EXAMINING ETHICS
TRANSCRIPT – JAKE MONAGHAN: JUST POLICING

I'm Alex Richardson, and this is Examining Ethics, a show designed to bring insights from the cutting edge of moral philosophy and ethics education to the rest of us. Have you ever wondered what justice demands of the police? Not in some utopian ideal, but in the world we actually live in, where inequality, coercion, and structural injustice shape everyday life? My guest today takes up that very question. In his new book, Just Policing, he confronts the ethical and political dilemmas at the heart of modern policing. Rather than asking what the police should do in a perfect world, he asks what they can and ought to do in our deeply imperfect one. We'll explore the responsibilities of individual officers, the limits of state authority, the meaning of police legitimacy, and whether society needs police at all. Jake Monaghan, welcome to the show.

Thanks. Glad to be here.

Yeah, of course. Really excited to have you. So could you start by telling our listeners just a little bit about yourself and your work at a very general level?

Sure. I'm currently an assistant professor at the University of Southern California. I've been working on the philosophy of policing since I was a grad student. When I was a grad student, it was kind of a side project. I had some interests in medical ethics and professional ethics, and I was really interested in political philosophy, but I wasn't really working on political philosophy. Then I saw a call for papers on political violence, and I thought, hey, I have something to say about that. When we're thinking about the police, I think we could probably apply an account of ethics to them. And that had me thinking about police discretion and the way the police interact with other parts of the social and legal systems. I was off to the races from there.

So you open up your new book with this delightfully alliterative, and I think really descriptive, phrase to describe policing. You call it a moral morass. Can you unpack a little bit what that means and why policing presents such a complicated ethical challenge?

Basically, what I wanted to communicate was that policing is kind of a mess, both professionally and in our thinking about it. The reason is that when you want to think about what justice demands of the police, there are a lot of moving parts. There are abolitionists who think that justice requires getting rid of the police, and that my question about what just policing looks like is an oxymoron or necessarily wrongheaded. On the other hand, you have people who think that what police ought to be doing is just faithfully enforcing the law. And now you have to worry about the problem that there are certain laws or

policies that are, in principle, unjust, or that in practice happen to be unjust because of the way things interact with other parts of the social system. More recently, we've seen that there's a pretty substantial majority of people in the United States who seem to think there are no limits whatsoever on what the police do. They don't need to carry badges. They don't need to identify themselves. It's totally fine, a lot of people in the United States seem to think right now, for federal law enforcement officials to be snatching people off the street over the objection of the local community and local policymakers. So when we're trying to think about what justice demands of the police, there are a lot of questions that seem relevant. And there's a pretty substantial task of just figuring out the right way to ask these questions. What's the right order? Should we just be thinking about a legitimate and just criminal code? Or should we be thinking, as I suggest, a little bit about the day-to-day professional workings of what it is to enforce the law?

I'm a political philosopher. You're a political philosopher. Our audience probably is not made up mostly of political philosophers. So I want to start with a distinction you make at the beginning of your book, describing it as a work of non-ideal theory. Why do you think it's important to ground your account of policing in the world as it actually is, rather than imagining a perfectly just society?

Yeah, this is one of the things that makes thinking about just policing really difficult and confusing, in some sense. A lot of political philosophers, following John Rawls, think that the task of political philosophy, or at least the task of theorizing about justice, is to try to imagine what an ideally just society would look like. Then we fill in some details, and we start thinking about what the rules that would characterize that society would be. That's supposed to tell us something about what the rules in our society ought to be, what the institutions should look like. There's something really attractive about this method, at least at first glance. There are a lot of moving parts in society, so if you want to think about what justice looks like, maybe it's a pretty good idea to imagine the broad contours of an ideally just society. Then we can use this as a map, something to constrain our policymaking as we try to get from where we are now to where the ideal is. This approach has come under a lot of fire recently, and there are a bunch of different critiques you could offer of the ideal theory project. One of the things I want to point out is that if you think an ideal society won't have police, then from the perspective of ideal theory, you can't really ask the question I'm interested in. I think this is true of all sorts of domains in policy-oriented political philosophy. When we take the ideal theory project seriously and ask ourselves what an ideal society looks like, we end up closing off a lot of questions we might be interested in. It's no accident that John Rawls doesn't spend a whole lot of time talking about the police in his work. I should be clear that I don't mean this as a criticism of Rawls. You can't really get

upset that he was working on a different project than the one you wanted him to work on. But I do think that, more broadly, there are some important reasons for taking up this non-ideal theory approach, where instead of asking what the ideal society looks like, we ask what good governance would look like in the society we actually live in. In a lot of cases, people inappropriately apply principles from ideal theory to the police, and I think that's often a mistake, or at least a way of failing to illuminate the actual question.

