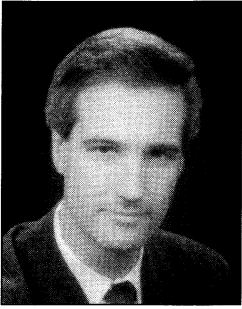


# A Question of Ethics

Peter Kiefer



## Getting to the Core

After spending some time over the last couple of weeks reviewing ethical codes from different organizations and states and reviewing materials from the Josephson Institute of Ethics, I decided to change my focus for this column. Instead of discussing scenarios on ethical gray areas, I decided to share some concepts to consider when you develop a new code of ethics or revisit an existing one.

Although it may be obvious, ethical codes must be based upon ethical values. This means that we must spend time separating our courts' values regarding ethics from other values.

All people and organizations cherish nonethical values; there is no dishonor in this. For example, I value leisure, wealth, personal challenge, and harmony within my work place (among other concepts). In moderation, these are all legitimate values toward which to strive; however, I call none of these ethical values.

The Josephson Institute suggests that there is a core of universal ethical values, values that transcend individual societies and cultures. (Michael Josephson, *Making Ethical Decisions* [Marina Del Rey, Calif.: The Josephson Institute, 1993].) Further, the institute proposed that there is a set of values that amplify ethical behavior specific to public service.

### Core Ethical Values

**Trustworthiness.** Ethical people are worthy of others' trust. They are honest, have integrity, keep their promises, and are loyal.

**Respect.** Ethical people have respect for others. This includes respecting others' rights to make informed choices and being courteous, civil, decent, and tolerant of others.

**Responsibility.** Ethical people accept responsibility. They are accountable for their actions, pursue excellence in their work, and practice self-restraint.

**Justice and Fairness.** Ethical people are committed to justice and fairness. This concept includes being honest and committed to fairness of process, being impartial, and ensuring all receive equitable treatment.

**Caring.** Ethical people are concerned for the interests of others.

**Civic Virtue and Citizenship.** Ethical people have a responsibility to perform their various civic duties for the benefit of the general community.

### Ethical Values for Public Service

**Public Office as a Public Trust.** (The Joseph and Edna Josephson Institute, *Preserving the Public Trust: Principles of Public Service Ethics* [Marina Del Dey, Calif.: The Josephson Institute,

1990].) Ethical public servants treat their office as the public trust it is. They use their office only to advance the public interest and make every effort to garner the public's respect.

**Independent and Objective Judgment.** Ethical public servants use objective judgment in their decision making. They avoid conflicts of interest and improper influences.

**Accountability.** Ethical public servants work to assure that government is conducted openly and honorably. They are dedicated to trying to improve the system.

**Democratic Leadership.** Ethical public servants respect the principles of representative democracy by obeying both the letter and the spirit of laws and rules.

**Respectability and Fitness for Public Office.** Ethical public servants avoid conduct giving the appearance of impropriety.

These values are not unique. And yes, occasionally they come in conflict with each other (and that is what makes for good columns). However, if you craft a code of ethics, promoting decisions based upon these central values, you will almost always hit the mark.

In future I will return to discussing ethical scenarios

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no common definition of a protection order, and most court information systems contain only rudimentary information on domestic violence cases.

Balanced against these benefits is the burden of increased resources needed to implement these mandates. Someone must pay for the staff time required to define and revise our conceptual framework for protection orders and domestic violence cases, to develop software that will translate that framework into machine-readable form, to purchase hardware on which to support the software, and to install and refine the systems. The 5 percent set aside of Byrne Grant funds and the Brady Act money will assist this effort, but no one is so naive as to believe these funds are adequate. In many states, courts

have historically been excluded when Byrne Grant funds were being handed out, and it will be a struggle to reverse the pattern.

Where does this leave us?

One of the first acts to be signed into law in this new Congress was the Unfunded Mandate Reform Act of 1995 (P.L. 104-4), which is intended to inhibit the tendency of Congress and federal agencies to impose burdens on state, local, and tribal governments without adequate funding. The act is crafted in such a way, however, that it is more a statement of good intentions than a strong prohibition on congressional mandates. Courts can expect, more, not fewer, federal reporting requirements. Legislators tend to see information as a free good, especially if it is to be provided

by public agencies. The cash bail reporting requirement reflects this attitude: we have a problem (identifying drug traffickers); we have a solution (target those with large amounts of cash); and we need information (require reporting of large cash transactions). When banks were required to report such transactions there was a loud outcry and negotiations over the burden; no one in Congress saw requiring court clerks to report as raising any flags. Inadequate as the funding may be, the Brady Act and the Violence Against Women Act are hopeful signs that perhaps Congress and federal agencies will recognize that information is not free, and they will take some responsibility for providing the resources as well as the mandate.

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### **Editor's Notes,** *continued from page 3*

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Weber faced that question in Maryland and developed a statistical model for the equitable distribution of clerical positions in the circuit courts.

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Clark County, Nevada, has been in the unique and enviable

position of being able to develop a new court, develop its processes, and build a courthouse, all at the same time. They seem to have made the most of this opportunity. Nancy Becker and Charles Short describe the experi-

ence. They also demonstrate their political sophistication in building a strong coalition of all the players, which practically guaranteed legislative approval of their plans.

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### **A Question of Ethics,** *continued from page 5*

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involving court administrator Bob and other folks. However, besides measuring Bob and his

friends by the NACM Code of Conduct, let's also assess how

well these folks measure up to this set of universal ethical values.

**CM**