

# Building an ethical foundation for occupational safety and health programs

Nancy Orr, CIH, CSP, FAIHA  
Principal  
Sage Health and Safety, LLC  
New York, NY

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# Why this topic? Why now?

- ▶ Consider this. Your behavior, and that of the company you join or create, can determine your success or failure.
- ▶ This behavior always has an ethical component- you have choices everyday in how you will act, what you will recommend and what you will accept
- ▶ You will face decisions where values and priorities conflict
- ▶ Following the ethics guidelines of our occupational hygiene and safety organizations can help you resolve the difficult dilemmas that will come up
- ▶ And finally, it's the right thing to do- both in our personal and professional lives.

# Most recognized professionals have ethical standards and norms of behavior

- ▶ And occupational hygiene and safety practitioners are professionals in that....
  - ▶ We have a group identity
  - ▶ We possess special, uncommon knowledge
  - ▶ We use this knowledge in the service of others, filling a positive social need
  - ▶ We make individual judgements and decisions about conditions in the workplace
  - ▶ We adhere to certain values

# How can you build this ethical foundation into your IH/safety program?

Recognize ethical issues and why they are “tough”

Appreciate common biases and points of view we all bring to decision-making

Understand and apply ethical values

Use basic analytical tools for resolving ethical dilemmas

See ethical decision-making as a process you can understand and a skill you can improve

# In today's session we will ...

- ▶ **Build an awareness** of how ethics comes into play
- ▶ Talk about what influences **ethical values**
  - ▶ What are yours? Mine? The group's? Your company's?
  - ▶ The role of moral courage
- ▶ **Analyze** different types of ethical dilemmas
  - ▶ “Right versus Wrong”
  - ▶ “Right versus Right”- 4 paradigm examples
- ▶ Look at how to **resolve** dilemmas
  - ▶ Finding the “higher right”; Three resolution approaches
- ▶ **Reflect** about
  - ▶ Your own “ethical style”
  - ▶ How to anticipate ethical issues that may arise

How do ethics come into play?

# Why do ethics matter, especially in business?

- ▶ Businesses without values are businesses at risk: reputations suffer; consumer confidence is eroded
- ▶ Ethical values are necessary to attract and retain the best workforce; Employee morale is higher in companies with well-developed values that everyone lives by
- ▶ Helps establish expected behaviors, especially with culturally diverse workforces
- ▶ In the absence of oversight, a well understood values management can still guide workers left to make their own decisions
- ▶ Virtual work benefits from a common organizational standard of behavior
- ▶ The competitive, 24 hr media cycle has eliminated the luxury of time to deal with a potential crisis. With a strong ethical base a company is more likely to make the right response

How comfortable are you about getting on a Boeing 737 MAX (when we are flying again)?





# Ethics impact the very viability of companies

- ▶ In 2018 Boeing lobbied hard for language in regulations designed to reduce government bureaucracy.
- ▶ The new regs allowed manufacturers to challenge regulators over safety disputes and make it difficult for the government to override the companies' authority.
- ▶ At the time, the FAA said such changes would “not be in the best interests of safety”.
- ▶ Weeks later a Boeing 737Max jet crashed off Indonesia and a second Max crashed in Ethiopia 5 months later.
- ▶ On both doomed flights a new automated system designed to help avoid stalls was triggered erroneously and the sent the jets into fatal nose dives.
- ▶ Prior to the accidents the FAA had never fully analyzed this automated system (MACS) and Boeing had played down its risks.

# Boeing's basic approach

- ▶ Deregulating and streamlining aircraft certification would make Boeing more competitive with rivals, mainly Airbus.
- ▶ Under the new law, the FAA could only challenge a potentially hazardous aircraft system *after* it had been introduced, and only by instituting its own investigation. The FAA could not stop a manufacturer from installing a questionable system in the first place.
- ▶ Boeing also sought to have input on the performance evaluations and pay raises of individual FAA employees overseeing certification of their planes.

