To understand the future of business ethics, it is first necessary to first review the history of business ethics. We provide that detailed historical overview in Chapter 2. Today’s business ethics has moved beyond identifying ethical issues, developing codes of ethics, and developing and implementing elements of the business ethics program to prevent misconduct. As we move forward, there will be a greater emphasis on audits, measurement, and performance evaluation metrics. No longer is it adequate to have a static ethics program. We are seeing a greater interest in understanding the costs, performance benefits, and improvements in this dynamic program that will not only prevent ethical misconduct, but, also assist in building an organizational culture that improves overall business performance. Stakeholders expect high organizational performance in the business ethics area.

One of the expected major advances in business ethics will be developed in the global arena. We expect global corporations to develop global standards, values, and compliance that are both an umbrella reflecting the overall organization’s culture and specific to cultures and regions where the company operates. Greater interest will occur in the co-development with global employees of ethics programs, codes, training and evaluation against the goals and objectives of the program.

Our objective in this chapter is to try to look into the future and predict expected developments and changes over the next 3-5 years. In order to accomplish this objective, we will first provide a foundation of the current developments in managing organizational ethics and compliance initiatives.

**Overview**

There are several reasons for organizations to develop an effective ethics and compliance program. First, today organizations are recognizing that ethical risks exist and management of those risks provides the best opportunity to avoid misconduct. Organizations face significant threats from ethical
misconduct and illegal behavior from employees and managers. Well meaning managers often devise schemes that appear legal, but are so ethically flawed they result in scandals and legal issues. There is a need to identify potential risks and uncover the existence of activities or events that relate to misconduct. Risk management is a prioritization process involving and focusing on risks associated with a high probability of occurrence (Ferrell, Johnston, Ferrell, 2007). There must be a plan and infrastructure to determine what is happening and deal with it as soon as possible rather than covering up, ignoring, and assuming that no one will ever find out about ethical and legal lapses. There is a need to discover, disclose, expose, and resolve issues as they occur. All firms have misconduct and discovering and dealing with these events is the only effective way to be successful in today’s complex regulatory system. The existence of plaintiff friendly civil litigation can destroy reputation and draw intense scrutiny to a company (Brewer, Chandler, Ferrell, 2006).

Second, in the United States, the Federal Sentencing Guidelines for Organizations (FSGO), which went into effect in 1991, with significant amendments in 2004, generally tie potential penalties for violations of the law to the quality of corporate ethics and compliance programs. The United States Sentencing Commission, which developed the guidelines, recommends strict and severe enforcement of existing regulations and statutory requirements, particularly in cases where companies have failed to take proactive actions to promote ethics and compliance. Judges, courts, and regulatory agencies look for evidence of a proactive commitment to ethics including the existence of strong compliance programs, evidence of voluntary disclosure of misconduct, and evidence of full cooperation in the investigation of misconduct. Failing to find such evidence, the commission recommends that judges enforce regulations and sentencing without any mitigation.

Global firms doing business in the United States are subject to these requirements and a number of countries are developing similar regulations to promote ethical conduct, including Australia, Canada and much of Europe. Since most large corporations engage in global business in the Unites States or establish U.S. subsidiaries, failure to create an effective ethics program in the U.S. could leave them open
to prosecution based on the U.S. Sentencing Guidelines for Organizations. Therefore, for countries with corporations operating in the U.S. there is an advantage to adopting legislation similar to the U.S. Federal Sentencing Guidelines for Organizations. The requirements imposed by the United States with the Sarbanes-Oxley Act (SOX) are also significant for ethical planning. This legislation has created new requirements for accountability and ethical conduct as a result of the corporate financial scandals in recent years. The major provisions of the SOX include criminal and civil penalties for noncompliance violations, certification of internal auditing by external auditors, and increased disclosure regarding all financial statements. In addition, the law mandates codes of ethics for senior financial officers and disclosure of audit committee financial experts.

