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Loyalty: The Police

R. E. EWIN

Moral philosophers, not only professional moral philosophers but also others who think about what morality is, have shown a tendency to ignore virtues, vices, and the general issue of motivation. They have been inclined to work in terms of duties and what might be called moral mathematics. When it comes to practice, most of us recognize that *what* is done, while it might matter a great deal, is not always the only thing that matters; *how* it is done can matter a great deal, too. A helping hand with a kind smile and an indication that the helper cares about the person being helped is usually a lot more efficient in improving somebody's position and disposition than is a helping hand given with an air of superiority or an attitude that suggests that one is no more than a social worker simply earning a living. So important can the motivation be that the same bodily movements, with different motivations, can amount, for all important purposes, to different actions: a kind at-

tempt to help, even if unsuccessful, is still a kind action and can do a great deal to raise the morale of the person who needed help. Motivation *matters* in ethical life;¹ the sort of motivation on which somebody tends to act distinguishes not only between the kind person and the cruel one but also between the kind person and the conscientious one. One's motivation has a great deal to do with what one's character is, with whether one is a decent person or not. Motivation is what makes morality a human matter rather than a merely mechanical one.

What concerns me in this paper is a connection between motivation and various duties, especially duties that arise in the context of an institution such as a police force. I shall want to spread my net wider than that and discuss such issues as the role of loyalty in human life, but the focus will come back to the professional loyalties of police officers and, particularly, the discussion of the police culture in the Fitzgerald Report.²

Loyalty as Motivation to Duty

What is it that motivates people to perform their duties? Perhaps what matters, in the end, is *that* the duty is done more than *why* it is done, but motivation will have a lot to do with whether duty is done at all and with how well it is done. Motivation affects efficiency as well as morality and must, therefore, be given considerable thought by anybody concerned with an organization in which people are to perform their duties.

There are many different motivations that might lead people to do their duty. Not all are equally good or efficient in motivating dutiful action, and, given the mixed bag that people are, we need to think in terms of motivating those who are less than paragons of virtue if we are concerned with the problem in a practical way. One plausible suggestion is that the best motivation in such cases will be loyalty.³ Loyalty is important to all of us. It affects what we will take as our interests: inside the family I might find my interests conflicting with my son's, but, outside the family, loyalty is likely to make me see his interests as ours or even as mine. In this way it makes clashes within *our* group (whichever group that might be for the purposes of the moment) less likely or

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easier to resolve and hence helps to make it possible for us to live as social beings even if it also sometimes helps to provoke clashes between rival groups of social beings. One might even say that loyalty is part of the integrity of a social being; it affects who and what we see ourselves as being. A loyal police officer, seeing what he or she is partly in terms of being a police officer, will not perceive the tasks of office simply as an externally imposed job but as integral to his or her personal responsibility.

Loyalty affects our display of those virtues that we have. Threats to the interests of a member of a group to which I am loyal might call forth from me a reaction that

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is courageous; the same reaction to threats to the interests of a member of a rival group might be merely silly since those risks would not be worthwhile for a member of my group. No doubt there are some risks that one should take for anybody in suitable circumstances, but that is not true of all risks in all circumstances. One needs to be very careful in identifying the groups since each of us is a member of many different groups for many different purposes: I might, for example, display courage by bailing out a member of my sailing club or university department with a risky loan but might properly, without displaying lack of courage, decline to do the same for a member of a rival group; I would show no moral fault in not helping in such a case even though I might show great generosity or other virtue if I helped. But if the threat to the interests of the other person is a mugging, then I need to identify with the group of the law-abiding and take muggers as the rival group. Improper action can result from improper identification of the relevant group. That is to say, loyalty can go wrong.

Courage is not, of course, the only virtue affected in this way by loyalty. Looking after my son's interests, if I am thinking in terms of my family, is prudent rather than generous, but, still thinking in the same terms, I cannot be prudent in looking after the interests of my neighbor's children although I might be generous. Again, in different circumstances, the loyalties expressed might not be to family, but to neighborhood, and, in such cases, my neighbor and his children would be part of my

group. Their interests, to that extent, would be taken as my own. I can be grateful for help given to other people only if I identify with them in some way. I can admire and praise those who help others, but I can be *grateful* only for what is done to help me or somebody with whom I can identify.⁴ Because loyalty and identification with a group affect who is seen as having a *prima facie* claim on a share in the distribution of goods, loyalty can affect the display of a sense of justice. And so on for the other virtues. Loyalty, therefore, plays a very important part in our moral lives, and it will play an important part in a police force in enabling significant virtues to flourish.

Loyalty is the instinct to sociability that keeps us from the radical form of the Hobbesian natural condition, the war of each against all.⁵ It is a matter of emotional ties and commitments far more basic than cold contractual relationships. Those commitments come out, in part, in that aspect of loyalty that consists in a willingness on the part of the loyal person to subordinate his or her interests to those of the object of loyalty. That reduces disputes caused by conflicts of interests. That willingness to fit in and accept some limitations makes possible the acceptance of moral prohibitions and requirements that are generally regarded as necessary for social life. Loyalty is a reliable *motivation* for people to accept those aspects of living in a group. It enables us to live in groups, and, even if relations between the groups are not always cordial, loyalty makes it possible for us to live as people rather than simply as beasts of the forest or plain.⁶ If morality is the working out of peaceful rela-

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tions between people, then loyalty is at the start of it; loyalty is basic, and is therefore important to all of us.

And loyalty will matter to a group such as the police more than it matters to most. If one is to go out in the company of a partner to face considerable dangers, for example, one needs to know that that partner will treat one's interest as his or her own, that his or her courage will come into play when one is threatened.