That was a really nice rendering of what I think can be a messy distinction. Can you walk us through some of the application problems you see, though?

Sure. Suppose you're an ordinary liberal, and you think it's really important that society be characterized by a division of powers, where the legislature makes the rules and the executive enforces them. You're pretty naturally going to conclude that a lot of the decision-making you see from boots-on-the-ground police officers starts to look a little bit legislative. These decisions are about whether it's worth enforcing this law, rather than just how to go about enforcing it. So you might think this is a problem. Police discretion, like judicial discretion or the discretion of prosecutors or welfare bureaucrats, looks like it might violate our separation of powers. If you're doing ideal theory, it's a natural next step to say this is inappropriate, that the legislature should make the rules and the police should just enforce them. What you get out of that is a kind of faithful enforcement of the law picture. So what is just policing? It's faithful enforcement, or full enforcement, of the law, one of those two things. If you're coming at this from an ideal theoretic perspective, where most of the laws on the books are going to be just and the other parts of our social systems are going to be well-functioning, maybe this seems like an attractive idea. But if you're doing non-ideal theory, and you recognize there's a host of laws on the books that are unjust because people have unjust preferences, or because the legislature hasn't gotten around to taking an old unjust law off the books, or because they're unaware of how a law interacts with other parts of our social and political systems, then the full enforcement ideal starts to look pretty suspect. So to put it simply, if you're doing ideal theory, a full or faithful enforcement standard looks reasonably attractive. But if you then say the police in our society should enforce all the laws all the time, and do so faithfully, you're overlooking the fact that many of these laws are unjust, and we probably don't want them vigorously or enthusiastically enforced.

Right. There are all kinds of arcane old laws against things like spitting or the public accommodation of animals. But those are by far the least serious concerns in this genre.

That's right. An ideal theoretic approach would suggest there's

something inappropriate about police not enforcing those laws, and if we're just thinking about weird laws like that, it seems kind of silly. But if you think about something like a law against sodomy, or a law against wearing sagging pants, which is on the books in some places, the ideal theoretic full or faithful enforcement standard looks pretty objectionable applied to laws like those.

So I want to stick for a minute with the tension coming out here, around police as individual enforcers of unjust laws, or as actors operating within unjust institutions, but who still aren't acting entirely on their own. What ethical responsibilities do you think individual officers have within a system that can be unjust?

I think an important part of being an ethical or just police officer is recognizing that discretion is unavoidable. There's no getting rid of police discretion. Officers will sometimes want to pretend there is none. They'll say, don't be mad at me, I didn't make the law, I'm just enforcing it. But this misunderstands what enforcement actually looks like, and honestly, police officers are aware of this. They know it. It's just an excuse. So the really basic thing to say is that just policing requires a judicious exercise of police discretion. We don't want officers making decisions willy-nilly, and we don't want them exercising discretion in a corrupt way that benefits themselves. That means we need an account of what good, or legitimate, discretion looks like. One important thing to say is that a lot of the problems in the criminal legal system come from what I call tightening. If the trial system is highly likely to over-punish, to hand out sentences that are too harsh, then a police officer can't just make an arrest, hand the person over to the legal system, and think they've done the right thing. In a sense, they've done their job, but probably not very well. You need to be aware of these kinds of problems, and one of the things discretion lets you do is introduce some slack into the system. We're familiar with this in contexts where we're likely to encounter the police. If an officer pulls you over for driving 70 in a 65 zone, they think it's worth pulling you over, but they don't often give you a ticket automatically. There's something wise about that, and I take that kind of lesson and apply it more generally.

So I want to take us in a slightly different direction, zooming out a bit to think about the ideal supplement here. You raise the possibility, and you're not the only one lately, that a just society might not need police at all. This is a pretty common argument in academia, and increasingly it's becoming part of mainstream politics too. What do you make of police abolitionist arguments, especially those rooted, on the one hand, in broad utopian ideals, or, as has become popular more recently, in transitional justice framings?