Third, the 2004 amendment to the Federal Sentencing Guidelines for Organizations require that a business’s governing authority is well informed about its ethics program with respect to content, implementation, and effectiveness. This places the responsibility squarely on the shoulders of the firm’s leadership, usually the board of directors. The board must ensure that there is a high-ranking manager accountable for the day-to-day operational oversight of the ethics program. The board must provide for adequate authority, resources, and access to the board or an appropriate subcommittee of the board. The board must ensure that there are confidential mechanisms available so that the organization’s employees and agents may report or seek guidance about potential or actual misconduct without fear of retaliation. Finally, the board is required to oversee the discovery of risks and to design, implement, and modify approaches to deal with those risks. If board members do not understand the nature, purpose, and methods available to implement an ethics program, the firm is at risk of inadequate oversight in the event of ethical misconduct that escalates into a scandal (Brewer, Chandler, Ferrell, 2006).

European business ethics has also been formally institutionalized through laws over the last five years. In many areas, U.S. and European approaches and laws differ. This is a real concern for firms attempting to develop policies that can be used globally. For example, in Europe, privacy is different
from the U.S. as well as other countries. Personal information cannot be collected without the consumers’ permission. Employers cannot read employees private emails. Store employees cannot ask consumers phone numbers at the retail checkout station. These laws are associated with the European Directive on Data Protection (1995) which mandated each European Union nation to pass a privacy law and create a data protection authority (Sullivan, 2006).

The Role of an Ethical Corporate Culture

However, organizations in all countries cannot emphasize legal compliance at the expense of developing an ethical corporate conscience. Training, educating, and motivating employees to act in ways consistent with both legal requirements and ethical expectations is at the core of planning to prevent and manage misconduct. Organizations establish the values, behavioral norms, and create artifacts that employees observe about daily life within the firm. This is achieved explicitly through codes of conduct and statements of values/ethics documented in organizational communication. Employees learn expectations and know if values and codes are authentic or just shallow attempts to prevent legal and civil liability. Culture includes anecdotes about company heroes and villains, treatment of customer complaints, treatment of employee complaints, how meetings are conducted, and in which behaviors and accomplishments get rewarded and recognized compared with which behaviors are criticized, ignored, or punished.

Managers cannot motivate employees or coordinate their efforts without effective communication about values, standards, and expectations. Communication is important in providing guidance for ethical standards and activities that provide integration between the functional areas of the business. No program can be implemented without complete understanding of its objectives and employee cooperation to make
it work. While most managers and employees don’t have “ethics” in their job title, everyone is ultimately accountable (Brewer, Chandler, and Ferrell, 2006).

**Ethical Leadership**

To move from just being an ethical person in everyday life experiences to being an ethical leader in a corporation requires synchronizing the development of both character and competence. Leaders must be competent in understanding organizational ethics and the requirements to implement programs. Leadership requires an understanding of the firm’s vision and values, as well as the challenges of responsibility and risk in achieving organizational objectives. The West Point model would suggest that character and competence must be developed simultaneously. Character alone will result in failure and competence without character will result in misconduct and eventually failure. Lapses in ethical leadership do occur even in people who possess strong ethical character, especially if they view the organization’s ethical culture as being outside of the realm of decision making that exists in the home, family, and community. This phenomenon has been observed in countless cases of so-called good community citizens engaging in ethical misconduct that sometimes lead to corporate ethical disasters. An ethical individual can be a cautious and conforming participant in a corporate culture that tolerates unethical conduct (Brewer, Chandler, and Ferrell, 2006).

In the long run, if a company’s leader fails to satisfy stakeholders, he or she will not retain a leadership position. In today’s earnings driven world, many top managers think only of the bottom line and quarterly expectations. Leadership requires knowledge of complex regulation related to SOX, FSGO, and other international regulatory agencies. The National Business Ethics Survey by the Ethics Resource Center found in their 2005 study that 81% of employees trust the promises of top management. This
means that almost 1/5 of all employees are skeptical. In addition, the study found that 42% of companies have a weak ethical culture (Ethics Resource Center, 2005).

