

ETHICAL AND LEGAL IMPLICATIONS OF WHITE COLLAR CRIME: WHAT STUDENTS NEED TO KNOW

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INTRODUCTION

In a recent issue of a local newspaper, area teens were given the opportunity to express their opinions of surveillance cameras installed by their employers. The teen who opposed the cameras based her criticism on the lack of need for such measures: "The worst that my fellow workers ever did was to give out a free item of food to a friend or trade with another restaurant establishment for lunch...."¹ To this young woman, stealing the products of the firm where she worked is, if not acceptable, clearly something that should not have concerned her employer enough to warrant the installation of surveillance cameras intended to prevent or reduce such behavior. Further, she feels secure enough in her opinions to offer them for publication in a newspaper that will be read by her past and current employers, as well as her teachers and colleagues.

This attitude, if it is representative of a large portion of the student population, concerns business law professors and others who teach business ethics. It exemplifies a level of ignorance of legal and ethical issues that should impact what is taught in business law and ethics courses. In most courses, the instructor assumes a basic level of knowledge already achieved by the students and designs the course to build on that base. If that assumption is incorrect, the overall goals of

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¹ Saerra Link, *Cameras Show Lack of Respect, Create Distrust in the Workplace*, MISSOULIAN (Missoula, Mont.), August 3, 1999, at C1.

the course may be difficult to achieve. Thus, evidence of exactly where the baseline lies may assist business law and ethics instructors in designing more successful courses.

This paper presents evidence about the degree to which college students understand the legal and ethical ramifications of acts that represent white collar theft or breach of fiduciary duties. The acts investigated in this study are not complex acts that require sophisticated analysis. Rather, they are simple acts that most business people, particularly most employers, would agree represent unethical and illegal behavior. The perceived seriousness of the acts is also investigated in an effort to determine if the students understand potential consequences. The findings may serve as a baseline to inform efforts aimed at improving how we teach business law and business ethics.

BACKGROUND

In business law classes, students commonly learn about contract law, legal liability, and other related topics. Instructors rarely expose students to how pervasive white-collar crime and theft are in the workplace. Time limitations and an already packed curriculum do not permit discussions of breach of fiduciary duty and conversion of company time and assets.² The cavalier attitude of the young woman in the introductory example should give pause to those who teach business law. It seems that the young woman was unaware that she was discussing and dismissing crimes committed by her colleagues. Emphasizing white-collar theft and breach of fiduciary duty in the business law curriculum would be an important first step in meeting this need. However, addressing the ethical aspects of these issues is more complex. The goals of business ethics education are not simply to transmit a discrete set of facts, but rather to develop in students the ability to understand ethical issues and apply ethical considerations in future decision-making. In addition, most ethics education is not lecture-based, but is more discussion-oriented, relying on the opinions, values and experiences that students bring into the course.

² The most frequently used texts take varying approaches to the inclusion of white-collar crime. For example, DOUGLAS WHITMAN & JOHN WILLIAM GERGACZ, *LEGAL STUDIES OF BUSINESS* 392-94 (1991), gives the topic two pages of coverage under breach of fiduciary duties; VICTOR D. LOPEZ, *LEGAL ENVIRONMENT OF BUSINESS* 38-41 (1997), includes three pages under criminal law; TONY MCADAMS & LAURA B. PINCUS, *LEGAL ENVIRONMENT OF BUSINESS* 429-32 (1997), provides four pages of coverage in the chapter on insider trading and white-collar crime; HENRY R. CHEESEMAN, *BUSINESS LAW* 147-50 (2000), covers the topic in three pages along with RICO and criminal fraud; and ROGER E. MEINERS ET. AL., *THE LEGAL ENVIRONMENT OF BUSINESS* 124-30 (2000), gives the topic eight pages in the

Goals of Business Ethics Education

Business ethics education has been widely implemented in response to the perceived level of unethical behavior.³ Logically, then, one goal of ethics education would be to increase the ability of graduates to conduct themselves in a manner that society regards as not only legal, but also ethical. However, this goal is rarely cited in discussions of business ethics education. In fact, some commentators have specifically recommended that a change in students' attitudes should *not* be the goal of ethics education.⁴ The reason for this academic caution is that attempts to change students' attitudes and behavior immediately provoke concerns of indoctrination. Some instructors are reluctant to take on the goal of directly telling students how to behave, and may fear being seen as imposing a personal moral view on others.⁵

Unfortunately, the alternative of merely presenting the various theories of ethics or alternate world-views and leaving the students to choose for themselves has met with some criticism as well.⁶ Some claim that this method of exposure, rather than behavioral and attitudinal changes, leads to the touting of moral relativism⁷ as a specific moral standard. Students may be led to believe that ethical considerations are completely situational,⁸ and that they may use the different theories as

³ The concerns about ethics in business arose due to such well-publicized incidents as the saving and loan disaster, the Exxon-Valdez oil spill, and insider trading scandals. In addition, there is a growing perception on the part of the public that business is an unethical game. LINDA K. TREVINO & KATHERINE A. NELSON, *MANAGING BUSINESS ETHICS* 7 (1999). See also JACK MAHONEY, *TEACHING BUSINESS ETHICS IN THE UK, EUROPE AND THE USA* 4-6 (1992); THOMAS PIPER ET AL., *CAN ETHICS BE TAUGHT?* 1-4 (1993); William H. Shaw, *Business Ethics Today: A Survey*, 15 *J. BUS. ETHICS* 489, 489 (1996).