I think the abolitionists get a lot of things wrong, though I should say at the outset that they also get certain things importantly right. If you take a narrow version of police abolitionism, I can get on

board with it. I'm a proponent of abolishing ICE. If I could wave my magic wand and get rid of it tomorrow, I'd do it in a second. But when we start thinking about broader approaches to abolition, where we're not just getting rid of, say, the narcotics division, or ICE, but the whole police department, we run into some problems. One thought is that in a just society, everyone will follow the rules, and if everyone's following the rules, you don't need active enforcement. But I don't think that's the case. There are going to be a lot of circumstances involving persistent disagreements that produce conflict, where we'll want active tools of social control to help solve them. The debate often goes like this: someone says we should get rid of the police, and a skeptic says, well, what about the rapists and the murderers? But I think there's actually an easier argument here, which is simply that police are connected to urbanization and density. When we get together in cities and we're really close, there's a lot of social friction. We extend into space, we produce noise and smells, we consume resources. If you've spent any decent amount of time in a city, you know this produces conflict. We don't need an aggressive, carceral police force threatening to throw people in jail for playing music too loud on the subway, but we do need tools of social control that help us figure out how to live together and how we're permitted to use public space. So while the broader debate often focuses on more serious kinds of crime, which abolitionists rightly point out the police don't do all that much about, I think you can accept all of that without the abolitionist conclusion following.

I think that makes good sense. What do you think about the transitional justice argument, though, as a separate strand from these loftier utopian arguments?

A lot of the transitional arguments are thinking, okay, maybe we can't get rid of the police today, but we can do things that make the police obsolete. This is something I'm more sympathetic to. But the thing I'll note is that if you don't have an actual policy proposal to offer in place of the police, which many abolitionists don't, and they're upfront and frank about this. They'll say, look, we're still in the exploration phase, we have to experiment. Well, at that point you're not guiding policy. You're thinking about interesting ways of organizing society, which is ultimately a different thing. What that kind of argument can show you is that there are real justice concerns with the way we do things now, which is clearly true, and that there are possible alternatives we should explore that might perform better, which is probably true as well. But that's not ultimately a case for police abolition. I don't think I'm being particularly nitpicky here. If you're proposing that we can reduce police by 50 percent and replace a lot of their functions with, say, unarmed traffic guards, that's still a kind of policing. That's still a kind of social control. You're still helping people navigate conflicts, still enforcing the rules associated with urbanization and density. So these

ultimately strike me as not arguments for police abolition. That's not to say they're not valuable, just that I think a lot of these arguments don't fully grapple with how the underlying problem actually works.

So on the one hand, there's ideal theory with a bit of experimentation around the edges, and on the other, a sort of mere practical tinkering.

When abolitionists critique liberal reformists, they'll often say these are just minor changes, pulling on some threads without making fundamental ones. I don't think that's a great way to look at it, particularly because our social systems are so complex that it's really difficult to tell ahead of time how a particular change will turn out. One thing you can take from this is that relatively small changes to our political and social systems can produce pretty significant changes in how we evaluate them. So if you think we've got to be experimenting and making some reforms, that doesn't commit you to thinking the police, or society more broadly, will look very much like they do right now. There are a lot of reforms that can end up being pretty significant in nature. It's probably a little too cute, but you could think of certain approaches to police reform as a way of abolishing the police as they currently exist. That's not to say there won't be institutions of policing or social control in more just circumstances.

Right. So there's abolishing the police, and then there's abolishing the police, I guess.

One way to think about this is that there's abolishing the police as an agency or institution, and there's abolishing policing as an activity. One of the reasons the book is called Just Policing is that I want to insist this activity isn't going anywhere. You can see this if you go to a protest, whether it's a police abolitionist protest or not. This is a point Brandon del Pozo makes. You'll find people doing things like engaging in traffic control. There have been protests in downtown Dallas most days for several weeks at this point, and uniformly, someone is trying to help direct traffic. They're not carceral police guards, but they're engaged in policing. They are, in a certain sense, a traffic cop.

We'll be right back after a short break.