# House Aviation Subcommittee report on the Boeing MAX crashes

- ▶ Eighteen month investigation completed in September, 2020
- ▶ “The MAX crashes were...a horrific culmination of a series of faulty technical assumptions by Boeing’s engineers, a lack of transparency on the part of Boeing’s management and grossly insufficient oversight by the FAA”
- ▶ Key contributing factors:
  - ❖ Production pressures
  - ❖ Faulty design and performance assumptions
  - ❖ Culture of concealment
  - ❖ Conflicted representation of Boeing workers authorized to act on behalf of FAA
  - ❖ Boeing’s influence over the FAA’s oversight

# Recent cost to Boeing, including reputational?

- \$2.5 Billion fine by the US Justice Department (Jan 7, 2021) for lying to the FAA
- Criminally charged with conspiracy to defraud the United States
- Multi-million dollar compensation fund for crash victim families

.....*So, was it worth it?*

# Another example: Hoaxwagen

***How the massive diesel fraud incinerated VW's reputation-and will hobble the Company for years to come***

**Fortune magazine, March 2016**

# Some factors in the VW scandal

- ▶ An aggressive ambition to be the #1 automaker in the world
- ▶ A culture described as “self-righteous” in pursuit of growth
- ▶ Employees fearful of contradicting superiors or admitting failure
- ▶ Partial ownership by local government, which turned a blind eye to infractions
- ▶ Conscious design and installation of a software defeat-mechanism for emission testing
- ▶ Software allowed cars to generate up to 40X maximum pollutant levels while in normal operation

## VW factors....

- ▶ When emissions testing discrepancies were first raised, VW denied wrong doing and blamed results on faulty testing in the US
- ▶ Evidence of scam mounted; CEO since resigned; senior execs under investigation (throughout EU)
- ▶ Cost to fix or replace cars, and remediate environments in US and Europe estimated in excess of \$40 B
- ▶ Sales have dropped, stock is depreciated, workers were dismissed, law suits are underway.

July, 2016

Dear Ms. Orr,

I am writing you to offer a personal and profound apology. Volkswagen has violated your trust. I understand and fully appreciate your anger and frustration. I would like you to know that we take full responsibility and are working to make the situation right for our customers. *Volkswagen is taking steps to prevent anything like this from ever happening again.*

Michael Horn  
President and CEO  
Volkswagen Group of America, Inc.



# 5 questions that will determine VW's fate

1. Is fixing the cars possible?
2. How high up does responsibility go?
3. Will criminal prosecutions occur?
4. How big will the civil penalties be?
5. Will VW be required to mitigate the damages to the environment?

***I ask again, was it worth it?***

# Why do ethics matter?

- ▶ Because ethics, quality and leadership go hand in hand
  - ▶ Employees' report that they take their cues about expected behavior in their company by looking at what people at least 2 levels above them are doing. What example do you set?
  - ▶ Ethics can help instill appropriate and desirable behavior in the workplace.
  - ▶ Consumers and customers view companies by the nature of their interactions with them-both positive and less so.
- ▶ In 1920 the average lifespan of an American company was 67 years. Now it is 15.
- ▶ Ethical lapses can accelerate a collapse.

# Ethics and legality

- ▶ Ethical norms tend to be broader and more informal than laws. Laws rarely “inspire”. Ethics may.
- ▶ Ethics are self-regulated, largely voluntary, often adaptive.
- ▶ Laws function as social constraints, protecting us from someone or something. When something is illegal it is often unethical.
- ▶ But, conforming to laws does not necessarily mean it is ethical.
- ▶ This is especially true in OHS when being “legal” is particularly poor practice because so many known hazards do not have regulatory limits.

# Can there be a difference between actions that are legal and those that are ethical?

<b>LAW</b> <ul style="list-style-type: none"><li>• Rules</li><li>• Compliance</li><li>• Enforceable</li></ul> <b>MUST/CAN</b>	versus	<b>ETHICS</b> <ul style="list-style-type: none"><li>• Values</li><li>• Self-regulation</li><li>• Unenforceable</li></ul> <b>SHOULD</b>
	Ethical	Unethical
Legal		
Illegal		

# Legal versus Ethical- the public health version

## ► Legal and ethical:

- Wearing a facemask in public when it is a local requirement to do so

## ► Legal and unethical:

- Refusing to wear a mask in public in close proximity to others when there is no local requirement to so
- A Governor prohibiting a Mayor from enacting a mask mandate

## ► Illegal and unethical:

- Refusing to wear a mask in public near others where local authorities make it mandatory

## ► Illegal and ethical:

- A Mayor implementing a mask mandate when the Governor of that state prohibits it

What has  
changed since  
Jan 21, 2021?