⁴ In 1977, the National Endowment for the Humanities sponsored a committee to study how ethics should be taught in business schools. The study concluded that students in business ethics courses should learn about basic ethical concepts (ideas such as virtue, justice, and truth) and major ethical theories, but explicitly stated that a change in attitude should not be a goal of a business ethics course. MAHONEY, *supra* note 3, at 23. See also Gael M. McDonald & Gabriel Donleavy, *Objections to the Teaching of Business Ethics*, 14 *J. BUS. ETHICS* 839, 841 (1995).

⁵ MAHONEY, *supra* note 3, at 28; JAMES REST ET AL., *POSTCONVENTIONAL MORAL THINKING: A NEO-KOHLBERGIAN APPROACH* 19 (1999).

⁶ MAHONEY, *supra* note 3, at 38; JAMES REST, *MORAL DEVELOPMENT: ADVANCES IN RESEARCH AND THEORY* (1986); Shaw, *supra* note 3, at 495.

⁷ Moral relativism refers to the belief that right and wrong are not universally determinable. Individual relativism means that if an individual believes an action is right, then, *for that individual*, it is right. Cultural relativism allows that right and wrong is determined at the cultural level, but may vary between cultures. Philosophers have tended to avoid this approach, since, at its worst, it leads to no solid values at all. TOM L. BEAUCHAMP & NORMAN E. BOWIE, *ETHICAL THEORY AND BUSINESS* 8-10 (1997).

⁸ Situational ethics refers to the application of a moral principle in some situations but not others. For example, it is generally wrong to lie, but when your friend gets a terrible haircut, it is unethical to tell her the truth.

a means of justifying almost any action.⁹ More cynically, this method of exposure to theories may simply enable students glibly to rationalize self-serving behavior without creating any real commitment to valid choices and ethical behavior.¹⁰ Thus, the goals of business ethics education have been to sensitize students to the ethical component of business decision-making, to prepare the students for the ethical dilemmas they may face in practice and to provide them with a framework within which to make ethical decisions.¹¹ No one has demonstrated that the achievement of these goals will result in greater ethical behavior.¹² Clearly, however, the absence of such education creates the risk that our future business leaders will employ no ethical considerations in their decision making. If an important area such as white-collar theft or breach of fiduciary duty is omitted from class coverage and discussions, we miss the opportunity to decrease such actions and their resulting harm to business.

Methods of Teaching Business Ethics

The methods generally employed in business ethics education have been consonant with its goals. The most frequently employed technique is the case method.¹³ Professors present the students with an ethical dilemma and ask them to determine how it should be resolved. Discussions fostered by this method are intended to increase student awareness of the issues involved, improve their ability to understand the impact of their decisions on stakeholders and (hopefully) increase their ability to take the appropriate action even in the face of potential negative consequences to themselves.

Various models of decision-making have been proposed to assist in the process. One frequently used model is the seven-step model.¹⁴

⁹ Shaw, *supra* note 3, at 494.

¹⁰ McDonald & Donleavy, *supra* note 4, at 844.

¹¹ Most lists of goals of business ethics education do not include either increased ethical behavior in practice or a change in attitude. Increased ethical sensitivity (the ability to recognize that a decision has ethical implications) is sometimes cited. R. EDWARD FREEMAN, *BUSINESS ETHICS: THE STATE OF THE ART* 77-82 (1991); MAHONEY, *supra* note 3, at 24; Neil Hendon, *A New Context for Ethics Education Objectives in a College Business: Ethical Decision-Making Models*, 15 *J. BUS. ETHICS* 501, 505 (1996).

¹² REST, *supra* note 6, at 87.

¹³ Many business schools offer a stand-alone ethics course, while others attempt to integrate ethics across the curriculum. Methods used vary widely, but cases are nearly always mentioned. MAHONEY, *supra* note 3, at 34-35; Shaw, *supra* note 3, at 493.

