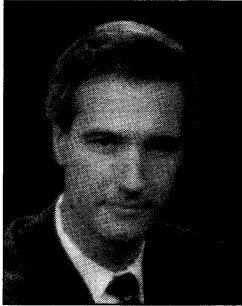


A Question of Ethics

Peter C. Kiefer



“You Want Me to Do What?!”

It didn't take long writing this column before I asked myself some basic metaphysical questions on ethics.

Webster's defines ethics as “a set of moral principles or values”; laws, on the other hand, are “rule[s] of conduct . . . enforced by a controlling authority.” In a recent article, H. B. Karp and Bob Abramms stated that “whether it is internally or externally generated, a value must be freely and consciously chosen, if it is to serve its vital function” (“Doing the Right Thing,” *Training and Development* [August 1992], 37-41).

Can we freely choose a code of ethics if we do so under a specter of discipline? Do we have morals and values when violators are punished for transgressions, or do we just have a set of laws or rules under a different name?

I returned to court administrator Bob and called upon Michael Kelley, from Saint Cloud, Minnesota, Michael Bayne, from Riverside, California, and Karen Wick, from Everett, Washington, to offer their opinions.

Bob, reeling from the reproach he received in last issue's ethics column, decides to develop a code of ethics for his court. He obtains a copy of

NACM's code, as well as codes from courts around the country. He appoints a committee to develop the code.

The committee constructs a draft, which Bob circulates to his 13 judges and 100 employees for comment. All of the judges and many of the employees are enthusiastic about the code. The committee modifies the code slightly based upon comments it receives, then hands the final version to Bob.

Bob broadcasts a memo saying he requires all employees to sign that they have both received the code and agree to abide by it. Lorrie, a clerk II in the civil department, tells Bob that she refuses to sign that she will abide. She says she does not believe it appropriate to require her to sign. Her argument is that the code of ethics is nothing more than an added set of personnel rules. She tacitly agreed to the existing set of rules when she was hired. She does not think it proper that she be required to recognize an additional set of rules.

Bob asks Lorrie if there are specific elements of the code that she finds troublesome. Lorrie insists that Bob is missing the point. She reiterates that it is being required to agree to any kind of a code that concerns her. Bob

tries to allay Lorrie's fears but she is unwavering.

After the other employees submit their signed agreements, Bob reluctantly deals with Lorrie. After checking the personnel rules, he suspends Lorrie without pay until she agrees to the code. After two weeks on suspension, Lorrie resigns.

What is the proper role of a code of ethics?

Mike Bayne sees a code of ethics' proper role as that part of a court's personnel rules that discusses the court's fundamental values. Karen Wick thinks a well-written set of personnel rules would eliminate the need for a code of ethics. Mike Kelley believes a code might go beyond the personnel rules to guide individuals carrying out the duties and responsibilities of their jobs.

Should a code of ethics have sanctions attached?

Mike Bayne said yes, because the code must be part of a court's personnel rules and the rules have sanctions. Karen remarked that if a court's personnel rules properly cover all necessary areas of employee behavior, this issue will be irrelevant.

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Mike Kelley felt a court should promote such a code through example and recruitment rather than enforce it through sanctions. Employee conduct should be controlled by the personnel rules.

Was Bob unethical trying to force Lorrie to sign the code?

All three thought Bob should not have forced Lorrie to sign the code. Karen thought Bob definitely was unethical if Lorrie was a contractual employee. Mike Kelley thought *unethical* too harsh a term, but that Bob was definitely unreasonable. Mike Bayne thought management could have employees sign that they received and understand the code; management should never force employees to sign agreement with something like the code.

Was Lorrie unethical in refusing to sign the code?

None of the three thought Lorrie unethical for refusing to sign.

Would it be ethical for Bob if he required Lorrie to simply adhere to the code without signing that she agreed to abide by it?

Both Mike Bayne and Karen declared that if the code were part of the personnel rules, or if Bob's personnel rules were better written, agreeing to abide by the code would not be an issue. Mike Kelley thought having Lorrie simply adhere to the code without signing it would have been slightly more palatable; however, such action might merely delay the problem until Lorrie violated an element of the code that called for imposition of a sanction.

What could Bob have done differently?

Mike Bayne reiterated that Bob should never have forced Lorrie to sign that she abide by the code. Bob should simply have told Lorrie she would be held accountable for it. Mike Kelley would have had Lorrie sign only that she had received and understood the code. Karen would have appointed Lorrie to the committee constructing the code to coax Lorrie into agreeing with the code.

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I thank the three contributors for their reflections on this issue. Their insights, though similar in some respects, truly represent three distinct viewpoints on this complex issue. **CM**