Ethical leaders are competent managers who take a holistic view of the firm’s ethical culture. Ethical leaders can see a holistic view of their organization and therefore view ethics as a strategic component of decision making, much like marketing, information systems, production, and so on. You don’t want key employee or issue information trapped in a “silo” structure not coordinating information between human resource management, legal, auditing, and ethics. Without the ability to coordinate these domains key oversight and understanding will be lost.

In addition, employees need guidance on where to go for assistance from managers or other designated personnel in resolving ethical problems. To communicate ethical values and implement an effective ethics program, there must be interaction including monitoring, reporting and answering concerns and questions about issues and events.

Dealing with the Risk of Misconduct

An ethics and compliance program needs to develop and support an ethical corporate culture. Employees should know that they will be supported if they do the “right thing” in all situations where this is an opportunity to engage in misconduct or to be complacent when others engage in misconduct. The Ethics Resource Center, reported in its 2005 National Business Ethics Survey (NBES), that 52% of employees observed at least one type of misconduct in the past year. Just over one-half (55%) reported the misconduct to management, a 10 percentage point decrease since the 2003 NBES survey (Ethics Resource Center, 2005). In addition, organizations with strong ethical cultures and full formal programs are less likely to observe misconduct. Formal programs were found to be an essential element of a strong culture.
The reality is that employees are at high risk for observing or engaging in misconduct. According to the NBES survey, one-third of all employees encounter a situation at work that they think invites ethical misconduct. Of those employees, 74% also observed at least one act of misconduct. Formal programs and strong ethical cultures significantly reduce the pressure to engage in misconduct, observe misconduct, and report misconduct. The Open Compliance Ethics Group reports that firms that have effective programs and culture do not have scandals and events that cause significant legal or reputation damage. Therefore, we should assume that the only way to effectively detect and prevent serious organizational misconduct is through effective ethics and compliance programs.

**The Role of Monitoring and Reporting in Ethics Programs**

Corporate America seems to be moving quickly to install important components of formal programs. In 2005, the NBES survey reported that 73% of employees say they firms have a means which they could use to report misconduct anonymously, an increase of 7 percentage points over 2003. Also, the NBES survey indicated that 65% of U.S. employees have a place where they can seek ethics advice, 21 percentage points more than in 2003. The ability of an organization to discover misconduct depends on integrated systems and reporting mechanisms (Ethics Resource Center, 2005).

Questionnaires that survey employees’ perceptions of the ethics of their superiors, colleague, and themselves, as well as their ratings of ethical or unethical practices within the firm and industry can serve as benchmarks in an ongoing assessment of ethical performance. Then, if unethical behavior is perceived to increase, managers will have a better grasp of what types of misconduct are occurring and why. A change in the ethics training within the company may be a necessary response.
Monitoring and reporting events is an ongoing activity that requires measuring organizational performance against the firm’s stated ethical standards. Compliance can be appraised through the observation of employees and adopting a proactive approach to dealing with ethical and legal issues. An effective ethics program uses investigatory reporting and case management systems, not just any reporting. While anonymous reporting through electronic systems can identify issues, more advanced case management systems assist with analysis, investigations; follow up, tracking and reporting. Sometimes external auditing of other organizations’ programs can be helpful in developing benchmarks of compliance. In 2005, the Open Compliance Ethics Group developed a Benchmarking Study to identify gaps in programs and evaluate programs against an objective standard.

An advanced case management systems for employees to report their observations of wrongdoing or ask questions is particularly valuable in large corporations and government agencies. A growing number of organizations have established case management systems to offer support and give employees an opportunity to register ethical concerns. Initially, these were operated internally, but the trend today is for companies to outsource their anonymous reporting to firms with expertise in managing electronic reporting methods and providing other compliance services. While there is always some worry that people may misreport a situation or misuse the system to retaliate against another employee, anonymous reporting has become widespread and employees do utilize them.