Loyalty Is Not Simply a Virtue

But for all of that, one cannot say simply that loyalty is a virtue or that it guarantees good behavior or a happy outcome. One cannot even say simply that loyalty is a good thing or, without qualifications, that loyalty should be encouraged. The evidence that loyalty can go wrong, that it can lead to immoral behavior apparently just as readily as it can lead to laudable behavior, is all around us: we see it most obviously and most frequently in various forms of chauvinism or racism. There might be some inclination to explain this another way: the display of a lot of virtues depends on their association with other virtues if excess is to be avoided, and if the virtue, rather than a distortion of it (missing the Aristotelian mean), is to be exhibited at all. So it might be suggested that loyalty, too, needs to be associated with other virtues if it is not to go wrong and take excessive forms. But a difference nevertheless remains between loyalty and virtues.

If I am *completely* lacking in prudence, then my physical and mental well-being and my financial state will be such that I am unable to help others and be kind, or to pay my debts and be just. If I am *completely* lacking in courage, if I give up at the first sign of opposition or difficulty, then I can display no virtue at all. If I am *completely* lacking in justice, then I shall not distinguish the mugger from the victim when deciding whom to help and will thus fail in kindness, I shall misapply the criteria for which risks are worthwhile and thus fail in courage, and I shall misapply the criteria for *proper* concern for my own interests and be selfish rather than prudent. And so on. This is not to deny that some virtues might be better developed than others in any given person, but it does at least seem plausible to claim that nobody could have any of the standard virtues without having all of them to some extent. And yet, quite clearly, we can have loyalty without having those virtues. Emotional commitment to other people, particularly evil people, does not depend on possession of virtues. Loyalty is still possible in gangs devoted to vice. A large part of my point is that loyalty does need the virtues if it is not to go wrong, but it can quite clearly exist without them. It does not fit the pattern of that group of qualities of character, even if it underlies them and can be expressed through exhibitions of them. It underlies some vice as well, and can be expressed through that.

Loyalty always excludes some as well as including

others; one is loyal to X as opposed to Y, and one cannot be loyal to the human race as a whole unless in response to an invasion by Martians or an attempt by killer bees to take over the world. Because of that exclusive element, loyalty can lead to injustice and to callousness. Loyalty is an *emotional* tie that can lead people to be unreasonable and to overlook or override proper claims on them. My example for this is the police culture in Queensland as described by Fitzgerald.⁷ What Fitzgerald refers to as "the police code" is a crucial element in this culture and has nothing to do with any Code of Ethics such as one might expect police to subscribe to in taking on their profession.

The unwritten police code is an integral element of police culture and has been a critical factor in the deterioration of the Police Force. It has allowed two main types of misconduct to flourish. A practical effect of the code is to reduce, if not almost to eliminate, concern at possible apprehension and punishment as a deterrent to police misconduct. The code exaggerates the need for, and the benefits derived from, mutual loyalty and support. The natural attraction of those characteristics for other members of the group has been exploited by the elite to its own advantage.

Under the code it is impermissible to criticize other police. Such criticism is viewed as particularly reprehensible if it is made to outsiders. Any criticism which does occur is kept under the control of those who have authority and influence within the Force. Any dissidents are able to be dealt with for a breach of the code, with the approval of other police.⁸

Fitzgerald goes on to give an example of the police code at work:

A senior officer recommended that a Police Sergeant's notice of resignation should not be left to become effective automatically after a month in accordance with then current legislation but that the period should be shortened by 10 days. There was no discernible legitimate reason for such a step. The Government had publicly announced that it intended to legislate during that 10 day period in order to impede police who had been involved in misconduct from resigning and receiving benefits. In any event, the application to resign, which had been completed by the Sergeant, did not state any reasons for his resignation. In fact he had been committed for trial in connection with serious criminal offences of dishonesty associated with his police duties, and was subsequently convicted and imprisoned. A section of the form recording his application to resign called for his

senior officer to state the general basis for the resignation and to add his assessment of the intending resignee's work performance and conduct. The section of the form signed by the applicant's superior officer on this occasion was in turn effectively endorsed by his senior officer's recommendation which read:

"1. The Sergeant has been committed for trial on criminal charges.

2. Through his general appearance, punctuality and attention to his duties the Sergeant set an example for junior staff as well as other N.C.O.'s.

His attitude and enthusiasm both as an officer performing general duties, and as a beat sergeant directing, advising and supervising subordinates, was without fault."

Few will have trouble discerning a contradiction between 1 and 2.⁹

And Fitzgerald goes on to give a number of other examples. General acceptance amongst police officers that they can act with impunity in such matters makes possible forays into organized crime that, otherwise, would have been stamped out as soon as they appeared. The loyalty that makes police officers willing to cover up for each other is what makes possible this criminality and the consequent undermining of the police force. As such procedures become institutionalized, only those police officers willing to go along with them will remain in the force, and, as public perception of these activities in the police force becomes common, only those who seek such activities will join the force and others will regard members of the force with suspicion and contempt.

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Fitzgerald makes clear that senior officers are not excluded from his accusations, and, indeed, suggests that they are responsible for the institutionalization of the police code. He also suggests that this is not merely a matter of accident:

Particular responsibility and enthusiasm for the police culture is to be found amongst some members of an elite within the Force, including senior officers, union officials and those with special appointments and functions, particularly detectives and other non-uniformed police. Members of the elite have been the major beneficiaries of the culture which they promote and exploit. . . . Skilled police are acutely conscious of how laws can be circumvented or broken without penalty. The better they are

at their job, the more they learn. It is no accident that the police officers most admired for their skill by colleagues include some who become corrupt.¹⁰

It is to be expected, then, given that the most skillful are likely to rise in their profession, that there will be corruption in the higher levels of a police force such as Queensland's Police Force is in Fitzgerald's account. And that makes it hard for anybody who wants to blow the whistle:

There was throughout the evidence at this Inquiry a refrain that honest police did nothing because they did not know where to turn. Statements were even made that information and co-operation were withheld from previous inquiries because of a lack of confidence and trust either in those responsible for providing assistance to the tribunals or in the capacity of the tribunals to discover and expose the truth and have their reports implemented.¹¹

And he also writes:

An instinct for survival and advancement in an institution and administration in which it was impossible to tell who could be trusted and who could be told made it imprudent, to say the least, to speak out. It was safer and easier and more consistent with responsibilities to family and self to say and do nothing despite a pledge to uphold the law.¹²

With nowhere safe to turn, with the possibility of being framed by experts if they blew the whistle, honest police were in a position in which there was very little that they could do.