# Ethics- some definitions

- Obedience to the unenforceable

*... Lord Moulton, 20<sup>th</sup> century English jurist*

- The difference between what you have a right to do and what is the right thing to do

*... Potter Stewart, US Supreme Court Justice*

- The interface between my desire to be happy and yours

*... The Dalai Lama*

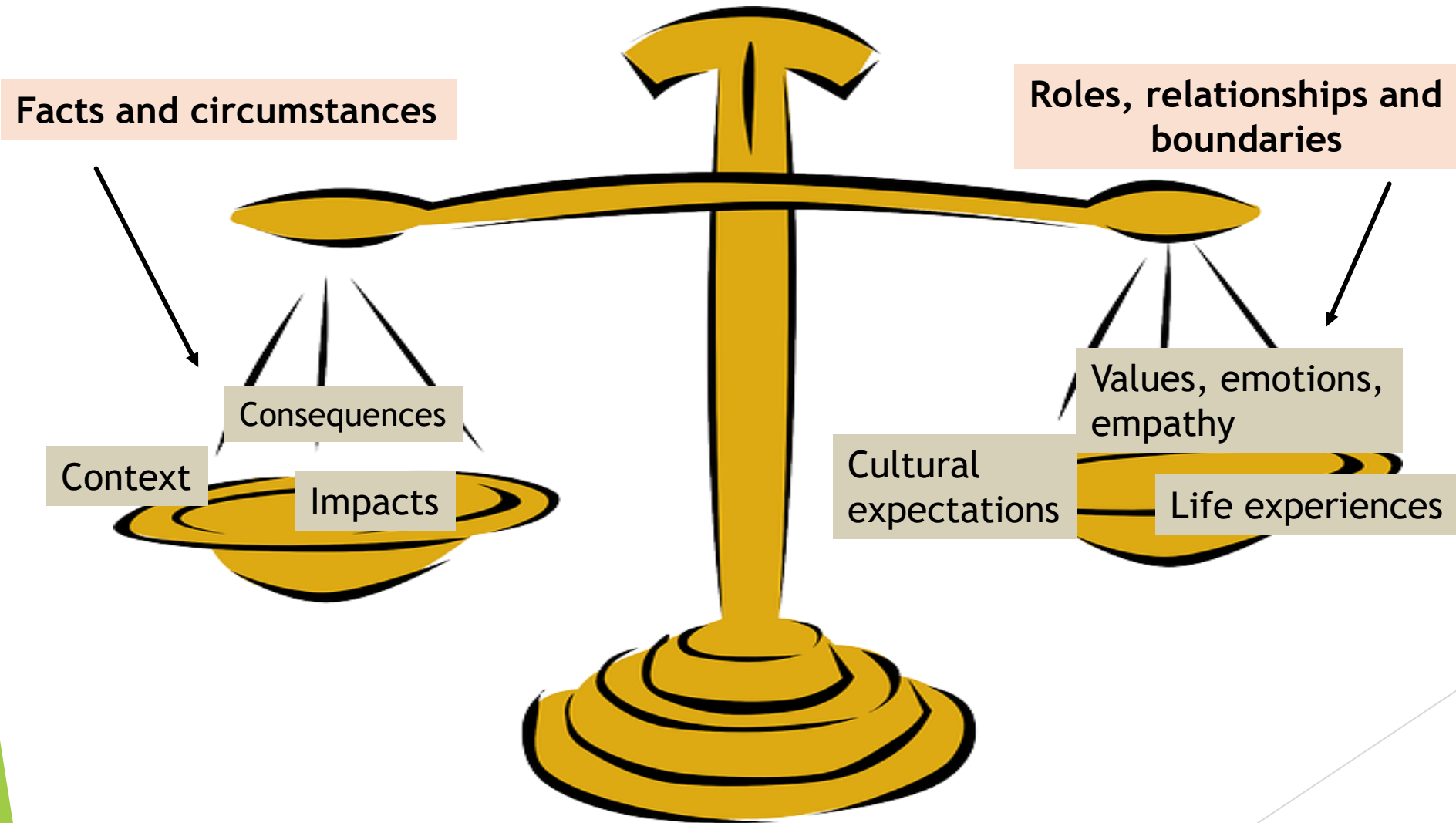
- The discipline of dealing with what is good and bad and with moral duty and obligation

*... Webster's Dictionary*

# The nature of ethical dilemmas

- ▶ Not defined by illegalities (what is wrong) but about what is right, especially doing what is right.
- ▶ Related to people actively choosing to decide to do what is right within the context of their experiences and having the courage of their convictions.
- ▶ Ultimate test is if people are willing to do what is right even when it is not to their personal benefit.
- ▶ Often starts with a mistake, an accident or a decision based on wrong-doing that you did not initiate or may not have involved you to begin with.
- ▶ The facts and context can make a big difference BUT...you only have some of the facts, not all of them. And there often is not a lot of time to make a decision.