Effective monitoring systems also require prompt investigation of any recognized or suspected misconduct. Once an investigation is complete, the ethics officer or other appropriate manager needs to make a recommendation to senior management on how to respond. In some cases, a company may be required to report substantial misconduct to a designated government or regulatory agent. As with simple telephone or email reporting (hotlines), there is a growing number of experts and consulting firms providing services that can businesses can rely on to manage incidents of misconduct, sometimes called case management. Case management creates a dashboard to record observations of misconduct,
anonymously where applicable, and to track and manage these reports. The case management system helps in investigations, analysis, resolutions, and documentation of misconduct reports. Among the benefits of such systems is that the management of conflicts can help prevent the possibility of lawsuits and that shared management and prevention can help a company analyze and learn about ethical lapses.

The European Commission has developed a program to encourage the reporting of concerns through ‘hotlines’. The Commission funds hotlines across Europe to allow the public to report illegal content on the internet. This initiative is designed to protect children and reduce spam on the internet. Conversely, there is a real problem in European firms establishing confidential whistle-blowing hotlines or internal reporting systems. The French maintain that hotlines cannot be anonymous. They believe that anyone named by a reporter should be told of the complaint, including who is making it. European Union Data Protection Laws give individuals the right to know what data are being examined related to their activities. Therefore, U.S. firms operating in Europe will have to conform with E.U. laws to make sure data conforms with all privacy requirements (Ethics News, 2007). Corporations with international operations report that 78% offer a translation service with their global ethics line. In addition, 65% say their ethics hotline is available from international operations via telephone, and 60% indicate their hotlines are available through the internet. Despite this availability, non-U.S. call volumes represent less than 1% of all hotline calls (ECOA, 2006).

Assessing the Benefits of Ethics and Compliance Programs

An ethics programs should be regularly assessed or audited to determine its effectiveness. In particular, it is useful to focus on the key factors that influence how ethical decisions are made, including organizational culture, peers, superiors, and formal systems of reward and punishment. Understanding the
ethical issues in an assessment can help in refining the codes of ethics and developing other programs to encourage ethical behavior in your organization.

What are the rewards of ethics and compliance? An Open Compliance Ethics Group study indicates that among companies with an ethics program in place for 10 years or more, none has experienced damage to their reputation in the last 5 years. The U.S. Sentencing Commission reports no firm with an effective ethics and compliance program was sentenced in the last five years. Communication by the firm’s leadership helps keep the firm on its ethical course, and these executives must ensure that the ethical climate is consistent with the company’s overall mission and objectives. Developing a values-based orientation fosters a system that provides a core of ideals such as respect, honesty, trust, and responsibility. In a values-centered program, employees become more open, are willing to deliver necessary information to supervisors, and generally begin to feel comfortable about how to make decisions in situations where there are no defined rules (Brewer, Chandler, and Ferrell, 2006).

Into the Future

The future of business ethics programs relates to improved effectiveness and the measurement of performance. As improvements are made, business ethics programs will take on the same degree of complexity as accounting and risk management programs that exist today. Business ethics programs will continue to focus on organizational culture at the center of an effective program. The Business Roundtable Institute for Corporate Ethics (2007) business leaders were given the following directives: 1.) identify and support values within the organization that contribute to instilling an ethical organizational culture, 2.) evaluate ethical behavior in the annual performance and evaluation process, 3.) work more closely with institutions of higher education and share best and worst practices, 4.) recognize the importance of ethics experience and expertise in recruiting, particularly at the senior management and board level.
As Figure 1 indicates, the framework in organizations will focus on risk management, governance and compliance. At the heart of the program is the ethical culture with values, norms, and leadership that provides role models and daily support for ethical decisions.

