Independent Study:

Strategies for the Training of Ethics in the Correctional Workplace.


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Strategies for the Training of Ethics in the Correctional Workplace.

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DEDICATION

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EXECUTIVE SUMMARY AND RECOMMENDATIONS

“The problem is that most people have only the vaguest idea of what it might be to lead an ethical life. They understand ethics [only] as a system of rules forbidding us to do things. They do not grasp it as a basis for thinking about how we are to live [our workplace lives].”

‘How we are to live? - Ethics in an Age of Self Interest,’
Peter Singer, Renowned Ethicist.

The creation of an ethical correctional workplace depends upon establishing an organisational ethical climate supportive of individual ethical development by the active promotion of clear and concise guiding rules, underpinned by laudatory values and sentiments and backed by appropriate sanctions. It also depends upon those values and sentiments being simultaneously inculcated into correctional officer thinking informing thereby their decision-making processes through a series of staged, organisational learning and workplace training strategies, as outlined in the comprehensive model developed. Of the five stages described, the fifth, directed to the basic organisational unit, the area-managed correctional centre unit, the site therefore of the greatest potential for ethical conflict and ambiguity, where officer meets inmate at the ‘coalface’, is also where the greatest learning has to occur. This learning should proceed, it is suggested, through four mutually reinforcing steps, namely:

1. Rolling staff/shift meetings, led by the Staff Officer or local ‘On-site Trainer’ to introduce the Code of Conduct and ensure its ‘ownership’.

2. At regular all-staff meetings as an intrinsic part of the meeting, time is to be set aside to discuss ethical issues deriving from the Code of Conduct and its application to that workplace.

3. Provision to be made for individual officers to confidentially refer ethical ambiguities and dilemmas to an ‘ethics referee’ outside the chain of command for determination. Such, in a disguised form, to provide the basis for further discussion in the workplace occasioning ‘collaborative learning’ as a consequence.

4. The ethics referee is to act also as an ‘ethics mentor’, by leading discussions and initiating ethics education and organisational learning strategies in the larger correctional centre, thereby fostering a supportive ethical climate overall.
Recommendations

1. As part of the promotion of the Code of Conduct as the vehicle for further ethical reform within the department, a video or CD-ROM featuring the CEO and respective Assistant Commissioners endorsing such code and its significance, should be made and distributed to all workplaces.

2. That the various Staff Officers in correctional centres promote the introduction of the Code of Conduct by a variety of means including using the video clip or CD-ROM and hard copies of the code in discussion, in a series of rolling workplace meetings.

3. The on-going discussion of the Code be initiated at regular area-managed unit meetings in a specific time slot set aside for such discussions.

4. That the position of 'ethics mentor / referee' be created in a correctional centre, by institution-wide elections, so that a person of high ethical credibility can be selected by all staff. This person is then seen to be independent of both management and worker influence yet interprets the code in a binding manner on the cases referred to him/her.

5. Confidential access is provided to this ‘ethics referee’ who also performs ethical workplace training and organisational learning activities to the whole correctional centre. They also provide feedback to the Governor on situations requiring whole-of-centre solutions and advise the ethics enforcement or sanctions body of ‘gaps’ in the Code of Conduct protocols which need redress.

6. That Code of Conduct ‘awareness’ begin at job advertisement and recruitment interview stages where applicants are required to sign that they have understood and accepted as binding the Code of Conduct and its ethical imperatives.

7. That all Academy courses, other than computer training and personal development courses include Code of Conduct based ethical training both of a ‘direction instruction / dialogue approach’ as well as the ‘collaborative equipping’ approach dependant upon the perceived moral maturity of the participants determined by their length of service and rank attained.
INTRODUCTION

"...two questions dominate ethical inquiry - How ought one live? and What ought I to do? ...The first reflects the distanced perspective of some de-individualised and ideal being free to consider laws and norms as such; the second, the particular perspective of a real person confronting an actual situation."

Geoffrey Galt Harpham
‘Essay on Ethics’,
Critical Terms for Literary Study.