AD BREAK: What happens when you witness an arrest and you're not sure it's justified? Do you step in? Do you speak out? A new piece in the Prindle Post from former law enforcement officer Timothy Chow asks a harder question than might first appear. Explore this conundrum, and the puzzle of asymmetrical epistemology, in "Why You're Not Entitled to Fight the Police." You can read this piece and more at prindleinstitute.org/post. The Prindle Post is a digital publication

of public philosophy dedicated to examining the significant ethical issues raised by current events and popular culture. It's produced by the Janet Prindle Institute for Ethics at DePauw University, and its editor in chief is Dr. Tucker Sechrest. Now, back to our conversation with Jake Monaghan.

So I want to talk about a concept that's been looming in the background here, connected not just to just policing but pretty deeply to the ideas of trust and discretion we've already touched on. You write a lot about the importance of legitimacy in policing as something distinct from justice. Can you help us understand what it means for police to be legitimate, and why that's not always the same thing as being just?

This is particularly important, I think. When I talk about legitimacy, I mean the permission to exercise power. This connects to some old debates about political authority and obligation, questions like whether you have to obey a police officer. We can sidestep a lot of those questions and just ask whether a particular agent of the state is permitted to exercise the power that it does. This is separate from the idea of justice. Justice gets deployed, I think, in roughly two ways in political philosophy. There's justice as an ideal, where we talk about the just society as something like the perfect society, or the society that approaches it. And in other cases, people describe certain actions or institutions as unjust, meaning impermissible. To avoid some of the ambiguity in these ways of using the term, I think it's helpful to drill down into this more specific idea of police legitimacy. A particular instance of policing, or a police agency, could be legitimate, could rightfully exercise power, even if, as is almost always going to be the case, we're pretty far from whatever our conception of ideal justice is. And one other thing to say, particularly if you're a liberal concerned about widespread disagreement, and you think the role of the state should be to float above that disagreement and be neutral in some way, rather than enforce one very particular, thick conception of justice: we're all going to have different conceptions of what ideal justice is, but we're still going to need governance. So we want to be able to say that a given instance or action of the police is okay, despite the fact that we'll all disagree about where it ranks compared to whatever our own conception of the ideal society is.

That's interesting. I'm really fascinated by this idea of police operating amid pluralism. The public conversation about policing focuses so much on officers as responders to all kinds of crises, from the cat stuck in a tree to violent crime. Some of the problems, abuses, and corruption cases stem from this idea that police are a one-size-fits-all institution, shoehorned into all kinds of crises they may or may not be the right fit for. I think this idea that police have to not only police, but in fact govern amid deep value pluralism, is underappreciated. Do you think the average police

officer is thinking carefully about navigating something like this?

That's a good question. The average police officer is probably not thinking about this in terms of moral pluralism or liberal neutrality. Of course they certainly wouldn't say that. But I do think there's a recognition of this from police officers, and one way you see it is in the discretionary decisions they make around vice enforcement, which is something I think a lot of philosophers and social scientists of the police worry about. If you go to the ethnographies of policing from decades back, there's this idea that seemed to loom large for police, and that's the idea that some people are assholes, and that the law, in a lot of cases, is there for them. So what counts as loitering? This is a real problem for a legalist position that says police should fully or faithfully enforce the law, because it's just not clear ahead of time what counts as loitering. We can do a lot of work to try to specify this in the criminal or civil code, but there are going to be real limits. So a police officer going around deciding, hey, you look like you're loitering, I'm going to give you a ticket, or move you along, or make an arrest, whatever it happens to be, actually reflects something more nuanced. If you look at police ethnographies, you'll see officers say things like, well, this person wasn't flagrantly disregarding the interests of others in the vicinity, so I'm not going to do anything about it, I'll give them a pass. But if someone is flagrantly disregarding the interests of people on the subway platform, say, then loitering law can become an effective tool. One way to think about this is in terms of what some police scholars call problem-oriented policing. Rather than thinking of the criminal code as just a set of commands we have to enforce all the time, what police should actually do is think about the problem they're solving, and what tools they have at their disposal that will be effective. When you think about these order-maintenance problems, you see a recognition from officers that their goal is something like being a street-corner politician, trying to fix problems of social friction without necessarily resorting to an arrest. I think that's one way of trying to, as I call it, maintain order in the face of disagreement.