¹⁴ The seven-step model involves proceeding through seven steps in the solution of an ethical dilemma. The seven steps are: (1) Identify the relevant facts; (2) Identify the ethical issues; (3) Identify the primary stakeholders; (4) Identify the possible alternatives; (5) Consider the ethics of the alternatives; (6) Identify the practical constraints; and (7) Decide what to do. See, e.g., Sally Gunz & John McCutcheon, *Are Academics Committed to Accounting Ethics Education?*, 17 *J. BUS. ETHICS* 1145, 1149 (1998); Sara Ann Reit

requires the decision-maker to follow a well-defined procedure in making an ethical decision, ensuring that the important issues will be weighed, and that the effects on concerned parties will be determined and considered as the decision is made. Other such decision-making schemes have also been suggested, such as lists of questions to be posed when resolving an ethical dilemma.¹⁵

In addition to case discussions, many business ethics courses provide an exposition of the various ethical philosophies. Students study the difference between the duties,¹⁶ justice,¹⁷ utilitarian,¹⁸ principles,¹⁹ and virtue perspectives,²⁰ and the ethics of care.²¹ Professors expect students to learn to apply these perspectives to an ethical dilemma or to assess which perspective would lead to a given resolution.²²

Principled Moral Reasoning v. Moral Imagination: Seven Steps v. Seven Habits, 14 J. LEGAL STUD. EDUC. 163, 164-65 (1996).

¹⁵ Other decision models have much the same goals as the seven step method: provide some structure to the decision-making process, explicitly recognize the ethical component to the decision, and encourage the decision maker to consider all stakeholders and several alternatives. McDonald & Donleavy, *supra* note 4, at 850.

¹⁶ A duties perspective requires that behavior be based on the responsibilities one has to others. An employee should not give free food to her friends since she has a duty to her employer to behave in his/her best interest. See, e.g., TREVINO & NELSON, *supra* note 3, at 81-83.

¹⁷ A justice perspective focuses on the rights of the parties to the decision. Every person has the right to behave as they please as long as they do not violate the rights of another. Giving free food to one's friends violates the rights of one's employer to control his assets as he desires. See, e.g., BEAUCHAMP & BOWIE, *supra* note 7, at 35-36.

¹⁸ A utilitarian believes that the ethical decision results in the greatest good for the greatest number of people. The outcome is important rather than the process of making the decision. A utilitarian would find giving free food to one's friends unethical because the action benefits only the friends and oneself and harms the owner and other customers (in the form of increased prices to compensate for the theft). See, e.g., BEAUCHAMP & BOWIE, *supra* note 7, at 22-24; TREVINO & NELSON, *supra* note 3, at 80-81.

¹⁹ A principles perspective suggests that there are "grand principles" which should be followed in every situation. Accordingly, no one should give free food to his friends because stealing is wrong. Note that for a utilitarian, stealing could be ethical if it resulted in a greater good for more people. See, e.g., BEAUCHAMP & BOWIE, *supra* note 7, at 33-34; TREVINO & NELSON, *supra* note 3, at 82.

²⁰ A virtue perspective can be most clearly seen in the writing of the classical philosophers such as Aristotle. They believed that men should work to develop a good character for their own benefit because that would make them a better, healthier, happier person. A virtue perspective would not encourage providing free food to one's friends since it sacrifices long-term growth for short-term pleasure. See, e.g., TREVINO & NELSON, *supra* note 3, at 83-84; THOMAS WHITE, BUSINESS ETHICS: A PHILOSOPHICAL READER 2-4 (1993).

²¹ The ethics of care is a feminist perspective that requires a concern with relationships and the well-being of others. Giving away free food has the potential to destroy one's relationship with one's employer and fellow employees, and may even produce negative consequences for the friend who received the food, since they will come to expect a privilege they may not always receive. See, e.g., BEAUCHAMP & BOWIE, *supra* note 7, at 39-40.

²² MAHONEY, *supra* note 3, at 23; Shaw, *supra* note 3, at 494.

Some have criticized the current manner in which business ethics is taught as relying too much on cognition.²³ That a person can apply the proper procedure and determine the best action does not guarantee that he/she will pursue that course of action. Many authors have stated that there is a strong emotional component that determines the ultimate outcome of an ethical decision.²⁴ Current practice largely ignores this component in business ethics courses. To the extent that emotional commitment is a necessary precursor to ethical behavior, the ultimate effect of ethics courses that rely mainly on cognitive techniques may be small.

Another criticism of the current method of teaching ethics relates to the types of cases that we employ. These cases often focus on decisions that relate exclusively to upper management and CEOs and thus may lack relevance for business students and even young professionals.²⁵ The purpose of this paper is to explore actions in business at the employee level, rather than upper management. Potentially, the results can be used to develop a unit of business law and business ethics education that focuses on issues the students will face almost immediately after graduation.

Ethics of College Students

In order to convey the results of this study, we present a brief review of prior research regarding the ethics of business students. A thorough review of the literature involving the ethics of college students is beyond the scope of this paper.²⁶ Instead, the following section reviews the types of studies that are commonly done and provides at least one example of each.

Many studies which assess the ethics of college students rely on measures of ethical understanding (i.e., the type of reasoning employed by the individual in deciding which actions are appropriate in any given circumstance) such as Kohlberg's Moral Judgement Interview²⁷ or Rest's

²³ Most notably, virtue ethics and the ethics of care require that such things as character and feeling be considered. See also Shaw, *supra* note 3, at 493.