The development of an ethical climate, at an institutional level and an ethical perspective, at an individual workplace level, is a growing imperative for custodial correctional officers anxious to take their place alongside lawyers and police as fellow, criminal justice system professionals. Status considerations notwithstanding, underpinning such imperative and acting as a driving force has been the movement, evident throughout the public and private sectors, both in Australia and overseas, to introduce ethical standards and practices to govern decision making at all levels to ensure probity in public life. As the recent former Harvard University President, Derek Bok publicly observed “surveys reveal a widespread belief that ethical standards in the society have been declining and suggest that trust in the integrity of those who guide our major institutions has sunk to disturbing low levels” (Lismen, 1996:1).

Indeed NSW Corrective Services Department CEO Dr Leo Keliher, as late as August this year, confirmed this momentum when he stated that his rationale for reviewing the then existing departmental structure was to include, amongst other things, an ethical component and focus. In the Corrective Services Bulletin of 28 August, 1997, in the ‘Commissioner’s Column’, he states that the re-structure brief given to the consultant reviewer from the Strategic Policy and Reform Division within the Premier’s Department “indicated my desire to align departmental cultures, structures and strategies to deliver correctional management outcomes which demonstrate best practice by multiple standards of effectiveness, efficiency, social justice and ethics.” As I write Dr. Keliher has followed up this expressed intention by launching a full review of the Department’s current Code of Conduct with the aim to have such completed by the 31 December 1997 (Commissioner’s Memorandum 97/54 - attached). The crucial question for Dr Keliher and the one to be canvassed in this study, is how then, having developed such code, can the sentiments, values and strictures that form it be successfully implemented by their inculcation into the day to day work practices of each and every member of the correctional workplace. What is the best strategy or combination of strategies for achieving this desired state and in particular, what consequently, is the role of training in this.

The increasing concern for probity in public life, some argue, has its genesis in the scandal surrounding the Watergate Burglary in the US and the subsequent efforts to cleanse public life by impeaching the President responsible (Richer, Burke & Daig, 1990:1). Others, focusing on events at home, cite as causal, the ‘business bandits’ of the late eighties and early nineties - the Bond’s and the Skase’s of the corporate world whose financial exploits initially dazzled then later disgusted most Australians. Many, who also saw their
life’s savings squandered in the Pyramid, Compass Airlines and State Bank of South Australia collapses and the subsequent public inquiries these and similar financial disasters triggered, where both illegal and unethical practices were so nakedly revealed, were greatly angered.

The continuous succession in recent years, of inquiries into the life of government, both executive and bureaucratic, WA Inc, the Fitzgerald Inquiry in Queensland and the Wood Royal Commission in NSW which saw high ranking public officials - a former premier, police commissioner and supreme court judge vividly exposed along with many police officers of all ranks in at least two major Australian states, has added a further sense of public outrage!

These feelings of disgust, anger and outrage are increasingly fuelling the demand for reform of the ethical life of the nation, at least in the civic arena. Witness the establishment of such ‘ethics watchdogs’ as ICAC, the Ombudsman’s Office, Police Integrity Commission in this state alone and the CJC in Queensland along with the Office for the Commissioner of Public Sector Standards in Western Australia.

The Department of Corrective Services has been subjected to large scale intensive ethical scrutiny on two recent occasions, the 1976-78 Nagle Royal Commission into NSW Prisons and the 1984 Commission of Inquiry into the Early Release on Licence Scheme - both have established, as a consequence, a particular context for reform with its own important peculiarities. That historical context now needs to be briefly examined to determine what positive achievements have been made and what, if any, ‘past’ legacies remain to be overcome.

CONTEXT FOR ETHICAL REFORM IN CORRECTIVE SERVICES

“From the outset, the prison was caught up in a series of accompanying mechanisms, whose purpose was apparently to correct it...... The prison institution has always been a focus of concern and debate. Is the prison still, then, a dark, abandoned region ?”

Michel Foucault
Discipline and Punish
- The Birth of the Prison.

