What Did You Do in the Past Year That Bothered You?

How That Question Can Change Cultures

By Marianne M. Jennings, J.D.

It began as a simple exercise to gauge what was on the minds of my students. On the first day of class I gave them two index cards and asked them to do the following:

- Describe one thing you did at work during the past year that really bothers you.
- Describe one thing you did in your personal life during the past year that really bothers you.

Note two important things about the exercise. First, they are asked to do a work and a personal card. For three decades now, one of my greatest challenges has been getting organizations and individuals to see that there is no difference between ethical standards in their personal lives and those at work. If you would not be dishonest with a neighbor when selling her your freezer, you should not be dishonest with a customer, vendor, or regulator at work. Second, the operative word is "bothers," meaning that they have not remedied what happened or made peace with it.

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In the short time given for this challenge, the results were stunning. Just one soul in 288 wrote on a card, "I haven't done anything that bothers me." For the remaining students, 60% of whom are executives with a minimum of 10 years' business experience, there were cathartic experiences as they used the index-card exercise as an outlet for letting go of their ethical demons. Herewith, some examples, and, in the words of the great Dave Barry, "I am not making this up."

- I used a previous salary number for a loan application even though we had just been assessed a 25% across-the-board salary reduction.
- I followed the advice of my tax accountant who "recommended" that I expense the luxury vehicle as a work vehicle vs. the vehicle I really used for business because it had more tax benefits.
- I was asked to alter a head count so that we billed more to a customer.
- When I took over a global customer, I discovered that one of the local branches had received an overpayment of $50,000 (due to a supplier cost reduction/time issue). The branch had kept the overpayment and was using it as a "piggy bank" to offset pricing discrepancies. They told me they wanted to continue this practice and keep the money.
- I misstated my brokerage account value to my wife, as she doesn't know that I lost twice as much due to aggressive investment.
- I lied on budget reports at work.
- I let someone else take the blame for a mistake I made at work.
- I held profits for a following quarter to balance earnings.
- I contested a contract agreement because the terms no longer favored us even though we had agreed to the terms when the contract was signed.
- I walked out of Costco knowing that the register did not catch an item in my basket.
- I sold a bike to a friend and it was later stolen. He asked me to inflate the sales price (on the claim form) so he could get a larger sum from the insurance company.
- I borrowed a garbage can from a neighbor's house that is abandoned. I plan on returning the can if/when someone moves in.

There is one more question asked of the students, which was, 'Do you consider yourself to be an ethical person?" Some answers:

- Absolutely
- Better than most people
- I work hard at being ethical
- I have really good ethical judgment
- I am not as tempted as most people

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Hailing from the academic world, I am quite accustomed to the "in theory" rejections of my work. The irony is that it would appear that most of those surveyed believe themselves to be ethical in theory. They are, however, having some difficulty in application. "Lost in translation" is an apt description, and an example is in order. In one of my textbooks is a short case study in which two friends who have just seen a movie realize, as they are leaving the theater, that the other theater doors in the multiplex are wide open and that no theater employee is present to monitor patrons. So, the two friends duck in and see two movies for the price of one. The case study, when presented early in the course, nets the usual, "It's no big deal," "Everybody does that," and "It doesn't really hurt anyone." On occasion I hear, "Hollywood can afford to spring for another movie for me." However, there will also be a student or two who will pipe up and exclaim, "It's not right. You didn't pay." Interestingly, the student who chimed in with the moral high ground this past semester came to class one day with a bootleg copy of "The Hurt Locker" to share with another student. I reminded her of her moralizing on the two-fer. "This is different!" she sniffed back.

That "this is different" is where we lose employees in our training and cultures. To bring the "Hurt Locker" student around, I had to have her return to the methodical tools we use to analyze ethical issues, the tools that force them to go beyond the emotional reactions and relatively shallow opinions we all bring initially to resolving ethical dilemmas. Who's affected by your decision to use a bootleg copy? What would happen if everyone participated in movie bootlegging? Why, the producers of "The Hurt Locker" would make even less money than they did, which, I understand would be hard to do because of its low box-office appeal. However, when quality movies do not reflect their real draw and economic power, we are all affected in that producers no longer undertake those projects. When we bootleg or duck in for free, we are not just seeing a movie for free; we are fooling around with the delicate balances in market forces that are dependent on real demand, transparency, and accurate pricing.

In every example my students gave on their cards they had engaged in the behavior that ultimately bothered them because they had neglected to do the hard analysis initially: What are the real costs here? What if everyone did as I am doing? Who else is affected by my decision? For example, on the mortgage application misrepresentation of income confession, a real analysis of that ever-so-slight and ever-so-singular misrepresentation of income, we are forced to internalize just a little bit of responsibility for the Wall Street melt-down. Risk models on mortgage instruments were built on the assumptions we once made about mortgage applicants, loan approvals, and income verification. When borrowers circumvent those assumptions to obtain a loan, folks up and down the economic chain are affected. Before we blame the greed on Wall Street for our economic strife we do need a little introspection on our participation and contribution.

> *What are the real costs here?*
> *What if everyone did was I am doing?*
> *Who else is affected by my decision?*

There is a translation over to the healthcare field, with an example from Omnicare, a pharmacy services company that dominates the nursing home care market. Physicians follow Omnicare pharmacists' recommendations 80% of the time. McNeil offered rebates to Omnicare that increased with more Omnicare purchases of McNeil drugs. Omnicare pharmacists also received other perks from McNeil with the result being that Omnicare increased its J&J drug purchases from $100 million to $280 million per year. The other result was that McNeil paid a $98-million civil settlement for getting to close to that Medicare kickback line. That line is a fine one, one that requires introspection and a daily dose of, "Have I gone too far with this sales program?"

Yet another translation comes from Pfizer and its $2.3-billion fine to settle charges that its sales reps crossed another fine line between selling a drug for its approved purpose and touting it for non-FDA-approved uses. This situation involves an even tougher close call because how does a sales rep respond when a doctor asks about a study and a use? Daily vigilance through constant examples of issues the sales force experiences is the stuff of prevention. The translation of the law, that you cannot promote your company's drug for a purpose not approved by the FDA, is lost somewhere in those sales calls because those who are in the trenches each day are not asking the following: What happens if everyone does what I am doing? What do I gain for the company through this action? What does the company lose if I have crossed that line?

If bells and whistles went off each time a toe went over the line we would self-monitor. Sometimes the bells and whistles are delayed because we are at a place that is too close to call or no one was monitoring enough to catch the slip. Internalizing those moments and translating them from "in theory" to "in practice" requires a bit more attention to that question, "What did you do in the past year that still bothers you?" Answer that question and then fix the bother. **NP**

Marianne M. Jennings is a professor of Legal and Ethical Studies at the W. P. Carey School of Business, Arizona State University where she teaches graduate courses in the MBA program. Professor Jennings has authored hundreds of articles in academic, professional and trade journals. Her latest book 'Business Ethics: Case Studies and Readings," was published in January 2009. Her book, the 'The Seven Signs of Ethical Collapse' (St. Martin's Press), published in 2006, has received several book awards, including recognition from Library Journal. You can reach her at Marianne.Jennings@asu.edu.