# Influences on ethical judgement





# What are some of the ethical components of typical EHS decisions?

- Most business decisions contain an ethical component.
- The ethical implications should be included in the decision making process.

Ethics encourages EHS practitioners to have an “other” orientation-protecting the health and safety of others.

- Examples:
  - Do you tell the client about different recognized exposure levels, not just the regulatory one?
  - How do you reconcile that in the US there has been no chemical-specific regulatory update in decades?
  - What if a Corporate EHS standard is more protective (or less!) than the standard in a country in which your company operates?
  - How do you communicate relative risks of potential exposures to a community group?

# What is a code of ethics?

- ▶ A guide of expected conduct for members of a group or organization
  - ▶ Based on the ethical values the group or organization holds or aspires to
- ▶ A code states “How we do things around here”
  - ▶ Usually short, concise concepts
  - ▶ Different from a mission statement, which is more like “What we do around here”

# Are either of these Codes of Ethics?

“Neither rain nor snow nor heat nor gloom of night stays these couriers from the swift completion of their appointed rounds.”



“A cadet will not lie, cheat or steal nor tolerate those who do.”



# Is this a Code of Ethics?

Protect the health and well-being of working people and the public from chemical, microbiological and physical health hazards present at, or emanating from, the workplace.

## Or is this?

- ▶ Follow recognized scientific principles
- ▶ Counsel affected parties factually regarding potential health risks
- ▶ Keep information confidential
- ▶ Avoid conflicts of interest
- ▶ Perform services only in areas of competence
- ▶ Act responsibly to uphold the integrity of the profession

# The role of ethical values- how they help us-

## Define

Fundamental building blocks for defining “What is Right”.

- ❑ Helps us ask, “Does this follow my/ our core values?”
- ❑ Clarifies what may be a “Right vs. Wrong” situation

## Translate/Operationalize

Serve as a basis for “operational” codes

- ❑ Translates values into specific behaviors, standards and expectations

## Understand

Helps us understand differences while seeking consensus

- ❑ Allows us to move from individual profiles → group norms

How 'universal' are ethical norms in the  
EHS profession?

The background of the slide features abstract, overlapping geometric shapes in various shades of green, ranging from light lime to dark forest green. These shapes are primarily located on the right side and bottom of the slide, creating a modern, dynamic aesthetic. The text is positioned on the left side of the slide, set against a plain white background.

# How would you judge someone who....

- ▶ Has integrity
- ▶ Is honest and truthful
- ▶ Is sincere
- ▶ Is open and transparent
- ▶ Is dependable, responsible; keeps promises
- ▶ Is trustworthy and loyal
- ▶ Shows respect and courtesy
- ▶ Shows care and compassion
- ▶ Is kind and generous
- ▶ Is fair, just and impartial
- ▶ Is reasonable and deliberate
- ▶ Pursues excellence and continuous improvement
- ▶ Pursues truth and avoids error
- ▶ Is knowledgeable
- ▶ Has purpose, pride and persistence

Would this be someone you would hire? Someone you would like to work for?  
A son or daughter you would be proud of?



# Operationalizing ethical norms for IH/OH practice

## ▶ Honesty

- ▶ Tell the truth; keep promises
- ▶ Strive for the truth in client communications
- ▶ Report data, results, methods honestly
- ▶ Do not fabricate or misrepresent data

## ➤ Integrity

- Behave in a way that reflects well on the profession
- Keep your promises and commitments
- Act with sincerity
- Do not misrepresent yourself or engage in fraudulent activities