Whilst the 1984 Commission of Inquiry into the Early Release on Licence Scheme exposed high level corruption and resulted in the gaoling of the Minister for Corrective Services, Rex Jackson, such corruption was not seen as systemic. Rather it was viewed as the aberrant behaviour of a ‘rogue’ minister which was unlikely to be repeated. Corporate learning that was occasioned was the appropriateness of continued loyalty to one’s superiors in face of clear and present evidence of wrongdoing. The earlier 1976 - 78 Royal Commission into NSW Prisons was however to have a more lasting impact on both the organisational culture and correctional workplace practice.
The Nagle Royal Commission which exposed “officially condoned widespread systematic brutality within the prison system, which resulted in rioting and the burning down of Bathurst Gaol in 1974 and the savage physical reprisals against prisoners in the aftermath” (Green & Harrison, 1993:1) was an ethical watershed for the Department. It totally rejected as “contrary to all concepts of humanity” (Nagle, 1978, Vol. 1:210) the then ‘regime of brutality and fear’ that existed at Grafton Gaol which had sought to be explained away by the Nuremberg style defence of some officers, that “they were merely seen to be carrying out departmental policy” (Nagle, 1978, Vol. 1:105). In doing this it created a basis and impetus to a reform of the corporate culture that was to have far more significant effects than the organisational re-structure it also proposed, permeating eventually, most aspects of departmental life - certainly at the formal, procedural and managerial levels.

In 1979 as a direct consequence of the Nagle Royal Commission’s recommendations the Special Investigation Unit (SIU), now known as the Corrective Services Investigation Unit (CSIU), was established using police officers specially seconded to the Department, to carry out investigation on staff suspected of criminal behaviour. In 1985, as a consequence of the growth of both unethical behaviour and behaviour that breached departmental and public sector disciplinary codes, the Internal Investigation Unit (IIU) was formed. The work generated by this unit, particularly in the staff disciplinary area, because of its often serious legal consequences, led in 1989 to the further establishment of the Staff Discipline and Appeals Unit (SD&AU) within the Department’s legal section. Mr John Clark, manager of that unit, informed me that in order to correct a misleading impression and refocus staff attention on the “maintenance and lifting of behavioural standards” department-wide, this unit was re-named the Professional Standards Unit (PSU).

In April, 1993 the recently developed Code of Conduct and Statement of Principles was converted to pocketbook form and issued to every staff member of the Department. In the open letter to all Corrective Services staff the then Commissioner explained this major public education initiative or ethical learning strategy as necessary “for the efficiency, well being and reputation of staff members and the Department”. It does this, he goes on to say, by providing “for an environment which is ethical, free from corruption and which clearly states that unacceptable behaviour will not be tolerated in any circumstances”. The code itself is a fairly extensive descriptive document, which perhaps for the first time, in a readily accessible form, spells out both the prescriptions and proscriptions governing acceptable behaviour in the Department, exhorting as its first principle, in its Statement of Principles, the placement of “integrity and honesty above all else” (see appendix A - Code of Conduct). This Code of Conduct now informs all recruit induction training courses at the Academy being incorporated as an intrinsic part of the curriculum development process by underpinning course content in this vital, hitherto somewhat neglected, area. More will to be said about the use and effectiveness of codes later in the discussion, save to reflect at this stage upon the warning by current Assistant Commissioner of Police, Jeff Jarratt issued at the Third Annual Conference of the Australian Association for Professional and Applied Ethics at Wagga Wagga in 1996 where he said, “I believe it was Dirkheim who stated that where mores, or norms, are sufficient, then rules are unnecessary, but where mores are insufficient, rules are unenforceable” (AAPAE, 1996:63).

In 1994, as a result of a major, internal, information security audit to see how successful the Department was complying with the NSW Audit Office’s Corruption Strategy, the decision was taken to appoint a Manager of Information Security and Fraud
Control. The role of this officer, appointed in July 1995, in contradistinction to the other surveillance unit and prosecutory personnel, so she informed me, was to concentrate on unethical “systemic issues” rather than personal and individual issues.