I want to zoom in a bit further, if we could, and talk about some practicalities. I want to talk about the idea of proportional use of force, which, among other places, comes from the just war tradition in philosophy. You make the case for something similar in policing. What does proportionality look like in practice for police officers, and how can departments realistically assess whether their actions meet this standard?

You're absolutely right that the proportionality idea comes from just war theory. That's where I'm lifting it from. The amount of force you're permitted to use to achieve a military, or in this case an enforcement, goal has to be fitting. You can't use too much force. If you see someone shoplifting, and your choice is shoot them or let them

get away, you have to let them get away, because shooting them would be too forceful. It doesn't match, it's not fitting. It's really difficult to say with any precision whether a given bit of force fits the thing officers are trying to prevent or satisfies their goal, but I do think it's relatively easy to identify some egregious violations of the proportionality principle, real low-hanging-fruit examples. High-speed vehicle pursuits often end up with pedestrians or other motorists getting hit. They're also really dangerous for police officers. Something I learned somewhat recently is that officers in their cruisers almost never wear a seat belt. It's impressed upon them that their job requires them to jump out of the vehicle at any moment to engage a suspect, so they can't waste time taking a seat belt off, and cruisers often don't have them set up for quick release. What that means is that when an officer gets into a crash, they usually go through the windshield, which is why car crashes are one of the more deadly aspects of being a police officer. So if you're just thinking about officer well-being, you might think we should reduce high-speed vehicle pursuits. But of course we don't just think about officers, we need to think about bystanders, and we need to think about the suspect, who we're not punishing yet, we're apprehending them to see if they're deserving of punishment. If, in a lot of cases, high-speed pursuits don't get you much but are extremely costly in terms of the force deployed, you've got an argument rooted in proportionality for banning high-speed pursuits, or at least requiring approval from a sergeant before one begins. This is a little tricky, though, because when people in a jurisdiction know a department is under a federal consent decree and can't engage in high-speed pursuits, they're much more likely to take off if pulled over on a suspended license, because they know they won't be pursued. So we probably don't want a blanket no-pursuit policy, but a policy sensitive to the costs and benefits, and proportionality is one way of thinking through that. There are a number of other departmental policy recommendations I think follow from the proportionality principle. A bunch of them fall under the "8 Can't Wait" heading, a reform initiative that popped up around the time of Black Lives Matter, maybe a little after George Floyd. The idea was to pass eight use-of-force policies in police departments to reduce the use of force. One is that you're not allowed to fire a warning shot. Probably we don't want officers discharging their service weapon just to say, hey, I'm here, since that wouldn't be a proportionate use of force. Another is that you have to attempt to de-escalate before you escalate. These are all policies that can reduce the amount of force we see as a matter of routine in police departments, and they'd all, I think, be pretty easily recommended by a proportionality principle.

I wonder if you think departments are actually appropriately equipped to assess something like proportionality. A lot of attention in recent years has gone to the kind of professional training police officers tend to receive. That training is not particularly lengthy across most jurisdictions, roughly six months before individuals are allowed to be

on the streets enforcing laws with weapons. And we've heard a lot about the so-called warrior mentality in police training, which shapes not just methodology but a kind of ideology about who police officers are and what they should be dealing with, and how. What do you think about trusting departments to assess themselves on proportionality? I wonder if you're skeptical, as many might be.