## ➤ Personal responsibility

- Admit when a mistake is made
- Speak up if you have something valuable to add

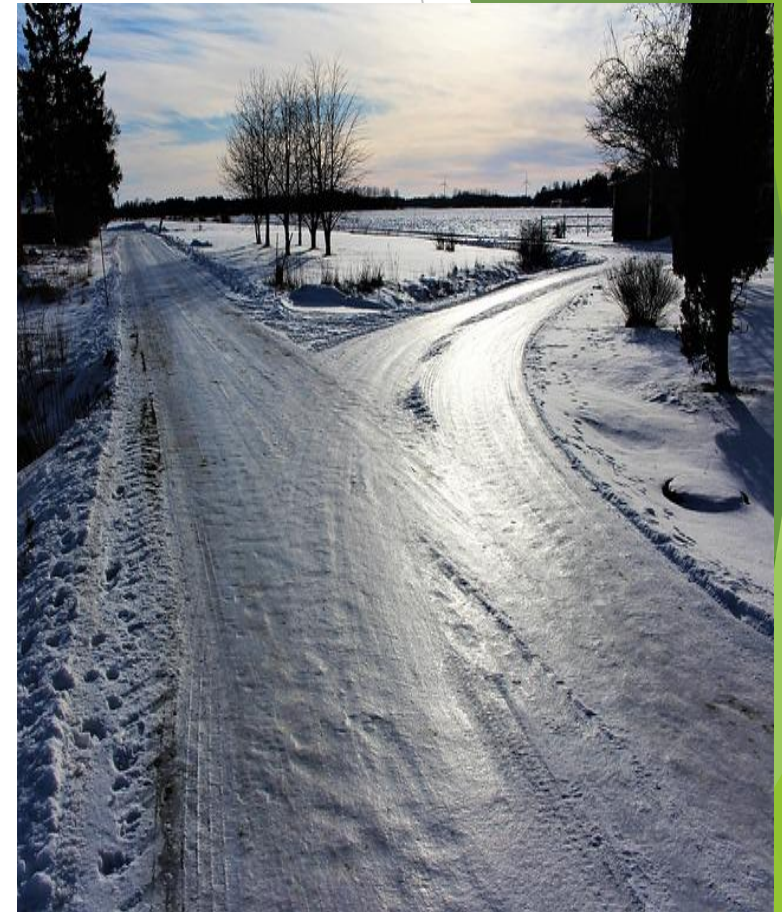
# More ethical norms for IH

- ▶ Respect
  - ▶ Treat workers and clients with dignity
  - ▶ Listen to other points of view
  - ▶ Use appropriate language and behavior in the workplace
- ▶ Objectivity
  - ▶ Strive to avoid bias in experimental design, data analysis, data interpretation, expert testimony
  - ▶ Avoid self-deception

# What happens when ethical values hit a wall?

## Moral courage

- The ability to act as needed in response to an ethical challenge. Requires:
  - Commitment to moral principles
  - An awareness of the danger in supporting these principles
  - A will to endure the danger
  
- ▶ Consider the whistleblower's dilemma
  - Behaviors reported are likely to bring harm
  - Usual communication channels have been unsuccessful
  - Other internal resources have been tried and failed
  - Reporting should be able to bring the necessary change



# Defining moments will...

- ▶ Reveal our character
- ▶ Test us
- ▶ Shape our future course

...and doing one right thing may leave other right things undone. It's not *whether* to be ethical, but *how* to be ethical.

# Other limitations of ethical values

## Right vs. wrong situations

- Will everyone come to the same conclusion?

## Ethical dilemmas

- What if two or more legitimate ethical values are in conflict?

# How can we be sure it is a situation of right vs wrong?

Two choices may appear attractive, but closer examination reveals that one choice may:

- Be against your core values
- Lead to avoiding your responsibilities
- Be a departure from the truth
- Violate someone's rights
- Violate your Professional Code of Conduct
- Be against a company policy or procedure
- Be an illegal activity

So...it's a Right  
versus Wrong  
situation

# How can you tell you are in a Right vs Wrong situation?

- ▶ The gut feel test
- ▶ The front page/internet test
- ▶ The role model test
- ▶ The mirror test
- ▶ The legal test



# Ethical dilemmas: when our values conflict

Four paradigms: Right versus Right

1. Truth v. Loyalty
2. Individual v. Community
3. Short-term v. Long-term
4. Justice v. Mercy

...each presents a defining moment





# Ethical Dilemma- Truth versus Loyalty

John is a new industrial hygienist at a small consulting company. One of his first tasks is to take over the routine compliance air monitoring for a major client that had been performed by Sue, another consultant in the company. John's new sampling results are higher than in the past and are consistently above permitted levels. When John asks Sue why she thinks the levels are now higher she says "You probably sampled an unusually high exposure period. Just re-sample some more and the levels will probably come down". John knows that there can be wide variation in exposures over time, but Sue implies that this was a routine practice to repeat sampling in order to obtain lower exposure levels. This in turn helped to keep the client happy and retain the monitoring contract for the consulting company.