Finally, in the same year, the 1952 NSW Prisons Act regulations were revised and amended to include additional regulation, the Prisons (Administration) Regulation No.514 of 1995, which required, under Section 35, prison officers to formally report the misconduct of other prison officers. Whilst this was substantially a re-statement of an earlier existing requirement, coming when it did, it again re-focussed attention on ethical concerns and sealed into place a comprehensive host of what Chandler (1987) has described as, ‘ethical learning strategies’. Public promulgation of such strategies, other than the issuing of a copy of the Code of Conduct to each staff member, takes the form of publication in the fortnightly Departmental Bulletin, the circulation of memos and amendments to both organisational procedure and staff personnel manuals.

The effectiveness however of the promotion of these strategies by this method, on their own, is doubted. Whilst copies of the Departmental Bulletin are circulated at correctional centres such circulation is at best ad hoc and no attempt is made to ensure everyone has access to a copy. Also the different colour coding of the job advertisement pages within the document designed to attract officers’ attention to them conversely directs their attention away from other vital items, including policies concerning ethics. Importantly the largely verbal or oral nature of the ‘correctional officer sub-culture’ mitigates against the ready use of written communications to impart information and engender critical discussion in this way. Strategies which build upon the verbal nature of cultural conditioning of these officers would seem to be far more relevant.

It is obvious from the urgency and the wide ranging nature of the current Code of Conduct review that the various strategies that have already been put in place have proved insufficient to deal adequately with either rising levels of unethical and corrupt behaviour or persistent levels of unethical behaviour which have now entered the public arena for debate by virtue of media attention.

What then is the current status of ethical instruction in the department, how effective is it. Why has it failed or been less successful than it might have been?

CURRENT STATUS OF DEPARTMENTAL ETHICAL INSTRUCTION

“CAN VIRTUE BE TAUGHT?” SOCRATES.

Without proceeding to an exhaustive discussion of ethical theories such as Consequentialist-Utilitarianism, Kantian and Virtue Ethics, the following theoretical context should act as an adequate guide.

Whilst this question of Socrates, as reported by Plato, has never been conclusively answered, in any universally convincing way, nevertheless, positions regarding the possibility of educating for ethics have clearly been taken.
Professor of Ethics, John Chandler (1987) in Martinson’s ‘Discussion on Ethics’ is representative of the first position, arguing, that whilst “surely, morality and ethics can be learned...... whether morality can be taught discursively arouses some skepticism in all of us...........” (p.9.). In largely dismissing the proposition that ethics can be taught, nevertheless he clearly distinguishes between ‘learning’ and ‘teaching’ - a distinction that is of use when considering as we already have, other ‘learning strategies’ within the NSW Department of Corrective Services encouraging the development of an ethical perspective and climate.

The second or counter position to Chandler’s is that enunciated by Clive Beck in his work ‘How Adults Learn Values’ where he states that “while adults learn [ethical] values in more ways that we have commonly recognised, the age-old approach of direct instruction still has a place” (1991:14). If one accepts this position, as is done at the NSW Corrective Services Academy, debate then ensures as to who should ‘instruct’ and in what ways should such instruction be given.

Michael Davis (1990) in his work ‘Who Can Teach Workplace Ethics’, argues that workplace professionals, with no necessary background in philosophy, rather than philosophers, should teach workplace ethics classes (Jones, 1996:113) presumably, because of their greater credibility with their workforce student audience.

Professor John Jones of Sir Stanford Fleming College, Ontario, Canada, an authority on the teaching of correctional officer workplace ethics, in his work ‘The Teaching of Ethics in Justice Programs’, disagrees somewhat with Davis feeling that such approach can lead to mere ‘doctrinate prescription’ (1996:113). He prefers the ‘collaborative equipping’ approach whereby the facilitator of the ethics education class helps students resolve moral issues for themselves in a co-operative environment (Jones, 1996:114). To do this best, the facilitator would need to be a moral philosopher or professional ethicist. Jones feels that the ‘collaborative equipping’ approach is longer lasting in its effects, because it teaches the skills with which to decide ethical questions and the process or manner in which to proceed to such resolution. However, he concedes, “that there may be times when a prescriptive approach by a respected person who knows best may be both defensible and constructive” (1996:115). In this he is supported by Beck who in his work ‘Change and Continuity and Adult Life’ states that “over time the imparting of morally relevant information offers enormous potential for increasing the morality of people’s behaviour.....” (1991:16-17) including their moral decision making. He, like Jones however, prefers “dialoguing with students rather than telling them how to live” (1991:2).