²⁴ See, e.g., RUSSELL W. GOUGH, CHARACTER IS DESTINY 53-57 (1998).

²⁵ Shaw, *supra* note 3, at 493; TREVINO & NELSON, *supra* note 3, at 15.

²⁶ See Susan C. Borkowski & Yusuf J. Ugras, *Business Students and Ethics: A Meta-Analysis*, 17 J. BUS. ETHICS 1117 (1998), for a meta-analysis of fifty-six such studies.

²⁷ Kohlberg believed that all people progress through distinct stages of ethical understanding. The highest stage, which he believed that very few people actually attain, is principled reasoning. The principled person bases her action on achieving justice and preserving individual rights. The moral judgement interview consists of providing subjects with a moral dilemma and then recording the reasoning they employ to resolve it. Interviewers use a complicated scoring system to determine the stage of the subject based

Defining Issues Test.²⁸ Research has shown that ethical understanding increases with age and education.²⁹ In general, then, one might expect the ethical understanding of business students to be less than that of business professionals. Further, the type of education seems to be important. For example, theology students develop higher levels of ethical understanding than other types of students,³⁰ and accounting students in a liberal arts school develop higher levels of ethical understanding than students in a more technically oriented program.³¹ There is some evidence that business students tend to display lower levels of ethical understanding than non-business students.³² However, there is also evidence that some of the business students (specifically, those majoring in accounting and finance) achieve higher levels of ethical understanding than liberal arts majors.³³

Other studies on the ethics of business students rely on responses to specific ethical dilemmas. The way students determine what their response would be is then categorized according to how much it corresponds to a particular ethical philosophy, such as utilitarianism, deontology,³⁴ or egoism.³⁵ The studies do not classify subjects as more or less ethical, but as more or less likely to rely on a particular philosophy. A work by Galbraith and Stephenson provides an example of this type of study.³⁶ They found that, while the effect is not constant across various situations, women tend to use a utilitarian perspective most

²⁸ The Defining Issues Test presents subjects with a moral dilemma and asks them to rank order considerations that would be important in resolving the dilemma. The result of the test is that each subject is assigned a p-score indicating the percentage of time he/she choose considerations that represent principled reasoning according to Kohlberg's taxonomy. See REST, *supra* note 6.

²⁹ See *id.* for a review.

³⁰ *Id.*

³¹ Lawrence Ponemon & Alan Glazer, *Accounting Education and Ethical Development: The Influence of Liberal Learning on Students and Alumni in Accounting Practice*, 5 ISSUES ACCT. EDUC. 195, 201-203 (1990).

³² Kent E. St. Pierre et al., *A Study of the Ethical Development of Accounting Majors in Relation to Other Business and Nonbusiness Disciplines*, 2 ACCT. EDUC. J. 23, 28-30 (1990). TREVINO & NELSON, *supra* note 3, suggests that this lower level of ethical development in business students provides evidence that they are in need of ethics education.

³³ Cynthia Jeffrey, *Ethical Development of Accounting Students, Non-Accounting Business Students and Liberal Arts Students*, 8 ISSUES ACCT. EDUC. 86, 93-95 (1993).

³⁴ Deontology is a category of ethical philosophy that includes duties, rights and justice. The basic premise is that the act itself should be assessed rather than its outcome. Its opposite is teleology, which requires assessment of the outcome rather than the intentions or reasoning when making the decision to act. See, e.g., WHITE, *supra* note 20, at 4-11.

³⁵ Egoism is the philosophy of self. An action is appropriate if it benefit the actor more than harms him/her. See, e.g., BEAUCHAMP & BOWIE, *supra* note 7, at 14.

³⁶ Sharon Galbraith & Harriet Buckman Stephenson, *Decision Rules Used by Male and Female Business Students in Making Ethical Value Judgments: Another Look*, 12 J. BUS.

often. Men, according to this study, apply an egoist perspective most often.

A third type of study involves investigating the degree to which student responses conform to some standard of ethical behavior. This standard is commonly related to a professional code of ethics or to principles that have been established by a professional body. For example, Shafer and Park investigated the degree to which accounting students of varied racial backgrounds were willing to participate in activities about which the accounting profession has expressed repeated concern: violation of auditor independence, underreporting of audit hours and premature sign-off on audit steps.³⁷ Some studies of this type have found students to be less ethical than business professionals.³⁸

The current study is most closely related to this third type of study. This research contains no measure of *how* subjects reach a determination of what acts are ethical, but rather seeks to compare student responses to a preestablished norm. The norm, in this case, is not the proclamation of a professional body or the code of ethics of a particular firm, but rather legal and ethical principles that indicate that employees should not steal from their employers. In addition to the subjects' perceptions of the legal and ethical implications of the acts, the study examines how students view the potential consequences of engaging in such acts, in an attempt to determine the importance that they attach to such behavior.