John knows this is not the best practice. But he is a new employee and in his brief time at the company he thinks they basically try to do the right thing. He wants to keep his job, which has been hard to find in the first place.

**Should John speak to his boss at the the consulting company and question this practice or stay quiet?**



# Ethical Dilemma- Individual versus Community

Ellen is a plant Health and Safety Manager. Her company employs a few thousand people but the business is very sensitive to market fluctuations. Currently the business is struggling and Ellen, like many managers, is being asked to find ways to cut costs.

One of the services the health and safety department provides is medical screening tests that are not strictly required by law but can detect serious disease early and result in better health outcomes for workers. But these tests cost money and if every manager in the company failed to cut costs, the company may have to let some workers go.

**Should Ellen make the case that medical screening tests could be detecting early disease and helping individual workers, or should she discontinue the testing to help the company meet its budget issues?**



# Ethical Dilemma- Short-term versus Long-term

Fred is a Health and Safety Manager who works for a good company that continuously tracks its safety performance in order to improve. Fred's company relies on outside safety consulting firms to conduct regular compliance audits and submit recommendations. Fred's company has a goal this year to reduce the number of non-compliance findings by 25%. If this goal is achieved, many company employees will receive a small bonus.

Fred is in charge of selecting the consulting company that will conduct the audits this year. He is down to 2 firms- both have worked for them before, have good reputations and charge similar rates. The first firm is known for being more thorough and rigorous and often writes up many recommendations. The second firm is still comprehensive but usually ends up writing fewer recommendations. Fred knows that the first firm will develop many recommendations aimed at addressing systemic issues at the plant that, when addressed, could truly improve site safety. The second firm will probably submit fewer recommendations, making meeting the goal of 25% fewer non-compliance findings more achievable.

**Should Fred select the company that submits more findings that address deeper problems or be satisfied with a perfectly competent firm that will probably submit fewer findings?**



# Ethical Dilemma- Justice versus Mercy

Ankit works for a heavy manufacturing company that makes rubber. The process requires the recently formulated rubber mixture to be mechanically extruded between two large steel rollers several feet tall. The rollers present a significant in-running nip point where the 2 rollers meet and compress the rubber. This nip point is difficult to guard and presents a serious injury potential should a worker become caught in it. The company is aware of the hazard and installed a waist-height emergency bar in front of the moving rollers that, if disturbed, will immediately stop the rollers.

Sunil has worked on the roller machines for many years and understands the hazard. He uses a long pole to guide the rubber through the rollers so that he remains apart from the hazard. On the day of the accident Sunil is unable to properly guide one batch of rubber and briefly steps over the bar. He trips and his arm becomes caught in the rollers.

He is badly injured but recovers. The Plant Manager is horrified about the accident but also angry that Sunil disobeyed the rules. Sunil's injured arm prevents him from doing his old job, but he can still work in other functions. The Plant Manager wants to set an example and fire Sunil for disobeying the safety rules, but knows his family completely depends on his income.

**Should the Plant manager be firm and fire Sunil for breaking the rules or should he find him another job in the plant?**



# How can you resolve these dilemmas?

- Ends-based --- “The Greater Good”
  - Search for the greatest net benefit or least net harm based on possible consequences
- Rule-based --- “Universal Implications”
  - Apply the highest principle, regardless of the consequences
- Care-based --- “The Golden Rule”
  - Do unto others as you would have them do unto you

# Ends based-what does it look like?

- ▶ What is best for the greatest number of people or creates the least harm?
- ▶ To work well it depends on our knowing the outcomes and looking at all the possible consequences.
- ▶ Ask yourself, if I make choice A, what would happen? If I made choice B, what would happen?
- ▶ Essentially a cost benefit analysis for all those impacted by the choices.
- ▶ Requires knowing or anticipating who all the stakeholders are.

# Factors in ends-based OHS approaches

- ▶ What is the level of the resulting risk?
- ▶ How many hazards or unsafe conditions have been eliminated?
- ▶ Is there an acceptable safety factor or level of protection achieved?
- ▶ How accurate or precise is the information upon which the action is based?
- ▶ What is the degree of regulatory compliance?
- ▶ What is the degree of compliance to a professional code of ethics?
- ▶ Does it comply with consensus or industry standards?

# Rules-based- what does it look like?

## The “Categorical Imperative” put forth by Kant

- Ask yourself, “If everyone in the world were about to follow this rule or action- is this the kind of world I want to live in?”
- Would I want this to be how anyone in this circumstance should act regardless of the consequences?
- You are setting the universal rule to be followed for anyone faced with this type of dilemma in the future.
- The rightness or wrongness of the action is based on the intrinsic character of the action itself and is independent of the outcome.
- Essentially, let the chips fall where they may.