Even a well-intentioned approach can lead to trouble. Apart from straightforward examples of corruption such as theft and bribery, Fitzgerald suggests another sort of wrongdoing that can arise from a desire on the part of police officers to do their job and serve the community well:

The criminal justice system is zealous in its concern for the rights of accused, but the rights and protection which are accorded to accused are obstacles which impede the conviction and punishment of those who are considered guilty, make the work of police more difficult and reduce their chances of a successful prosecution. Police see successful prosecutions as one of the few positive aspects of their work. Some accused persons and their associates (and sometimes their lawyers) engage in improper conduct, which exacerbates the difficulties and frustration of the police. Perhaps because the problems are too difficult or the implications too horrendous, the community has simply turned away from what, on reflection, is readily obvious. . . . Steps to redress what is perceived to be an unequal contest

are readily open to police officers. Evidence of guilt which is manufactured or falsified or improperly obtained diminishes the effect of the presumption of innocence and such requirements as proof beyond reasonable doubt and unanimous verdicts, and greatly decreases the prospects of acquittal for those whom [*sic*] the police decide are guilty.¹³

Here it is not self-seeking behavior that causes the problem, but a desire, laudable if given a different expression, to get the job done efficiently. The outcome, nevertheless, is the corruption of the criminal justice system of which the police force is a part and an improper assumption of power by the police force in a way that strikes at important parts of democratic life.

Disloyalty is always reviled, but not all failures to act from loyalty are disloyal. Given the basic place that loyalty has in our lives, it can take good or bad forms. Disloyalty rules out the possibility of taking good forms. Sometimes one has no loyalty and properly has no loyalty. How could I be loyal to somebody I have never heard of? We cannot properly expect loyalty of everybody all the time. We cannot expect one person to subordinate his or her interests to those of another without consideration of who the other person is and what the circumstances are. Sometimes one is reasonably expected to subordinate one's interests to those of an object of loyalty and at other times not. As a consequence, not all failures to act out of loyalty or to subordinate one's interests to those of a proper object of loy-

alty are expressive of faults in one's loyalty. So we judge that there has been a *fault* in loyalty, that there has been disloyalty, only when a properly based trust has been breached. We judge that somebody is disloyal if he or she selfishly puts his or her own interests first rather than subordinating them to those of the object of loyalty. The person who did that might have acted out of simple selfishness or out of cowardice or out of spite or from some other motivation. But in any case of disloyalty, the person is expressing at the same time some other vice in putting his or her own interests first when it was not proper to do so.¹⁴ Disloyalty is always expressed with another vice.

Given Fitzgerald's account of the Queensland Police Force, a police officer who blew the whistle could not be claimed to have acted out of loyalty to his or her colleagues (though he or she might have acted out of loyalty to the profession or to the community), but he or she has not been *disloyal* to them, either, because the trust was not properly based. The colleagues might regard the trust as properly based¹⁵ if they took what they had been doing as an accepted part of the system,¹⁶ and especially if the whistle-blower had taken advantages from that part of the system, but that is a matter of their having a different judgment of what is a proper basis for trust and does not go against my point. Disloyalty is a vice, but one cannot say simply that loyalty is a virtue.

How Can Loyalty Develop These Bad Forms?

All of these problems arising from loyalty, Fitzgerald says, were built into the police culture of Queensland. How could that be? The answer is not simply that police officers in Queensland were evil people; as Fitzgerald notes, "The basis of the unacceptable aspect of the police code upon which the misconduct which is woven into the culture depends can be traced to the distortion of acceptable traits."¹⁷

Some of the causes have to do specifically with police life, or perhaps with police life in Queensland.

Most police are recruited as school leavers. Recruits are therefore young, often immature and with little experience of work or the broader society.

When they join the Force, they enter an insular environment where they work and socialize almost exclusively with their colleagues. Their experience of the broader society is

therefore not widened greatly. Contact with members of the public tends to be in situations of distress, conflict and hostility.¹⁸

And this problem is exacerbated by other developments:

Police work almost exclusively, and socialize extensively, with other police and, with increasing numbers of females in the Police Force, more regularly marry police. As in other occupations, children of police officers follow their parents into the "job."

Faced with public indifference, mistrust, hostility and resentment, police come to depend on their fellows for physical security, friendship, sympathy, emotional support and a feeling of self-worth. In difficult times, police officers naturally turn to the people who have become their closest friends, and the mechanisms are there to make sure they

have support.

In the result, the Police Force has increasingly turned in on itself and away from the community apart from superficial campaigns to allay community concerns and win recognition despite its adherence to its culture.¹⁹

And eventually we reach the stage at which the *point* of a police force is forgotten:

[A typical senior police officer's] loyalty to the Police Force and the people in it will have come to outweigh what was only ever a vague and abstract loyalty to the community. In important respects, he will have rejected the values of the outside community, and be prepared to go to extraordinary and sometimes illegal lengths to protect what he believes to be the interests of the Police Force and of his police brothers. Loyalty to the Force has become the purpose, rather than the means, of fulfilling his duty.²⁰

One can see how loyalties would grow strong in the police force, and especially how the fact that police usually mix with members of the public in unhappy circumstances, might provoke an unfavorable attitude to the police that would encourage them to take a "them and us" attitude, identifying themselves very strongly as police and as a group sharply separate from the general public.