METHOD

We assessed the attitudes of college students toward various acts of white-collar theft by administering a survey adapted from an exercise in a basic management textbook.³⁹ We asked respondents to rate several acts as either illegal, legal but unethical, acceptable or unsure (see Table 1 for a list of the questions contained in the survey instrument). Next, we asked respondents to rate the same list of acts as being just cause for disciplinary action by the employer or not. Finally, we asked respondents to indicate, for each act, whether the employer would be justified in dismissing an employee caught in the act or not.

The first set of questions was intended to determine if the students understand that the actions are not acceptable. The second and third sets of questions were meant to determine how serious the students

³⁷ William E. Shafer & L. Jane Park, *An Empirical Investigation of Cultural Differences in Ethical Decisionmaking Among U.S. Accounting Students*, J. EDUC. FOR BUS. 220, 224 (1999).

³⁸ See, e.g., Peter Arlow & Thomas Ulrich, *Business Ethics, Social Responsibility and Business Students: An Empirical Comparison of Clark's Study*, 11 AKRON BUS. ECON. REV. 11, 17-23 (1980); Barbara C. Cole & Dennie L. Smith, *Perceptions of Business Ethics: Students vs. Business People*, 15 J. BUS. ETHICS 889, 889-96 (1996).

³⁹ RICHARD DAFT & DOROTHY MARCIC, UNDERSTANDING MANAGEMENT (1998).

believe the actions to be. For example, a student may understand that taking a small amount of money from petty cash is illegal, but may believe that, since "everyone does it," it would be cause for only very light disciplinary action, if even that. This response reflects the attitude expressed in the opening example. The young woman seemed to believe that the little things that occurred should not cause her employer any concern, and he/she should certainly not undertake any action to put an end to such behavior.

We administered the survey to two sections of an introductory business law course as a class exercise. A total of 148 instruments were completed. Of those, 3 had to be discarded due to incomplete information. Of the 145 remaining participants, 89 were men and 56 were women. The majority of the respondents were sophomores (82), while some were juniors (42) and some were seniors (21). One hundred of the respondents listed their major as business, while 45 were majoring in a non-business field.

RESULTS

The beliefs of the students regarding the legal and ethical implications of the acts in the survey are presented in Table 1. Only three of the acts are seen by a substantial majority of the students as clearly illegal: stealing money, faking an injury to collect workman's compensation and damaging merchandise to allow a friend to purchase it at a discount. Conversely, only a small minority of the students perceived the acts to be completely acceptable. However, 10% of the students accepted most of the acts as both ethical and legal. In some instances, this number approaches 20%.

The students are remarkably consistent in their views. For example, failing to put in a day's work for a day's pay (questions 1, 2 and 4) elicits similar responses. The students clearly believe that they are under no legal obligation to work all the time during the workday, but they do understand that they have an ethical obligation to do so.

Similarly, students rate conversion of firm assets to personal use (questions 7, 8, and 10) in a consistent manner, except that taking office supplies is seen as more likely to be illegal, while the other two acts are more likely to be rated legal but unethical. A notable exception to this use of business assets is the theft of cash; nearly everyone knew that to be a crime. Apparently, taking cash is clearly illegal. Students are more likely to view taking other assets, especially small ones, as acceptable and appropriating assets that are not used up in the short-term approaches acceptability.

Table 1
Responses to the Survey

Action	Legal/		Acceptable/	
	Illegal	Unethical	Ethical	Unsure
Gets paid for time not worked.	51.7	38.6	2.8	6.9
Takes a longer lunch or coffee break than authorized.	17.2	66.9	11.0	4.8
Punches a time card for another employee.	57.2	22.1	11.7	9.0
Comes in late or leaves early.	19.3	64.1	10.3	6.2
Fakes injury to receive workers' compensation.	95.9	3.4	0.0	0.7
Takes care of personal business on company time.	16.6	60.0	13.8	9.7
Occasionally uses company copying machine or faxes or makes long-distance telephone calls for personal purposes.	26.2	53.8	13.1	6.9
Takes a few stamps, pens or other supplies for personal use.	51.0	26.9	17.2	4.8
Takes money from the petty cash drawer.	93.8	3.4	1.4	1.4
Uses company vehicles or tools for own purposes but returns them.	29.0	46.2	15.9	9.0
Damages merchandise so a friend/coworker can purchase it at a discount.	82.1	11.0	1.4	5.5
Accepts a gift from a supplier.	13.8	40.7	35.2	10.3

Note: each entry in the table indicates the percentage of the total participants who choose the related response. For example, 51.7% of the 145 respondents believe that getting paid for time not worked is illegal, 38.6% believe it is legal, but unethical, 2.8% believe it is both legal and ethical, and 6.9% were unsure.

The responses of the students to the last question, regarding gifts from a supplier, may indicate that the students were unaware of the issues involved. Most of the students have worked in jobs where they would have had the opportunity to commit the other acts, or would have observed fellow employees committing similar acts. Few students may have actually worked at a level high enough in the organization that they would understand the implications of a gift from a supplier.