# Factors in rules-based OHS approaches

- ▶ Are there mandatory health and safety rules, regulations and standards that must be followed?
- ▶ Are their ethical code dictates that apply?
- ▶ Does this action align with the strong duty to serve and care for people that is a basis for OHS professionals?
- ▶ Are anyone's rights violated by this action?

.....try to remember the concept of a “servant leader”

# Care-based - what does it look like?

- ▶ This resolution approach asks you to think about how you want to be treated if you were on the other end of the decision.
- ▶ Think in terms of reversibility; put yourself in the other person's position and imagine how it would feel.
- ▶ What choice would you want to be made?

# Care-based beliefs around the world

## ➤ Buddhism

- “Hurt not others with that which pains yourself.”

## ➤ Confucianism

- “What you do not yourself desire, put not before others.”

## ➤ Hinduism

- “Treat others as you would be yourself treated. Do nothing to your neighbor that hereafter you would not have your neighbor do to you.”

## ➤ Christianity

- “In everything do to others what you would have them do to you.”

## ➤ Islam

- “Do unto all men as you would wish to have done unto you.”

## ➤ Judaism

- “Love your neighbor as yourself”;  
“What is hurtful to yourself do not do to your fellow man-that is the whole Torah, and the rest is but commentary.”

# Factors in care-based OHS approaches

- ▶ What sort of OHS professional do I want to be known as?
- ▶ What virtues does the OHS professional I want to be possess?
- ▶ What actions will cultivate these virtues?
- ▶ Are my motivations appropriate and virtuous?

...Virtue is its own reward

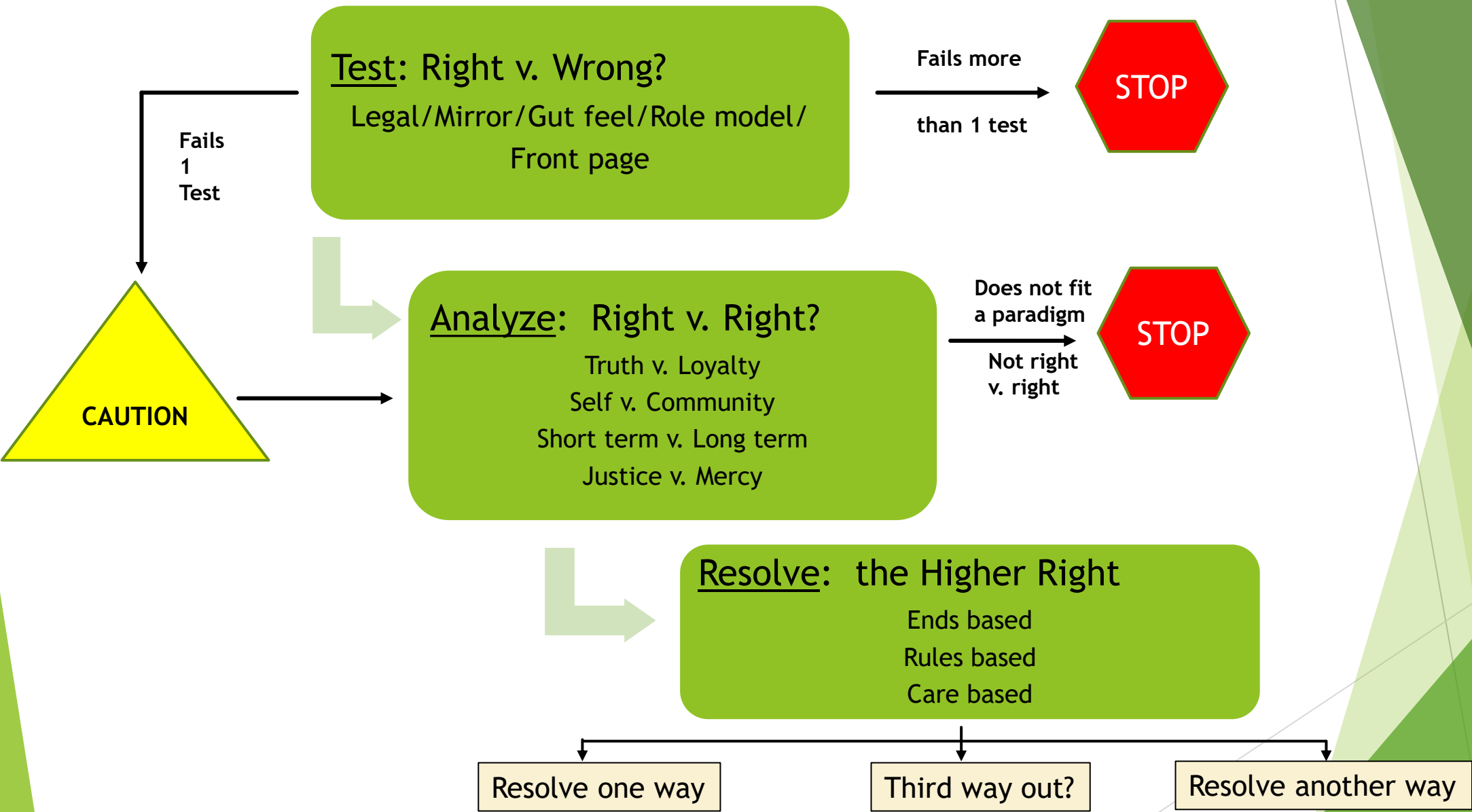
# Why you should consider all 3 approaches