One can see, indeed, just how easy it is for antagonistic attitudes to develop between police officers and members of the general public. Controlling traffic on points duty is one of the things that police do, but their work is not usually thought of in those terms. In the more spectacular areas of their work, police and the criminal justice system that they administer are, in a very important way, the last resort. Education, town planning, anti-poverty projects, provision of leisure activities and medical services, and so on are all designed to help people to live peaceful and law-abiding lives together. When all of those steps fail and people still commit serious crimes, then the last resort has to be used: the police force and the criminal justice system come into play. The people that police officers meet in that aspect of their work are not likely to be impressive in their probity. Insofar as the people that police officers meet are either other police or hardened criminals, experience is likely to suggest that people outside the police force are not of a very high quality.

Most of us do not meet police in those circumstances. We meet them when it is an issue of whether our automobile is roadworthy, or when we have been driving it at a speed in excess of the speed limit or while having had too much to drink. The police then appear to

us as bureaucratic enforcers of unnecessary regulations, as killjoys, as jumped-up jacks-in-office, or in various ways as people of whom we have a low opinion.²¹ This can bring forth aggressive behavior that is not likely to improve the view police have of the rest of us, and fawning behavior as an alternative will not produce a more favorable view. The offer of a bribe might produce a reaction of contempt from an upright police officer, and that contempt, after a while, can turn into the view that the people outside the police force deserve no better than that the bribes be accepted.

But there are more general problems here to do with the nature of loyalty itself. Loyalty can take different sorts of objects.²² One can be loyal to people, as one might be loyal to a friend with whom one had been through a lot or who had been a great help when one had had troubles. One can similarly be loyal to groups of people with whom one has grown up or groups one has deliberately joined or groups with whom one has been through danger²³ or hard times, and so on. One can be loyal to principles where principles are quite separate from people or groups of people; one is loyal to the

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can come into conflict.*

principles if one sticks to them even when it is difficult to do so. Loyalty to principles and loyalty to people can come into conflict, as they sometimes do when the primary noticeable loyalty is to a group, but to a group structured by certain principles: somebody who thinks that the members of the group are departing from its principles might be led by loyalty to the principles to oppose the members of the group. (The different sorts of objects of loyalty can, of course, be mixed, as they are likely to be in loyalty to such a group.)

We can have clashes of loyalties that are clashes of loyalties to objects of the same kind, or clashes that are between loyalties to objects of different kinds. I might be a member of two groups and feel loyalty to each even though the loyalties come into conflict. Each might need financial support, for example, and I might be in such a position that I can offer the support to only one of them. The problem, by and large, does not seem to be a great one: I sort it out by considering such issues as which of

the groups has the greater need of my support, which I feel I owe more, or which is more important in the grand scheme of things. At least in the normal run of things, the two groups will be commensurable in these respects, and I shall be able to make a decision even if the thinking involved in making it might be difficult. I shall, no doubt, be disappointed at not being able to support a group to which I feel loyalty but I have, clearly, not been disloyal to it even if more devoted members of that group feel let down that I chose the other; the problem was not a lack in my loyalty, but the practicalities of the situation. There might be so little lack in my loyalty in

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such a case as to cause me severe emotional stress when I have to make the choice.

Or I might, at times, find that two principles to which I have been loyal come into conflict. That will give me cause for thought and require that I go through a certain amount of re-thinking and re-ordering of my principles. Again, the problem is, at least in theory, resolvable, and there is no basis for an accusation of disloyalty simply in the fact that I cannot follow both principles or continue to subscribe to both in the forms in which I had previously subscribed to them.

Or the clash might be between loyalty to principles and loyalty to a group. An example bearing directly on the issue at hand would be the problem of a police officer wondering whether to blow the whistle on inefficiency or corruption in the force. That sort of problem would be at its most difficult when the person on whom the whistle might be blown was a partner, somebody with whom one had been through hard times and danger, because the loyalty to such a partner is a personal loyalty rather than a loyalty to the principles governing police work. Such partners help each other in times of danger, and that can be stretched very readily to covering up improper activities. The issue will not be an easy one.

The way I have described these cases makes it sound as though sorting out a clash of loyalties is a purely cold, rational procedure that might be carried out using a

computer. And, faced with such a case, we concentrate our attention on the case itself, thinking about its features rather than about what in ourselves makes us treat those features as important. But loyalty is not simply a matter of calculation; it is a matter of emotional commitment, and a clash of loyalties can be a clash of strong emotional commitments that play a fundamental part in somebody's life. Psychiatric upset can follow, and we often greatly admire those who have the strength to handle such cases and make a decision.²⁴

On the one hand, one might be inclined to say that one should always stick to principles and be loyal to those, having adopted them after due thought. Blind, chauvinistic loyalty is what leads to a lot of the problems caused by loyalty; blind loyalty, it might be said, is always loyalty to a person or to a group of people whose lead one will follow. "My leader (group, country) right or wrong" is an attitude that causes a lot of trouble, so we might be led to think that *bad* loyalty, the loyalty that causes problems, is loyalty to people or groups and that the good loyalty, the virtue (if such it be), is loyalty to principles. After all, it makes no sense to say "My principles, right or wrong"; if I recognize that they are wrong, then they cease to be my principles. And loyalty to principles, it might be said, cannot be blind, because principles are adopted after rational consideration. But it takes no more than a moment's reflection to recognize the falsity of that claim. Principles can be held because I was brought up to believe in them and never gave them very much thought, and simply applying those principles mechanically, without ever reflecting on them, will be just as much a blind loyalty as any other loyalty.

And it is not clear that the principles always should win out in any such conflict of loyalties. A minor breach of principles by somebody who gave in to temptation and whose career would be ruined by disclosure should not, perhaps, be the occasion for blowing the whistle if one owes loyalty to that person. If the grounds for loyalty are slight and the offense is great, then, no doubt, one should turn in whoever it is. There will be many cases where it is not clear which way the decision should go. But there will also be cases, especially where draconian penalties might be involved, in which one should give precedence to the person.