Statistical analysis reveals very few significant differences in responses to the first set of questions across the demographic variables. Given the number of possible tests for statistically significant differences (there are twelve questions and four demographic variables) it would have been surprising had some differences not been found. For example, women are significantly more likely than men to say that taking small things such as stamps is illegal. There are no other statistically significant differences by gender.

In addition, some of the statistical differences seem contradictory. For example, older students are more likely to believe that it is either illegal or unethical to get paid for time not worked than are younger students. However, older students are also more likely than younger students to find it acceptable to take small things such as stamps. Thus, it is not possible to conclude that understanding of these issues increases with age, or some related variable such as experience. These are the only two questions that reveal statistical differences based on age. The results for class (sophomore, junior, or senior) are quite similar.

Differences by major are also few. Non-business students are more likely than business majors to believe that taking care of personal business on company time is wrong. Accounting majors are more likely than other students to find appropriating small items such as postage stamps for personal use unethical. Marketing majors are more likely than others to find acceptance of a gift from a supplier permissible.

Table 2 contains the tabulations of the students' beliefs about whether the employer would be justified in disciplining an employee caught perpetrating one of the acts contained in the survey. (Note that the percentages in the table represent the respondents who believe discipline is NOT warranted.) The first column in Table 2 contains the results for the entire sample. Subsequent columns tabulate the results conditioned on the subjects' response to the first question, on the assumption that a subject who believed an act to be illegal would expect different consequences than would a subject who believed an act to be acceptable.

For several of the actions in the survey more than 20% of the respondents believed that NO consequences should result. For example, while 84.1% of the students know that taking a longer-than-authorized break is either illegal or unethical, only 31.0% believed that disciplinary

action should result. Similarly, while 80.0% of the students know that taking small office supplies is inappropriate, fully 39.3% expect that no consequences will result from deciding to engage in such behavior. Even for actions that were overwhelmingly understood to be wrong, such as taking money from petty cash, a surprising number of students (6.9%) believed that disciplinary action is not necessary.

As one would expect, students who believe the action is illegal mostly accepted that punishment could be expected, although not always. The students who believe the act to be legal but unethical perceive it to be less likely to be the cause of disciplinary action, but still understand that such is quite likely. Interestingly, even those students who believe the action to be acceptable indicate some belief that the employer should discipline the employee. Perhaps these students think that the issue has neither a legal nor an ethical component, but understand, nonetheless, that the business would not run smoothly with many such instances.

Similar to Table 2, Table 3 summarizes the responses to the question about terminating employees who are caught in these acts. Very few of the students recognize that they could lose their jobs for engaging in the types of behavior listed in the survey. For most of the acts in the survey, more than 80% of the students believe that dismissal is NOT warranted. A substantial number of students considered only punching a timecard for another, faking an injury, stealing cash, and damaging merchandise as causes for dismissal.

Even among the students who know the act to be illegal, most believe that the employer should not dismiss the guilty party. In no case is more than 80% in favor of dismissal, and that percentage is usually much lower. Students who believe the action to be legal, but understand that it is unethical are even more likely to suggest the employee should be able to keep his/her job. A majority recommends dismissal only for the faked injury or the theft of petty cash.

DISCUSSION

The survey does not allow the conclusion that the attitude expressed in the introduction is widespread. Although the students are not always clear about the legal status of the acts, only a very small minority of the students believes the acts in the survey to be both legal and ethical. However, it is quite clear that a significant percentage of the students believe these acts to be "no big deal." Only some of the students believe that employers should mete out discipline as a result of these actions, and very few believe that they could lose their jobs if caught committing one of these acts. This finding reflects the attitude expressed in the introduction. The attitude of the students seems to be that some little things may happen, but that the employer need not try to stop the behavior.

Table 2
 Percent of Respondents who Believe Action is NOT Cause for
 Discipline

Respondent believed action to be: Action	Total	Illegal	Unethical	Acceptable
Gets paid for time not worked.	22.1	10.7	30.4	25.0
Takes a longer lunch or coffee break than authorized.	31.0	28.0	26.8	56.2
Punches a time card for another employee.	24.8	13.3	37.5	76.5
Comes in late or leaves early.	15.9	7.1	10.8	53.3
Fakes injury to receive workers' compensation.	10.3	9.4	20.0	100.0
Takes care of personal business on company time.	29.7	12.5	25.3	60.0
Occasionally uses company copying machine or faxes or makes long-distance telephone calls for personal purposes.	40.7	21.1	42.3	84.2
Takes a few stamps, pens or other supplies for personal use.	39.3	17.6	48.7	76.0
Takes money from the petty cash drawer.	6.9	5.9	20.0	50.0
Uses company vehicles or tools for own purposes but returns them.	29.0	7.1	28.4	69.6
Damages merchandise so a friend/coworker can purchase it at a discount.	6.9	5.0	12.5	50.0
Accepts a gift from a supplier.	59.3	20.0	44.1	90.2

Note: each entry in the table indicates the percentage of the respondents who believe the action is NOT cause for disciplinary action. The column labeled "total" indicates the percentage of all respondents. The column labeled "illegal" indicates the percentage of those respondents, who, in the first part of the survey, indicated that the action was illegal. For example, of the respondents who believed that getting paid for time not worked is illegal, 10.7% believe an employee should not be disciplined for such behavior. The columns labeled unethical and acceptable are similarly conditioned on responses to the first set of questions.