At the NSW Corrective Services Academy both variations of this second position approach to ethics education are used. At the same time, in the wider Department, a number of ethical learning strategies have also been put in place. As discussed, these have been introduced partly in response to the findings of the 1976 - 78 Nagle Royal Commission in NSW Prisons and partly due to the rising tide of on-going public sector ethical accountability, exemplified in the establishment of the NSW Ombudsmans’ Office and more recently the Independent Commission Against Corruption or ICAC as it is commonly known.

Over and above these departmental wide ‘ethical learning strategies’ the Corrective
Services Academy has sought to institute a number of training strategies for implementing ethics in the workplace that were to be based upon both the ‘direct instruction’ and ‘collaborative equipping’ approaches or some modified version of each. The ‘direct instruction’ approach has been used primarily as the main technique with the non-commissioned, correctional officer ranks, our largely junior personnel.

In the eleven week recruit induction training course, on the first day, participants are introduced to the main aspects of the Departmental Code of Conduct (see Appendix A - Code of Conduct) in a formal didactic manner by the course co-ordinator, a correctional officer of Superintendent rank. On the second day with the assistance of a senior trainer of Senior Assistant Superintendent rank, all sections of the Code of Conduct are re-explained, this time, using examples drawn from the custodial workplace experience of the training presenters to illustrate and highlight non-acceptable behaviour. In this process, of course, positive behavioural norms are canvassed but the emphasis is certainly on the negative, what one shouldn’t do! It is only later in the course, in the session on ‘Professionalism and the Code of Conduct’, taught by another correctional officer of Senior Assistant Superintendent rank, that the nature of integrity is explored. From a very much, two-way discussion of the demeanour an officer should exhibit in order to be considered a professional, the underlying ethical perspective needed is extrapolated and developed (see Appendix B - Course Handout). A ‘dialogue approach’ is adopted which seeks to encourage a reflective introspection and re-examination by the participant of their own personal standards in the light of departmental requirements, ensuring they conform to such at least whilst carrying out their official duties. In this way the organisation is therefore not solely reliant upon Aristotelian virtue theory “that in a good person the right action will be done for its own sake” (Alexandra & Miller 1996:42), ‘right action’ is rather identified and prescribed, albeit in somewhat simplistic terms. The approach then aims, in a medical analogy sense, to inoculate the recruit against any unethical behaviour existing in the workplace he/she is about to enter making them immune, so to speak, from temptation.

This same ‘dialogue approach’ process is also used in some of the Academy’s specialised training courses where attitudinal change is the fundamental aim of the program. For example in the ‘Women in Prison’ Staff Training Course, again, under the guise of ‘Professionalism’, the need for ethical behaviour is explored. In this course, in particular, the discussion of ethics and acting ethically is seen as a critical feature in engendering emotional distancing from the traditional, extremely negative stereotypes of female inmates. Such emotional distancing or objectivity aims to ensure correct, even empathic, officer-inmate interaction, with probity regulating all features of such.

In the non-commissioned officer ranks, with exception of the Senior Correctional Officer ranks, few officers are faced with ethical decision making that involves anyone but themselves, certainly in their official capacity. Hence this first level ethical training, aimed largely at the individual’s response, should for the moment suffice. Senior Correctional Officers however, as first-line, frontline managers, have both individual and ‘group standards’ maintenance responsibilities. This is particularly so in the light of widespread public sector trend to devolve managerial authority and accountable decision making downwards towards the ‘coalface’. As a consequence more ethical dilemmas will have to be dealt with at this lower management level in a whole host of areas, where formally they were referred up the ‘chain of command’ for resolution.
Perhaps, as a consequence, ethical training as such should now be extended to the Senior Correctional Officer pre-promotional training course, particularly if such courses were to become a promotional essential rather than a desirable elective.