And surely loyalty to a person should lead one to give that person the benefit of any doubt. Police officers have to mix with criminals to do some of their work, have to seek information that sometimes requires undercover work of an apparently illegal sort in order to gain information from minor criminals that might lead to the

arrest of major criminals, and so on. Loyalty to a police officer accused of criminal activity that might be explainable in such a way might well, and properly, lead other police officers to accept the explanation.

Fitzgerald says:

To the obvious benefit of those with something to hide, the police code also ensures that critical activities of police officers are largely immune from scrutiny. The police code effectively requires that it be assumed that whatever is done by a police officer legitimately occurs in the course of his duty. It is patent how absurd that is, and what the consequences are certain to be, given the nature of police work and the nature and extent of each police officer's authority and discretion. Police, especially detectives, have to mix with criminals, including informants whom they cultivate as part of their duties. Such contacts are a primary source of police misconduct. Skilled experienced police are usually the ones exposed to the hardened criminals with most to lose and most to offer, and are therefore exposed to maximum temptation.

Police claim that total secrecy concerning informants is necessary. It is said that a police officer should not be called upon to name his informants in any circumstances: to do so would impair the relationship, make it more difficult to obtain information, and even imperil the informant. It is asserted that there must be no supervision of contacts and arrangements between police and informants (or criminals who conceivably might be informants), including payments which are exchanged and other benefits which are granted (including discretions which are exercised in relation to proceedings against informants): police work, so it is said, would be inhibited if such contacts and arrangements were monitored.²⁵

Perhaps these claims do go too far. At least supervision within the police force ought to be possible, provided that the senior officers can be trusted.²⁶ But the point that I am after now is the one made by Fitzgerald and quoted earlier: "The basis of the unacceptable aspect of the police code upon which the misconduct which is woven into the culture depends can be traced to the distortion of acceptable traits."²⁷ There will be room for a loyal fellow officer to look for the acceptable trait and interpret the behavior in its light. One does not expect loyalty to blind such a person to the obvious, but one might reasonably expect that it would lead him or her to give the colleague the benefit of any doubt. After enough of this giving of the benefit of the doubt, the officer who had given it might find that he or she could not make the behavior of the other public without himself or herself being accused of having connived at the misconduct or at least gone along with it.

There are several different possible objects of loyalty

for police officers in the context of their work. A police officer might be loyal to his or her partner personally or to the police force (which might be taken in a number of ways) or to a police code of ethics or to the government or to the community the police force exists to serve. Conflicts of loyalty can arise from these different possible objects of loyalty, and it is not always clear how they should be resolved. This is the area in which police officers, especially those thinking of blowing the whistle, will have to sort out the appropriate group or object for their loyalties in the circumstances.

A conflict between loyalty to one's partner and loyalty to the police force or to the police code of ethics looks as though it is straightforward but will not always be so.²⁸ If I owe my life to my partner, then I *should* feel strong ties; I would be less than a decent human being if I simply kept on asking what he or she had done for me today or pointing out that, much as my life means to me, I am not inclined to pay much for it now that I have it and am safe again. A decent human being really *should* feel close ties in such a case and should at least feel torn about whistleblowing, even when the partner's offense is a serious one. This is not to suggest that the Police Code of Ethics should have a clause saying that one must not turn one's partner in when one knows that he or she is guilty of a serious offense, but one does not want to discourage this completely appropriate feeling of personal loyalty in police or in people generally. Without ties of loyalty and trust between partners, police work would be much harder to do. It is at least a mitigating factor in judging the offense of covering up the initial wrongdoing. On top of that, there will be other cases of

Without ties of trust and loyalty between partners, police work would be much harder to do.

lesser offenses when a young and inexperienced officer has given in to temptation or been trapped in a situation in which he or she thought wrongdoing was the only way to escape false accusations, and one might reasonably judge that the good of the police force would best be served by not losing that officer, who was unlikely to offend again in that way after the experience.

Given that a police force exists to serve the community and not purely for the purposes of its members, it might

seem straightforward that loyalty to the community should take precedence over loyalty to the police force or its code of ethics. But mishaps are easy in this area, too, and the point is not a straightforward one. A police officer who had formed a low opinion of the community at large might, out of loyalty to the force, make sure that

he did a good job anyway. Loyalty to the community, on the other hand, might lead to improper behavior. With expensive lawyers and legal niceties ranged against them, police who wanted to serve the community might bypass the law.²⁹

The Role of Judgment in Loyalty and in Virtues

Loyalty, at least on the face of it, then, cannot simply be regarded as a virtue. Loyalty can go dramatically wrong, as it does when it takes some of the forms of jingoism. Any virtue can go wrong, of course: genuine courage, undeniably a virtue, can lead one into dangerous situations, and if one's efforts are unsuccessful, it can lead to problems for others. The possibility of mistake in a particular case can never be excluded. Prudence can lead one to miss opportunities that might, as things turn out, be opportunities one would like to have had. Courage and prudence are, nevertheless, clearly virtues. But the position with respect to loyalty is not the same as that with respect to courage or prudence because of the different roles that judgment plays in those qualities of character.³⁰

Possession of a virtue is a complex matter; it is a matter of capacities of various sorts being brought together in a person. Kindness is not one simple attribute of a person, let alone a simple attribute that is either present in complete form or completely absent; it is a mixture of emotional elements, an inclination to choose certain sorts of ends in one's actions (notably ends that involve helping other people), and various other elements. One element in all virtues is good judgment.³¹ The sort of good judgment at issue is a general capacity opposed to something like stupidity or lack of foresight; it is not the same as infallibility and does not exclude the possibility of occasional mistakes. The point is about qualities of character, not merely about particular actions. In the case of kindness, one needs to be able to judge what help it is one's business to give, failure in which judgment makes one a busybody rather than a kind person; one needs to be able to judge what will really help, and whether one's capacities allow one to do that sort of thing, failure in which judgment makes one a well-meaning burden rather than a kind person; and, to give just one more example, one needs to be able to

make judgments of propriety. Kindness is not a matter of requirement in the way that justice is, but judgments of justice can enter: a kind person helps the victim, not the mugger, even if the victim is giving as good as he or she gets and appears to be winning the fight.