Table 3
Percent of Respondents who Believe Action is NOT Cause for Dismissal

Respondent believed action to be: Action	Total	Illegal	Unethical	Acceptable
Gets paid for time not worked.	84.8	78.7	91.1	100.0
Takes a longer lunch or coffee break than authorized.	93.8	96.0	94.8	87.5
Punches a time card for another employee.	69.0	50.6	90.6	94.1
Comes in late or leaves early.	82.8	78.6	81.7	86.7
Fakes injury to receive workers' compensation.	21.4	20.9	40.0	100.0
Takes care of personal business on company time.	89.7	91.7	93.1	75.0
Occasionally uses company copying machine or faxes or makes long-distance telephone calls for personal purposes.	93.8	92.1	96.2	94.7
Takes a few stamps, pens or other supplies for personal use.	89.7	85.1	97.4	88.0
Takes money from the petty cash drawer.	22.1	19.9	40.0	50.0
Uses company vehicles or tools for own purposes but returns them.	79.3	66.7	86.6	82.6
Damages merchandise so a friend/coworker can purchase it at a discount.	36.6	30.3	69.7	50.0
Accepts a gift from a supplier.	88.3	80.0	93.2	90.2

Note: each entry in the table indicates the percentage of the respondents who believe the action is NOT cause for dismissal. The column labeled "total" indicates the percentage of all respondents. The column labeled "illegal" indicates the percentage of those respondents, who, in the first part of the survey, indicated that the action was illegal. For example, of the respondents who believed that getting paid for time not worked is illegal, 78.7% believe an employee should not be dismissed for such behavior. The columns labeled unethical and acceptable are similarly conditioned on responses to the first set of questions.

This clearly points up the divide between cognitive ability and ethical action that is currently being discussed in the business ethics education literature. Cognitively, the students are aware that the acts are inappropriate. However, they seem to lack sufficient affective response to prevent this type of behavior and to know that employers will be trying to prevent it as well.

From the perspective of the employer, the results of this study have important implications. In real terms, for a business that employs 500 people, 35 of them believe that if they are caught stealing money from petty cash, no consequences will result. An additional 100 believe there will be consequences, but not so severe as being fired. At the other extreme, 204 of the employees will believe they can use the copy machines, fax, and long distance service for personal purposes without negative consequences. Since potentially negative consequences are one deterrent to criminal action, it seems quite likely that this attitude on the part of the employees will create a substantial internal control problem for most employers.

It is important to contrast the attitudes of the students with those of most employers. There is no cause for concern in the results of this study if most employers accept that employees will not work during the time they are being paid, that employees may freely appropriate business assets for personal use, and that employees may safely ignore established policies and procedures. However, the fact that employers often go to great lengths to prevent such action is testimony that they do not accept them as a cost of doing business, and are not willing to let them continue unabated.

It is a bit disconcerting to note that the law has more power to deter unethical behavior than the respondents' own assessment that the behavior is indeed unethical. However, this study does provide evidence of such an attitude. In almost all cases, respondents who believed the action to be unethical also recommended less severe consequences than did those who believed the action to be illegal. Likewise, it is disturbing that students who recognized the behavior to be unethical still believed that the consequences resulting from it should be negligible. This is especially notable in Table 3, where the number of students who believed that perpetrators should be dismissed was quite small for nearly all of the actions.

Implications for Teaching Business Law

Given the results, instructors should add some additional emphasis on the consequences of illegal activity at work to class discussions. Active learning techniques, such as those suggested by Rikkens and

Jones,⁴⁰ provide an avenue to increase students' awareness of those criminal areas and their consequences within a traditional legal studies course. In addition, the instructor can take advantage of students' willingness to judge others by having them play the role of manager and "judge" certain employee acts. Asking the students to propose manager responses also gives the instructor room to address retaliatory actions by others and wrongful discharge torts that overlap into these cases.

For example, exercises in employment law could include discharges based on cases of employee theft of small items and/or failure to arrive or leave on time. Some students can play the role of a manager who has caught a young employee taking free sodas or giving his friends free fries at a fast food outlet, while other students are assigned to play the role of employee. The students can engage in a debate about the obligation of the employee to protect the employer's property.

In addition, classes can examine the employer's right to expect honesty and loyalty. For example, again with some students playing the employer and others the employee, exercises could focus on developing and enforcing employment contracts. The ethical issue of skirting the expectations in the contract by arriving late, or falsifying time logs and inventory records can then be discussed. A mock investigation into missing inventory could be used to introduce the students to the employee's obligations to protect the employer's property as its agent and to illustrate how criminal investigations, including Fourth Amendment and regulatory searches, are used to enforce criminal law.