Before leaving the teaching of junior personnel it is important to consider two other factors which support and re-inforce the ‘direct instruction’ approach of ethics training which amplifies the influence of both the ethics message and the messenger alike. Those factors are ‘mainstreaming’ and ‘modelling’.

Already, in other relevant parts of the course, such as the Duty of Care correctional officers owe their inmate ‘clients’, the teaching of that course component significantly touches upon the need to behave and operate in an ethical way. As such, Duty of Care concerns for example, like the often ‘special treatment’ required to address the cultural needs of indigenous and ethnic inmates, are seen to be predicted upon the possession of a moral sensitivity and ethical perspective in order to act in the best interest of all parties, both the inmate ‘client’ and community at large. This is particularly so given that ‘best interests’ of each are sometimes antithetical.

‘Modelling’ ethical behaviour by personal example has also been found to be very important for teaching ethics. All recruit induction training staff, in all interactions with student trainees, must personify the standards of ethical behaviour they teach in class. To ensure this, over and above the departmental Code of Conduct all have been issued with, the Academy has developed its own “Code of Ethical and Professional Conduct of Academy Staff” (see Appendix C - Academy Code) to regulate both educational and personal staff-student interactions. The code ranges from the essential fairness and integrity needed in assessing student efforts, marking and recording results and distributing or withholding academic privileges, to avoidance of entering emotional relationships with students so as not to be able to, or suspected of being able to, take personal advantage of one’s formal position in any untoward way. Maintaining such standards enhances the credibility of the trainer and their message as well as providing an observable role model for the student to emulate.

However, it is in the commissioned officer ranks, the middle management level addressed by both our Commissioned Officers’ Course for primarily aspiring commissioned officers and our Governors’ Course for current and future correctional centre, general managers, that the ‘collaborative equipping approach’ of ethics education is attempted. Some is done using the ‘pure model’ of a professional ethicist, otherwise departmental senior management personnel or technical experts take such courses. What they have in common, intrinsic to the approach, is the posing of operational ethical dilemmas to be resolved. This is done through case study analysis, discussion, debate including personal values clarification along with the essential exploration of various moral problem solving techniques, resolving then those dilemmas posed and learning future skills from the experience.

Both the Commissioned Officers’ Course and the Governors’ Course function as Executive Development Programs and are delivered, off-site at the Academy, in a daily attendance program over four and six weeks respectively. In both courses there are three ethical sessions, each of three hours duration and are taken by the Director, Security and Investigations; the Manager, Information Security and Fraud Control and Dr Simon
Longstaff, Executive Director, The St James Ethics Centre, a professional ethicist. It is upon the work of Dr Longstaff as representative of the ‘pure model’ approach that some further discussion now needs to take place.

EFFECTIVENESS OF ETHICS LEARNING INITIATIVES

“The concepts raised and the depth of thought required for ethical correctness will be outweighed by pressures of day to day management of staff and inmates”.

Anonymous written ethics session evaluation comment by a Commissioned Officers’ Course participant

It was at the end of Dr Longstaff’s session with its posing of various operational dilemmas and the teasing out and clarification of what might be considered ‘right actions’ that the above comment was made (see Appendix D - Ethical Dilemmas). Given the rank of the participant, a Senior Correctional Officer, such was considered disturbing on a number of accounts. Firstly as a first-line, frontline manager who, on occasions, particularly in a small gaol, could be called upon to act-up as a middle manager, such officer’s have both a group leadership and ‘modelling’ role to perform. Also, as a junior officer, they are closer to the original ‘ethics inoculation’ given in recruit primary training than a Governors’ Course participant, already a Commissioned Officer, might be.

Being a junior officer it was also felt the comment was also more likely to be an honestly expressed opinion as the politics of ‘playing the game’, for promotion’s sake, is less likely to be evident because there are more promotions available at this lower level than a Governor’s level and personal scrutiny of such aspirants is much less.