This is not a matter of cold-blooded calculation. It need not be a matter of calculation of any sort but may simply be a recognition of what we have come to regard as important features of such a situation, in much the same way as an experienced chess player will recognize various positions on the board without any need to calculate. But, before we can simply recognize the situation in this sort of way, we do have to learn and understand why it is the victim and not the mugger who should be helped. Not caring about these features of the situation (which is different from simply being mistaken about them in any given case) means that one lacks the virtue of kindness even if one means well. Meaning well is, no doubt, better than meaning ill, but constantly getting in people's way with ill-judged attempts to help when one does not know what is going on and should mind one's own business falls a long way short of the proper virtue of kindness. Judgment of when giving help is worthwhile or proper is part of the possession of the virtue of kindness. It is also part of the possession of the virtue of courage: I must, for example, be able to judge which risks are worth taking and which are not if I am actually to be courageous rather than foolhardy. Swimming through shark-infested waters involves taking risks, but it is not courage that leads me to act if I swim through shark-infested waters simply to get my name in *The Guinness Book of Records*. In that case, I am simply foolhardy.

Judgment does not seem to have that sort of role to play in loyalty. The judgments involved in the examples above are *internal* to kindness and courage. Certainly we can make judgments about what is worthy of loyalty and

what is not, but that is a judgment *external* to the loyalty and referring to it, so cannot itself be *part* of the loyalty. The central judgment in the case of courage is the judgment that the risks are worth taking given the end. We speak of earning loyalty and of owing loyalty, so that idea might give us a judgment that could be part of loyalty as good judgment is part of courage or kindness. In fact, it will not do so. The judgment that something is owed *as a matter of loyalty* would make the idea of loyalty circular if treated as itself a part of that idea. The judgment that something was owed *as a matter of justice* is relevant to the justice of doing it but not especially relevant to whether performing the action is a display of loyalty. We speak of earning and owing gratitude as we do of earning and owing loyalty, and gratitude, like loyalty, is the sort of thing one discovers one has begun to feel rather than the kind of thing one cold-bloodedly decides to have, but the judgment that something is owed as a debt of gratitude is not necessary to loyalty (gratitude is by no means the only possible ground of loyalty) and, anyway, gratitude can give rise to exactly the same sorts of problems as does loyalty: a proper gratitude is fine, but a gratitude that leads one to ignore the perfectly legitimate interests of some people and improperly further the interests of the person to whom one feels gratitude produces exactly the same sorts of problems as does a bad loyalty. One might note that loyalty is usually expected to lead to the favoring of the interests of the object of loyalty over other interests.

The problem about the role of judgment in loyalty goes deeper than that. Loyalty is an emotional bond, not a calculating form of commitment, and the person who

The person who acts only after calculating that the act is owed is, to that extent, not a typically loyal person.

acts only after calculating that the act is owed as a matter of loyalty is, to that extent, not a typically loyal person. Judgment of what is owed is not part of loyalty as it is part of justice. Emotional ties will bear only so much weight, and loyalty will, no doubt, eventually disappear if too much is loaded on it, but the loyal person, unlike the calculating person, sticks through the hard times when good judgment of fairly ordinary sorts would suggest that one should leave.³² One has nothing to gain from staying. Loyalty makes one stay, nevertheless; it

motivates one to do what duty requires or to do things for the good of another that are not required by duty.

If I am loyal to you, then I shall be expected to give some precedence to your interests, both over my own interests (at times and to some extent) and over the interests of other people. To that extent, loyalty involves setting aside what good judgment would otherwise require. Perhaps somebody else would do a better job of painting my house, but loyalty to my son makes me employ him. And it is not only my judgment of my own interests that is set aside, but, perhaps, also my judgment of what is morally proper. Loyalty involves giving

Because loyalty is not limited by good judgment, it can take good or bad forms.

some precedence to the interests of the object of loyalty, so, if I act out of loyalty to you, it may involve doing some injustice to those over whose interests I give precedence to yours. In that way, it can set aside good judgment about justice or good judgment that might have led one to be kind to somebody other than the object of loyalty. If my son does something sufficiently reprehensible, then, no doubt, I shall eventually turn him over to the police, but my loyalty to him would make me feel torn about any such decision, and we should expect at least that parents, and others with loyalties, would feel similarly torn if they had to treat the object of their loyalty in such a way. Somebody who acted completely in terms of reason and did not even feel torn in such a situation would be a remarkably cold fish, and the usual judgment of them would be that they showed a significant emotional lack. It is part of loyalty, in a very important way, that it overrides to some extent reason in the form of some important sorts of good judgment and that the person who is loyal does not calculate too much what is owed as a matter of loyalty. The way in which loyalty requires that one set aside good judgment to some extent means that good judgment cannot play the part in loyalty that it does in virtues such as courage. Because loyalty is not limited by good judgment, it can take good or bad forms; good judgment marks courage off from foolhardiness.

One cannot simply say that loyalty is a bad thing. It seems to lend itself very readily to excesses, such as

chauvinistic loyalties leading to unjust discrimination against people who are not in the group and to insensitivity to the feelings and legitimate interests of those people. We can see such excesses when loyalties to a football team lead its supporters to such misjudgments as that the result of a football match is sufficiently important to justify beating up and even killing supporters of the opposition team, and, generally, in the problems of jingoistic attachment to a group. Such things are the bad face of loyalty. Nevertheless, even though we can be improperly attached to groups and even though attachment to groups can lead us to improper action, it does matter that we be prepared to attach ourselves to groups and to have the appropriate loyalties. We are social beings, and loyalty is the raw emotional material of that

sociality. Without any inclination to loyalty, to identify our interests with those of others and to see ourselves as members of groups, we should be left to live in the Hobbesian natural condition. We need loyalties if we are to be human; they are part of a complete human emotional life. On the other hand, loyalties can lead to serious problems when they go wrong. And if judgment is not part of loyalty as it is part of virtues such as kindness and courage, then we cannot mark off the good loyalty as something separate from the bad loyalty; the judgment that the object of the loyalty is a proper object and that the form of the loyalty is proper will remain something external to the loyalty itself. Loyalty we must have, but it needs to be controlled, and we need to make sure that it has proper objects.