Discussion in the areas of insiders trading and breach of fiduciary duties would also benefit from this type of exercise. Instructors can use a simulation involving a team of young traders who are pressured by a manager to "make millions" to illustrate the pressures on employees to commit crime. Another team of students can play the role of internal investigators who set up a system to detect insider trading by monitoring employee behavior.

Implications for Teaching Business Ethics

There is no clear evidence in this study that students, at least in general, lack an ability to determine which of these simple acts is unethical. However, it is equally clear that they do not, on average, believe that ethics should have a large impact in their decision-making or on how others evaluate those decisions. Thus, suggestions that ethics courses go beyond cognitive exercises and begin to attempt to address the emotional issues associated with ethical and unethical behavior may be well placed.

⁴⁰ Caroline Jones-Rikker & Constance Jones, *Active Learning in the Legal Environment of Business Classroom*, 16 J. LEGAL STUD. EDUC. 172, 176 (1998)

An ethics course that focuses exclusively on complex, management-level decisions may not give the students the opportunity to examine their own responsibility in the type of actions contained in this study. If, as claimed by Gough,⁴¹ these small actions form the basis of larger decisions, it is important to develop a strong belief in the need to be ethical in little things before addressing the need to be able to take an ethical action that may result in life-changing consequences.

Adding a module to the business ethics course that examines these more mundane, less complex actions may provide several benefits. It may cause students to think about the consequences of such actions. It encourages students to reflect on the maxim "you are what you do" and provides a strong message that what they do in the little day to day decisions affects the types of things they will decide to do when an important, difficult decision must be made.

⁴¹ GOUGH, *supra* note 24, at 61-65.

APPENDIX A

This case represents an example of the type of activities that could be included in business law courses to address the issues contained in this paper. The actual text of the newspaper article that supplied the original motivation for this study is reproduced below. It is important that students know the case is real and not made up by the professor to make a point. Beginning with a real case makes it more difficult for the students to dismiss the topic as a non-issue. Further, the full text of the article makes the feelings and thoughts of the author clearer--the protagonist of the case becomes three-dimensional.

First, have the students read the case. As a class, discuss the legal implications of the case. Following that, assign the students to assume the roles of the stakeholders in the case (our suggestions for stakeholder groups follow the case). Have each group discuss responses to appropriate questions (some suggestions follow the case) and then present to the class. Follow that with a class discussion of how the responses of each group differed and what can be learned from that.

Employee/ Employer Relations Case

Below is a passage from a newspaper article written by a high-school senior who worked at a fast-food establishment. She and several others wrote their reactions to surveillance cameras installed by their employers.

I remember when I first saw the cameras set up in my place of employment, a food-service establishment.

Our boss had been threatening the eye in the sky for almost a year, but I never quite believed she would spend that much money to keep us on track. Most of the people I worked with were honest and hardworking. After all, it was a desirable job as far as minimum-wage positions go.

It had always seemed as if every penny was pinched. We didn't get a new speaker for more than a year, even though the fuzz was often so bad that neither the customer nor the employee could understand the other, and the machinery seemed in constant need of repair.

Needless to say, when the brand new cameras found their way into our establishment, I was a bit irked by the use of funds. The worst that my fellow workers ever did was to give out a free item of food to a friend or trade with another restaurant establishment for lunch, and neither of these things happened often.

For me personally, the constant oversight gave me much less satisfaction in my work. For one thing, I didn't feel as though the owner trusted us; we were always being spied upon. The cameras' records were used to critique our work performance, and all the feedback we ever got was negative; we were never commended for doing something right.

I didn't feel comfortable there anymore. Before the camera's installation, we could take short breaks during (very rare) lulls in business, but with the cameras, we had to occupy ourselves with some sort of busy work, even if the place was spotless. Without any official respite besides a five- to 10-minute lunch break, not being able to sit down for even a couple of minutes drew even more discomfort to a job that I had once loved.

The camera made me feel self-conscious, as though everything I did was under close scrutiny, which made me feel like a grunt worker who couldn't be trusted instead of the independent hard worker I'd always considered myself to be.

Our employer's decision to install surveillance cameras completely changed the atmosphere of my workplace. I quit my job and found another. I couldn't work in a place with so little trust or respect.⁴²

Basic Legal Issues

Is it legal to give free food to one's friends? What law is being violated?
Is it legal to trade meals with employees of another establishment?
What law is being violated?
Is it legal to install surveillance cameras in a business without the employees' permission?

Questions for Stakeholders:

Author of the article

What are your responsibilities as an employee?
What are the responsibilities of your employer?
Why is it so important to you to feel trusted at your job?
What have you done to earn that trust?
Do you have any responsibility in the unpleasant situation that developed?

Employees that were giving out free food

What are your responsibilities as an employee?
Were you aware your actions were illegal?
Were you aware your actions were unethical?

⁴² Link, *supra* note 1, at C1.