https://opentextbc.ca/ethicsinlawenforcement/chapter/2-3-deontology/

Probably the most complex of all the ethical systems we look at here is Kantian logic, which is a deontological theory. The word deontology comes from the Greek word deon, meaning “obligation” or “duty.” It is an ethical system primarily concerned with one’s duty. It is also known as ethical formalism or absolutism.

Deontology was formulated by Immanuel Kant (1724-1804). Kant believed that the end result is not of primary importance; rather, the real importance is in determining the moral intent of a decision or action itself. Kant would assess the morality of one’s action and disregard the consequences. He further believed that we have duties that are imperative and that these duties must never be abandoned, regardless of the anticipated outcome. These duties, according to Kant, are absolute and must be applied to everyone equally.

The notion of duty is important to law enforcement officers who are bound by law to perform their duty. A duty is something we are required to execute, regardless of whether we want to or not. The duty may have a personal or professional negative consequence attached to it, but as it is a requirement or obligation, it is absolute and/or imperative.

Kant distinguished two types of duties: conditional or hypothetical imperatives and categorical imperatives.

A hypothetical imperative is a duty that is necessary to accomplish a specific goal. It is something that we do to achieve an end. Banks (2013) uses the example of the duty of a student to study hard in order to get good grades. In law enforcement, we may look at the hypothetical duty of a patrol officer to write as many search warrants as possible to be considered for a detective job.

A categorical imperative is an unconditional rule or duty. Regardless of the impact on you that the decision may cause, the duty remains the same and must be done. In this way, the act is unrelated to the end result; it is a duty regardless of the outcome. One example in law enforcement is a domestic assault policy that imposes a duty on a police officer to charge a spouse with an assault if evidence exists. This is a duty regardless of the outcome or the wishes of the officer. The duty in this case is policy written by the British Columbia Attorney General’s office. The categorical imperative does not only have to be written policy; a police officer who stops a violator may have a duty to write the ticket if certain conditions of the violator stop warrant it, such as the danger of the activity and the driving history of the driver. There is much to say about the categorical imperative for law enforcement; however, for the purposes of this book, we will concentrate on only a portion.

Within the categorical imperative, Kant (2006) states that “…every rational being, exists as an end in himself, not merely as a means.” Kant is saying that we should never use people to attain our desired end result; that we should treat everyone with respect regardless of the outcome. O’Neil (1986) uses an example in which a person deliberately makes a promise to another person without ever intending to honour that promise. In this sense, the person who is being deceived cannot consent because the rule, or maxim, of the first person is not known. In a law enforcement context, a police investigator who promises a witness that she will not have to testify against someone if she gives a statement would not be respecting that person and would be using her as a means to an end. An officer would know that this is not a promise that should be made as it is ultimately up to Crown counsel to determine who testifies and who does not. Kant would argue that the promise is using the witness as means to an end, and therefore not ethical. A law enforcement officer must decide whether to follow a consequentialist perspective, in which the consequences of his or her actions are more important, or a Kantian perspective in which the witness ought not to be used as a means to the effective ends.

Coercion is also a way in which Kant would suggest that respect is not shown. Given the powers that law enforcement officers yield, coercion is a tactic that, while perhaps producing an effective end to an investigation, would be wrong in Kant’s view regardless of the outcome because the coercion did not allow the other party to consent to the act. Kant’s conclusion is the following maxim: “Act in such a way that you always treat humanity, whether in your own person or in the person of any other, never simply as a means, but always at the same time as an end…” (Kant, 2006, p.50)

Q. How can deontological theory assist law enforcement in moral dilemmas?

Universality. Kant suggests that we should consider the implications of our actions as if they were universal. If we are considering not paying transit fares by jumping over the turnstiles, we should consider the implications if all transit users did not pay. In a law enforcement context, we should consider the ramifications of our actions. For example, a lead investigator may consider misleading the media in order to trick a suspect into making a mistake and exposing himself. When the investigator applies the universality rule (i.e., the spectre of all investigators lying to the media universally), it allows the investigator to consider the negative ramifications of the action, even if the lie was made with the intentions of bringing out a moral consequence. This is comparable to rule utilitarianism, in which the universal application of actions should be considered.

The importance of duty. Law enforcement officers are required at times to fulfill their duty no matter what the personal costs. When confronted with a duty that they may not want to perform, the officers should consider that they agreed to perform duties when they swore their oath. These duties must be performed by someone, and when this duty falls to them, they must do their duty. For example, a patrol officer who does not want to criminally charge an acquaintance must consider her duty and the oath that she took when she joined the agency. The caveat to duty is that the duty must be done in good faith; that is, the duty should not be performed if the officer is aware that there is a lack of morality in the duty. It is often said among experienced police officers, “you are paid not for what you do, but for what you might have to do.” This maxim refers to dangerous duty that you may not want to do, but are paid to do, and ought to do.

Law enforcement officers facing a dilemma in which rule utilitarianism and Kantian logic are at odds should further understand that the choice between the two schools of thought will yield different outcomes, and that the two schools of thought will help the officer understand the options and how to rationalize the decision made. It is not easy to know what option to choose, but officers should take into account the stakeholders involved, including witnesses, suspects, society, the agency and of course themselves.

Respect: Kant believed that a person should never be treated as a means to an end. The moral decision that a person makes must not in any way take advantage of a person. An example is lying to a person to gain “something” in return, even if the “something” is good or a conclusion that will assist and help people. An example in a law enforcement context would be an investigator using an informant to obtain information on another suspect, while offering the informant the chance to remove a charge, when the investigator knows that this will not happen.