What Is to Be Done?

How can loyalty be controlled in the required way? For that needs to be done, especially in a police force, given the relationship between loyalty and the flourishing of virtues such as courage.

Loyalty can be generated by a variety of things, and it seems clear that the loyalty responds to what generated it. As I pointed out earlier, loyalty always involves some exclusion: one is loyal to X rather than to Y, with Y thus being excluded. At times, the reverse can also be true: that a group of people is excluded (whether or not they are properly excluded) can make them feel a common cause in response to what they see as oppression and can result in the growth of loyalty amongst them. That loyalty, provoked by a dislike and perhaps distrust of the other group, is likely to be marked by behavior that ignores legitimate interests and concerns of the other group.

When loyalty within a police force is generated in that way, problems can be expected. The loyalty will be very much to other members of the police force, not to the police force as an institution that exists to serve the community. As a result, the loyalty is likely to show itself in protection of those members of the force against any threats from outside in just the sort of way Fitzgerald suggests after describing the way in which members of the Queensland Police Force were isolated from the rest of the community and felt themselves to be looked down upon by the rest of the community.

A feeling of rejection, especially if it is soundly based in the fact that one *is* rejected, cannot be removed simply by fiat. One thing that would help to remove the threat

of a bad loyalty amongst police officers would be to have a police force that was not looked down on by the rest of the community, but it is easier to say that than to change the community's views. Change takes time and is likely to be helped by the removal of the isolation of police officers from others. Visits of police officers to schools, having police officers run road safety classes for school children, and other such ventures will all help.

Increasing crime rates help to make people in general think more favorably of the police and their work. One thing that seems to have affected relations between police officers and members of the public in some parts of Australia in recent years is the setting up of Community Watch schemes in which members of a neighborhood agree to keep an eye on each other's houses and goods and to call the police if there is any suspicious activity, with police officers cooperating in the setting up of such schemes and giving lectures to the groups on methods of making a house secure and other such matters. Cooperation of this sort helps to break down the division that Fitzgerald found between police officers and others and to make it less likely that the loyalty that comes simply from a feeling of rejection will arise.

Loyalty can arise from a desire for self-preservation and a feeling that one is in so deep that one must stay with this group and their ways. This might arise with young recruits to a police force who are unsure of how things are done, who feel that they are in no position to blow a whistle because they do not really understand the practicalities of police work and will merely make themselves look silly. As an academic might simply take a

pencil from the office and use it for non-academic purposes without giving the matter any thought, a young police officer might accept the occasional offer of a free hamburger as one of the perks of office and develop slowly from there.³³

Several things might be done about that. Attempts might be made to make sure that more of the recruits are not young people with no experience of work or life outside the police force, which could be done by strenuously seeking older recruits and by making it easier to enter the police force some way up the scale. More encouragement might be given to police officers to pursue further studies, and not only in matters of direct relevance to police work: a higher standard of education will usually help to make people less gullible and less easily led into thoughtless wrongdoing, even if it might sometimes make them more efficient at thoughtful wrongdoing.

And more could be done with the young recruits. Counseling, the absence of which is noted by Fitzgerald, might become a regular part of the recruitment and training procedure, not just a once-and-for-all lecture during training but a recurrent matter over the first few years of service. An explicit code of ethics³⁴ would help to provide a focus for such counseling. And an experienced, independent person to whom young officers

could go to speak privately about their worries would give them the benefit of experience without the worries of looking silly in front of their colleagues or suffering reprisals for questioning what other officers were doing.

One will never be able to guarantee that only good people enter the police force or that nobody will succumb to the temptation that is likely to come a police officer's way. My concern has not been with grand schemes of that sort but with the roles that loyalty can play in a police force. Loyalty, I have argued, is necessary to all of us, and it is probably necessary to any police force that is to be effective. Certainly one should expect it to grow amongst people who face danger together and depend on each other, or even simply amongst people who work together over a long period of time and face similar problems. Loyalty is a necessary thing, and in that way is a good thing for a police officer to have, but it can go wrong as, according to Fitzgerald, it went wrong in Queensland. Because judgment does not play the role in loyalty that it plays in virtues such as courage and kindness, there is no *internal* limitation on loyalty that restricts it to the good; limitations that do that must be external to the loyalty. In this final section I have been concerned to suggest some methods for applying external limitations that will help to avoid having loyalty develop in the wrong directions.

NOTES

1 Cf. Wren, *Whistle-Blowing and Loyalty to One's Friends*, in *PROFESSIONAL ETHICS: HARD CHOICES IN LAW ENFORCEMENT* 28 (W. C. Hefernan & T. Stroup, eds. 1985) on the shallowness of the external viewpoint and the moral judgments it produces.

2 I shall use this popular name to refer to the *REPORT OF A COMMISSION OF INQUIRY PURSUANT TO ORDERS IN COUNCIL*, the report of the Commission of Inquiry into Possible Illegal Activities and Associated Police Misconduct, presented to the Premier of Queensland on 3rd July, 1989, and published by the Government of Queensland in the same year. A. Fitzgerald was Chairman of the Commission. The report alleged substantial and institutionalized involvement of the Queensland Police Force in organized crime. It resulted in the departure from the scene of several senior police officers and several senior politicians, some of whom have since been charged with criminal activities. It is also widely believed that the report was the main factor in explaining the change of government in Queensland (after more than two decades of National Party rule) in the election at the end of 1989.