<u>Approach</u>	<u>Strengths</u>	<u>Weaknesses</u>
Ends- based	Draws out the facts and the impacts on all stakeholders	<ul style="list-style-type: none"><li>• Impossible to identify all the consequences</li><li>• Analysis paralysis</li><li>• How to avoid “me first”</li></ul>
Rules- based	Forces us to think about long term, universal implications	<ul style="list-style-type: none"><li>• Can be harsh</li><li>• Principles may conflict</li></ul>
Care- based	Engages our empathy and emotions; understood/identifiable by many	<ul style="list-style-type: none"><li>• Who is the most compelling “other”?</li><li>• Can you have empathy in all situations or with all individuals?</li></ul>

# A decision-making model

Step	Questions/Actions	Tools and approaches
1	Recognize there is a moral issue, determine who is the "agent"; gather relevant facts	
2	Determine preferred and alternative actions to resolve. Test if it is right vs wrong	
3	Test preferred action for legality. If illegal, don't proceed. Test alternative actions for legality. If not illegal, proceed.	Rules, regulations, codes of conduct
4	Test for 'moral temptation' (gut; mirror; front page tests). If fails, don't proceed. If passes, test for right vs right paradigms	Trust intuition; consider consequences
5	Analyze as a right vs right paradigm: truth v loyalty; individual v community; short-term v long-term; justice v mercy	
6	Determine the "higher right" for potential action by considering consequences, rules and virtues involved	Ends-based; rules-based and care-based resolutions
7	Make the decision as to the higher right. There can be multiple or different resolutions depending on personal biases. Resolution may be a compromise; not a clear-cut "either-or" winner.	
8	Reflect on the decision and re-visit to improve future decision-making skills	

# Decision-making model



# Next steps- an action plan

- ▶ Use the concepts of an ethical framework to reflect on:
  - ▶ Your personal values
  - ▶ Your ethical tendencies and biases
  - ▶ Your decision style and resolution approach
- ▶ Anticipate likely dilemma patterns in your work or workplace
- ▶ Practice using the decision making framework



# Applying ethical values to the practice of safety and IH

## Engage ethical values:

- *Avoid conflicts of interest*
  - **Apply core ethical values**
    - ✓ Values extend to your whole life, including work
    - ✓ Following the law is just a start
- *Act responsibly to clients, employers and the public*
  - **Make sound ethical choices**
- *Uphold the integrity of the profession*
  - **Act with moral courage**

## What approach best protects human health and safety?

- **Ends-based**
  - ✓ What is the potential health impact for employees and the public? Others?
- **Rules-based**
  - ✓ Do basic principles of “IH ethics” apply that give me a rule?
- **Care-based**
  - ✓ How would I want to be treated as the person whose health or safety may be impacted by this action?

# The main messages

- ▶ Business shouldn't be different from life when it comes to ethics. Good business is grounded in solid ethical actions.
- ▶ Following the law is just a start.
- ▶ The core values of ethics are widely shared.
- ▶ Ethics is a process, not a rule book. It is adaptive.
- ▶ The “little things” in ethical conduct count.
- ▶ Talking about ethical behavior and “practicing” the outcomes is critical; it helps us all get better at it.

Questions?