If the comment, honestly expressed, is a sentiment genuinely felt, despite the cynicism evident, it clearly meant a number of things needed to be importantly considered. The first was, that the effects of the original ‘ethics inoculation’ had obviously worn off, either, because it was weak and never took, or it was never re-inforced throughout the officer’s career [from base grade officer to senior usually takes from 5 - 7 years continuous service] by the addition of a ‘booster shot’, so to speak. When such ‘booster shot’ came then, in the form of the session by Dr Longstaff, the ground had long dried up and what might have been welcoming rain, had the earth been better prepared, ran off as so much disused water.

Two other alternatives also presented themselves. The first being that Dr Longstaff’s ethical instruction method was inappropriate to our organisational context or the culture of our organisation is so inherently unethical and resistant to positive change that the only way to survive in it is to adopt the reigning mores of that culture and give up the fight!

Dealing with the second proposition first. While objective evidence to the contrary may not be readily available, cultural change being an extremely long-term phenomena,
having worked in the department at the ‘coalface’ for the greater part of my thirty years service here, subjective and anecdotal evidence gathered would suggest the corporate culture has in fact changed and the climate is far less tolerant now of unethical behaviour than it was before the Nagle Royal Commission. The very existence of the various ‘ethics watchdogs’, already mentioned, now make it extremely unlikely widespread abuse, inspired by an inherently unethical and resistant organisational culture, would not already have come to light in a similar way it has in the NSW Police Service. Hence it must be assumed then that this second proposition is not the basis of the comment although in the Confidential Ethics Questionnaire that was administered to previous Governors’ and Commissioned Officers’ Course participants, in answer to Question 5 “What do you think is the best way to teach ethics in the correctional workplace?” (see Appendix E - Ethics Questionnaire) some disquiet was raised about a perceived lack of appropriate ethical ‘role-models’ amongst departmental correctional managers as a group. It must be pointed out however that the research cohort was extremely small, however, given that many were actually existing Superintendents and Deputy Superintendents, their opinion is nevertheless significant.

In exploring generally the operation of the case study / hypothetical scenario discussion method used by the St James Ethics Centre, at interview, Dr Longstaff agreed some participants did not always appreciate the relevance of the concepts raised to themselves thereby rejecting the obvious consequences of the ethical insights elicited. For some people then the process is too subtle. This could also be related to the different learning styles of different people prefer. As a consequence, however, it was felt that perhaps this issue should be further explored by way of a questionnaire (see Appendix E - Ethics Questionnaire).

Eighty-one postal questionnaires were issued to a comprehensive selection, approximately 75%, of all past participants in the four Governors’ and three Commissioned Officers’ Courses that had been run. Forty three were returned completed, an adequate response rate of some 53%. What I was trying to measure was who used what method to inform their ethical decision making. Also whether there was a clear preference for any one method in choosing between the general ‘ethical learning strategy’ of a Code of Conduct approach as opposed to a ‘collaborative equipping’ approach of the case study/hypothetical scenario discussion method. What was not measured however was the relative merits of the ‘direct instruction’ approach. Both Question 1 and Question 3 were designed to do little more than jog the participant’s memories regarding the two ethical education strategies, Questions 2 and 4 the are crucial indicators.