3 The connection between loyalty and duty is so strong that they are sometimes run together, to the detriment of the idea of loyalty. M. D. BAYLES, for example, in *PROFESSIONAL ETHICS* 77-83 (1981), has a section the ostensible subject of which is loyalty

but the real subject of which is no more than the content of professional duties. This reduction of loyalty to duty is an extreme form of the externalist view rejected by Wren (*supra* note 1) and has the consequence that loyalty and duty could not come into conflict, as, quite clearly, they can. I shall go on to argue that, as well as an idea of duty, we need and expect loyalty as a motivation amongst a group of people such as a police force.

4 The point is not always obvious. Suppose I am grateful to you for helping Jones because this relieves me of the burden of having to do it myself. We might say here that I am grateful precisely because I have no loyalty to Jones. Nevertheless, I am grateful to *you* because you have done something for *me*, *viz.*, relieved me of a burden.

5 T. HOBBS, *LEVIATHAN* 185 (C. B. Macpherson ed. 1968).

6 *Id.* at 186.

7 The Fitzgerald Report, *supra* note 2, ch. VII. Use of the terms "police culture" and "police code" in the way Fitzgerald uses them is not peculiar to him. See, e.g., Savitz, *The Dimensions of Police Loyalty*, 13 *AM. BEHAV. SCIENTIST* 694-95 (1970), for such uses and for reference to other literature.

8 Fitzgerald Report, *supra* note 2, at 202. This emphasis on secrecy in a police force has been noticed by many others. Savitz, *supra* note 7, at 695, cites numerous sources covering a long period of time.

9 Fitzgerald Report, at 202.

10 *Id.* at 200-01.

11 *Id.* at 205.

12 *Id.*

13 *Id.* at 206.

14 Disagreements in the judgments about propriety will help to explain some disagreements about whether somebody was disloyal in much the same way as differing judgments about whether the risks were worth taking can explain differing judgments about whether somebody was cowardly.

15 An example of the way in which differing judgments about propriety can lead to differing judgments about whether somebody has been disloyal.

16 Or they might think that the officer in question should be loyal to them *personally*, not to the police force and to them as members of the police force.

17 Fitzgerald, *supra* note 2, at 32.

18 *Id.* at 201. Similar points can apply in the case of a military culture.

19 *Id.*, p. 210. Others note the isolation of the police: Wren, *supra* note 1, at 26, notes that their role as guardians and regulators of other people's conduct sets them apart, and that their work schedule tends also to seal them off. He notes there the crucial point that police officers *perceive themselves* to be alienated from the rest of the community, which can give rise to problems even if the perception is ill-based. Savitz, *supra* note 7, at 694-95, also notes the significance of occupational isolation.

20 Fitzgerald Report, *supra* note 2, at 210.

21 Savitz, *supra* note 7, at 694, refers to "the policeman's job (enforcing minor statutes which generates resentment and hostility . . .)", citing support from J. SKOLNICK: *JUSTICE WITHOUT TRIAL* (1966). He also suggests how this might start off a chain of worsening relations—"Failing to secure the deference which they feel they are owed by the public has resulted in numerous instances of hostile or brusque officer responses in observed police-citizen transactions"—and he cites support from Black and Reiss, *Patterns of Behavior and Citizen Transactions*, in U. S. GOVERNMENT PRINTING OFFICE, 2 STUDIES IN CRIME AND LAW ENFORCEMENT IN MAJOR METROPOLITAN AREAS (1967).

22 Despite John Ladd's contention that loyalty must always be to a particular person in a particular role. See his entry on loyalty in 5 *THE ENCYCLOPEDIA OF PHILOSOPHY* 97-98 (P. Edwards ed. 1967).

23 Both Wren, *supra* note 1, and Savitz, *supra* note 7, amongst many other writers, note the significance of facing danger in generating police loyalty

24 An example might be R.E. Lee's decision to support the cause of the South in the Civil War.

25 The Fitzgerald Report, *supra* note 2, at 202-03.

26 But it should be noted that Fitzgerald, in the passage just quoted, suggests that skilled and experienced officers, likely to have reached a senior level, are the ones exposed to maximum temptation. In another passage, Fitzgerald suggests that senior officers do a lot to enforce the code:

Police observance of the code is substantially increased by the extent of the power which is held over ordinary police by the elite and the ruthlessness with which it has been exercised on those occasions when it has been considered necessary to do so (p. 205),

which suggests that they should not be trusted in the necessary way, or, at least, that they should not be trusted in circumstances such as prevailed in Queensland. In one of the sillier passages of the report, Fitzgerald also says:

Since a police force is drawn from the community (and from some sections of the community more than others), it is likely to reflect the general social culture, including its weaknesses (for example, materialism), and also to include a roughly representative proportion of individuals who break the law (p. 200).

If that reasoning had any soundness, it would, presumably, apply to senior officers too.

27 *Id.* at 202.

28 *Cf.* Wren, *supra* note 1, at 27-28.

29 See the quotation from Fitzgerald, *supra* note 13.

30 For an account of what constitutes a virtue and why the virtues are not simply a mixed bag of qualities of character, see R.E. EWING, *CO-OPERATION AND HUMAN VALUES* (1981).

31 There is an interesting and useful discussion of the nature of judgment in chapter one of CHARLES LARMORE, *PATTERNS OF MORAL COMPLEXITY* (1987).

32 Even the most loyal of people, no doubt, might leave eventually, but loyalty displays itself in a willingness to give precedence to some extent to the interests of the object of loyalty over one's own and over those of others; somebody who left at the first sign of trouble would have no loyalty at all.

33 On first being offered a hamburger, such an officer might reason that there could be no harm given his or her upright nature: there is *really* no corruption, he or she might say, whatever might appear to be the case. But appearance is part of the relevant reality in such a case, as in many others: how one is perceived affects how others treat one, and that affects how a police officer can do his or her job.

34 See the suggestion by Wren, *supra* note 1, at 40.