I think this is a complicated issue. On the individual officer level, officers are often poorly equipped to make these proportionality judgments. Part of this is a result of training. If you're inculcated in a warrior mindset, you're going to be more likely to use force. But part of it is selection effects. If you're in a decent-sized department with promotion opportunities, you start out in patrol and move your way up into being a detective, or maybe onto a specialized task force. The way you get hired into those roles is by showing you can do the kind of work the department wants, which produces a scenario where officers who might otherwise take a more service-oriented approach on patrol instead try to make big busts so they'll look impressive to colleagues and superiors, in order to move up the ranks. We can also look at police culture. When you look at what individual officers are rewarded for by their departments, they're rewarded for things like bravery. If you're shot in the line of duty, a lot of departments will let you pick your position, and you kind of become a hero. Of course, no one's going to get shot just for that, but what a department rewards tells you something about what it values, and that can really warp the perspective of an individual officer. That's why I think a lot of use-of-force policies matter. It turns out that police officers, like most other people, are pretty sensitive to management guidance, so giving them new rules and new expectations is, in fact, a way to shape their behavior. Now, I think there are a lot of police departments that have shown they're not at all terrible at making these proportionality judgments. The 8 Can't Wait campaign I mentioned wasn't proposing novel policy. It was saying, look, here are a bunch of departments in the United States with these policies, and it turns out the more of these policies you have, the fewer unjust instances of police power you see. So I think some departments are well suited to make these judgments. Not all of them. Policing is really decentralized, and you're going to have a lot of departments that make bad decisions. But there are also higher-level tools you can use. One is this kind of naming-and-shaming campaign, like 8 Can't Wait. An idea I'm really attracted to is requiring agencies to carry their own private insurance. What that would do is make it so insurance companies are saying, look, we've crunched the numbers, and it turns out that if you have this policy, or get rid of that one, you'll improve along some important dimensions, and we're just not going to insure you if you don't have, say, a no-warning-shot policy. So I think there are some powerful tools for outside forces to do some work here too.

So, my last question. We've talked about some specific reforms you're

interested in, and some directions you might take this. If we accept that some form of policing is necessary in the world we live in, and suppose we have limited resources or limited attention to devote to this, what are the most urgent reforms, whether full, institutional, or structural, that you think we need now? If we've got limited resources, where should we put them?

One of the things I found frustrating about the abolitionist fervor after George Floyd was that it was presented in terms of abolition or reform, and the 8 Can't Wait proposal seemingly went down in flames. I think policies that constrain police power are low-hanging fruit, things we should obviously be doing, and we shouldn't worry that these kinds of reforms will falsely legitimate the police force. So there are a lot of department-level policy changes we can make that will make a big difference. Another option is to communicate to officers that we know they have police discretion, and let's not pretend otherwise. Let's think really specifically about what the good exercise of police discretion looks like. I don't want to suggest that the pressing thing is for every police officer to read my book, but I do think it's important that they understand the position they're in, that like other professionals with expertise that can be difficult for outsiders to evaluate, they need to be exercising their discretion in accountable ways. There are some other reforms I'm interested in. I really like the idea of requiring police departments to carry insurance, another kind of oversight tool. I think police unions are really bad, pernicious forces. It turns out that police chiefs are often pretty reformist, and they bump up against police unions that are not. There's very little to recommend a union of police officers, and I think this is probably true of other public sector unions too, but police unions are particularly pernicious. If we could get rid of them, that would be pretty great. I also present the idea in the book that the law enforcement, or detective, side of policing is sufficiently different from the patrol side that if we split these into separate departments, we'd see some pretty substantial changes as a result. You don't even have to change the legal code to get people focusing in different ways. If you look at transit police agencies today, I think they're often evidence in favor of this. They're more service-oriented, because their goal is to keep the trains running, and there's something attractive about narrowing the scope of what departments are doing. I should say, finally, that federal law enforcement shows you can go too far in that direction. The nice thing about having ICE as its own department is that if we wanted to, we could just get rid of it without touching the rest of the federal law enforcement apparatus. On the other hand, the only people who are going to work for ICE are people who are really excited about what is just obviously a monstrously unjust project, which means the people working for ICE are going to exercise their discretion in a particularly nasty way, because that's just the kind of person they are. These are selection effects. So, again, maybe a final dose of pessimism: there is no silver bullet.

This has been a conversation with Jake Monaghan of the University of Southern California. His new book is Just Policing, and it's available now from Oxford University Press. Jake, thanks so much for coming on the show.

Thanks so much for having me. This was a great conversation.

Examining Ethics is hosted and produced by Alex Richardson and brought to you by the Janet Prindle Institute for Ethics at DePauw University. Our editorial assistant is Chiamaka Nbuduokwu. The views represented here are those of our guests and don't reflect the position of the Prindle Institute or of DePauw University. Our show's original theme is by Bailey Renton and Tywim Hough, with additional music by Blue Dot Sessions. You can learn more about today's episode and check out supplementary resources at examiningethics.org. As always, you can contact us directly at examiningethics@depauw.edu. Thanks for listening, and we'll see you next time.

© 2026, Janet Prindle Institute for Ethics
prindleinstitute.org/examining-ethics