have significantly more legitimacy in the eyes of LEOs than a code simply imposed by senior leadership.

Lastly, recruitment and employment policies contribute to maintaining a law enforcement agency with high ethical standards. Efforts should be made during the recruitment stage to identify whether candidates demonstrate sufficient knowledge of and commitment to core ethical values. For example, LEOs convicted of serious crimes in the past shall be disqualified from police work.[21]



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2. Training

LEOs require affirmation of the fundamental importance of respecting and protecting human dignity, human rights and the rule of law in their day-to-day work.[22] Continued training on ethical conduct is therefore essential, as it bridges the gap between internal policies and actual behaviour by introducing and reinforcing rules and expectations.[23] Targeted training on ethical conduct will help to increase awareness of related issues, provide LEOs with the necessary tools and skills for addressing ethical dilemmas, reinforce the commitment and courage to act ethically and establish non-negotiable expectations of individual accountability. It is important that training programmes are not solely comprised of normative lectures but also aim at "reacquainting learners with the fundamental 'meaning of values and ethics in their own lives' and in their daily work".[24]

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21 European Code of Police Ethics, para. 24.

22 J. Curran and M. Rothlein, "Course development and evaluation", in *Human Dignity and the Police: Ethics and Integrity in Police Work*, G. W. Lynch, ed. (Springfield, IL, Charles C. Thomas, 1999).

23 Heather Wyatt-Nichol and George Franks, "Ethics training in law enforcement agencies", *Public Integrity*, vol. 12, No. 1 (2009), pp. 39-50.

24 J. Curran and M. Rothlein (1999), "Course development and evaluation", p.163.

3. Oversight

A third implication for law enforcement practice is openness to oversight and accountability. This encompasses a will to strive for transparency and effective collaboration with independent oversight mechanisms, such as an ombuds office or an independent complaints commission that citizens can turn to. This must be seen as an integral part of law enforcement practice.

E. PRACTICAL RECOMMENDATIONS

1. All law enforcement officials deployed on operational duties

- ☑ Keep up to date with changes to the law, practices and organizational procedures.
- ☑ Fully co-operate with investigations into allegations of misconduct or wrongdoing within the agency, regardless of whether they are conducted by internal or external bodies.
- ☑ Provide a full account of actions taken and the reasoning or rationale behind these decisions.
- ☑ Accurately record the occasions and circumstances when executive powers have been used. Those records must be appropriately stored and made available to supervisors, investigators or any other State-sanctioned inquirers.

2. Command and supervisory officials

- ☑ Ensure that not only your own professional standards are of the highest order but also those of the officials you command and supervise.
- ☑ Lead by example, adopting the highest standard of professional and ethical behaviour for subordinates to follow.
- ☑ Ensure that all the LEOs under your command have an appropriate level of knowledge and understanding of human rights law and its application to the duties they perform.
- ☑ Take seriously and investigate (or initiate) any misconduct observed or reported.
- ☑ Ensure that LEOs or others who report misconduct by LEOs are protected from any retaliatory actions.

3. Law enforcement agencies

- ☑ Ensure that appropriate policies, practices and procedures are in place for all human rights to be respected and protected and that the actions of officers are open to public scrutiny and external oversight.
- ☑ Develop a code of ethics, and regularly review it to ensure that it is in line with international standards.
- ☑ Provide in-service training on the application of domestic criminal law, law enforcement powers, international human rights standards and codes of conduct or professional standards.
- ☑ Provide in-service training to increase awareness of issues related to ethical conduct.

F. LEARN MORE

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HUMAN RIGHTS AND LAW ENFORCEMENT

Manual on Human Rights for Law Enforcement Officials

The *Manual on Human Rights for Law Enforcement Officials* forms part of the revised "Human Rights and Law Enforcement Guidance and Training Package". Following the success of the previous edition, the Office of the United Nations High Commissioner for Human Rights (OHCHR) has revised and restructured the Manual to provide updated guidance on how to operationalize human rights norms and standards in law enforcement.

The revised Manual provides practical guidance for law enforcement trainers, officials and government representatives involved in ensuring effective and human rights-compliant institutions with staff who have the skills, knowledge and attitudes to respect, protect and fulfil human rights. The Manual comprehensively sets out important human rights norms and standards for law enforcement officials and explains how these officials can apply these standards for the effective performance of their functions. It also outlines recommendations for senior officers and law enforcement institutions to put in place an institutional structure that allows law enforcement officials to effectively apply the standards and good practices in the Manual. While each chapter has been made available separately, links with other chapters are highlighted throughout. A full reading of the Manual is thus recommended for a comprehensive understanding of how human rights can be used as a positive tool for modern and professional law enforcement institutions that carry out their duties for and within the communities. This Manual has been tailored to the everyday needs of law enforcement officials. The content is adaptable for integration in training activities at all levels of law enforcement and in policies and oversight mechanisms. The Manual may, however, be of wider use and application by regional organizations, national human rights institutions, non-governmental organizations and others.

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