Figure 1


As we learn more about how to develop an ethical culture there will be measurement of results and even ‘performance dashboards’ that identify results from case management, customer feedback, employee surveys, investigations and correction action trends. Results will be measured from both a subjective and objective perspective. Objective results could come from performance appraisals and subjective results could be management assessment of progress. According to the Open Compliance Ethics Group, to determine if an overall program is effective will require the following steps. First, there must be a risk assessment. This will identify significant risks and program design to prevent misconduct. Second, design effectiveness relates risks to controls, incentives, and structures in place that provide assurance of achieving objectives. Risk assessment should also include the nature of the industry, size and scope of operations.
Next, operating effectiveness of ethics programs is required from both direct and indirect information. This information can be obtained from observation, control testing, inference, and indirect measures that reflect the effectiveness of an ethics program. Finally, reporting systems at all levels are required for measurement.

The main focus for the future of business ethics is business ethics effectiveness and high performance. The legalization of business ethics not only requires effectiveness, but, stakeholder expectations of a high performance program in business ethics is increasing rapidly. This moves the ethics programs beyond preventing misconduct or just discovering and repairing problems to excellence in values. Organizations will be judged by their reputation in not only prevention, but in all their interfaces with stakeholders such as employees, customers, suppliers, and regulators. Regulators may be satisfied if laws are not violated, but employees, customers and other members of society will demand other forms of performance validation to determine the overall effectiveness of the program. Stakeholders will want to deal with organizations that have a commitment to ethics and authentic values.

These developments indicate that we have moved from taking an individual approach to business ethics to a more systemic approach that involves leadership, management, and compliance throughout the functional areas of the business. Organizations do recognize that personal values and character are important in ethical decision-making, however, they are only one of the components that guide the values, policies, decisions, and implementation of corporate strategies. The burden of business ethics cannot be outsourced to lawyers, accountants, investment firms or just met with rigid compliance standards. The firm must plan, structure resources, and achieve ethical performance that meets the expectations of stakeholders.
Conclusions

The institutionalization of business ethics has advanced rapidly on a global basis over the last five years. Institutionalization has been accomplished through required mandates in government policy. Some mandates, such as the U.S. Sentencing Commission recommendations only apply when examining misconduct or a possible violation of law after the event. There are no program reports on a regular basis to determine effectiveness. The U.S. Sarbanes-Oxley Act, E.U. Directive on Data Privacy, and other regulatory initiatives attempt to create proactive due diligence initiatives to help prevent misconduct. Mandated activities will increase as laws, rules, regulations, and other requirements try to standardize business ethics to prevent violations of the law.

Core or best practices developed by trade associations such as the Better Business Bureau, Ethics and Compliance Officer Association, European Business Ethics Forum, and the European Business Ethics Network all provide highly appropriate conduct to engage in industry self-regulation and stakeholder expectations. Core practices go beyond mandated laws and more toward achieving the high expectations of society. Good core practices give firms a ‘buffer zone’ that protects them from just trying to obey the minimum requirements of the legal system.

The future of business ethics depends on the voluntary practices used to build a strong ethical culture. Values, norms, and the artifacts of business ethics represent the tangible evidence of a high performance business ethics initiative. There is much research needed to guide the development of business ethics in understanding and developing ethical organizational cultures. This provides an opportunity for academic researchers to partner with businesses in gathering information, developing case studies, and analyzing best core practices. Just as a good accounting or information systems requires resources and commitment, a business ethics initiative requires this same level of commitment.
Good business ethics practice can be assisted by the organization hiring good character individuals. However, because individuals have different philosophies and views on how to make business ethics decisions, there must be shared values and standards for managing appropriate decision making. In fact, many successful organizations value and embrace diversity of individual values and are more successful in this openness. In the end, an organizational-wide, cross-functional cooperation and the integration of risk, governance, and compliance will yield the most effective results. Appropriate commitment and oversight from the board of directors or governing authority should provide the proper resources and evaluation. The future of business ethics is bright and provides many opportunities for careers and a better world. Good business ethics will continue to translate into good business performance.
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