Twenty three respondents stated they used the information gained from the scenario discussion method as opposed to twenty four who favoured use of the Code of Conduct reference method. Eleven respondents used both methods either separately or in combination. Hence twelve exclusively used the scenario discussion method and thirteen the Code of Conduct reference method. What was interesting was the fact that seven respondents used neither - how then do they resolve ethical issues? One could argue, in adding the figures, that some 46% of respondents do not use the scenario discussion method nor do some 44% of respondents use the Code of Conduct reference method. Hence we are talking about an almost even split preference for one method over the other. Apart from the learning style preference first raised by Kolb (1976:37-42), already mentioned as one possible explanation of this phenomena, a more complex one might relate
to Kolberg’s classical stages of moral reasoning, as Dr Longstaff himself is perhaps suggesting. The 46% of respondents who never use the scenario discussion method may in fact be incapable of using it, not having progressed beyond Kolberg’s Level II Stage 4 where they “uphold(s) laws and social rules to avoid [the] censure of authorities and feelings of guilt about not doing one’s duty” (Atkinson et. al., 1987:85). As Kolberg points out progression to Level III Stage 5 where “actions [are] guided by principles commonly agreed on as essential to the public welfare; principles upheld to retain respect of peers and thus, self-respect” (Atkinson et. al., 1987:85) is rarer and only achievable by persons who have developed “the kind of abstract thinking necessary.......” (Atkinson et. al., 1987:85). This is not to say one cannot move from the lower to a higher stage, though Kolberg would argue, such movement involves an internal cognitive reorganisation rather than a simple acquisition of [merely more]........moral concepts........” (Atkinson et. al., 1987:85). This type of movement however has been observed by researchers Bandura and McDonald (1963 in Atkinson et. al., 1987:86) admittedly in children, not adults.

Such research is important to bear in mind when considering what the final model for teaching ethics in the correctional workplace might be. It perhaps suggests that any model developed should incorporate a number of multi-layered strategies that address both different learning styles, different delivery preferences and the ability to “think, problem solve and confront - not avoid - ethical dilemmas” (Crews, 1996:36), as in Kolberg’s Level III Stage 5 reasoning, previously described.

THE USE OF CODES OF ETHICS AND CONDUCT

“Good people know how to act and are motivated accordingly. They need codes neither for instructional purposes nor as external incentives. Bad people will not be moved to comply with codes except by implausibly harsh and certain sanctions. So codes are either unnecessary or useless.”

John Ladd in ‘What are Codes of Ethics for ?’ - Judith Lichtenberg in Codes of Ethics and the Professions.

Leaving aside the “moral principle framework” (Lisman, 1996:33) or deontological overtones of Ladd’s perspective, he does appear to have crystallised the extremist positions regarding the codifying of ‘right actions’. In doing so he has however, set up a simple ‘either’ ‘or’ dichotomy suggesting the futility of the endeavour itself. Whilst one can agree with him, in such extreme cases, in the everyday workplace, a whole host of intermediate positions exist. In fact one could argue, as Lichtenberg has, that these intermediate positions are the norm and that codes of conduct consequently, distil the wisdom of the many for the guidance of all (1996:20). Further, that the various role expectations and situations we find ourselves in, as a consequence of our day to day workplace activities, determine the ethical dilemmas confronted. For many then, these could not have been foreseen, “we don’t always know what behaviour is called for in the roles we choose or that are thrust upon us. Some times the fault is ours, we haven’t thought sufficiently what is at stake, sometimes the issue is complicated and defies easy solutions” (Lichtenberg, 1996:20). Lichtenberg would I’m sure however agree with Coady, that we are not so embedded in our
roles that we cannot extract ourselves to “decide on ethical grounds that it is to reject or change our roles” (1996:43).

One could also argue, as some sociologists have, that, as a result of this impact of modernity, multiculturalism itself and the declining role of the Christian Church (Black & Glasser, 1983:23) as an effective primary socialisation agent in our society, the core moral values that were previously, consensuously held and underpinned society, thereby guiding our moral decision making in all aspects of our life, are no longer evident or operating in society at large. As a consequence then, ‘good people’ are no longer always sure how to act in all ethically ambiguous situations. The internal roadmap, so to speak, has been largely lost and something, as a consequence, requires to be put in its place. Such does not need, and possibly could never be as extensive as the former internal roadmap, governing as it did all aspects of our life, but something more focussed perhaps, covering only our workplace obligations. However, even this limited guide needs, like the extensive guide it replaced, to be consensually derived, hence the requirement for the widest consultation in its formative stages. Such is also necessary to ensure emotional ownership of and commitment to, the final product. It is well documented that people are more likely to abide by decisions, or in this case, rules that will inform their decisions, if they have had a significant say in determining those very rules, particularly if such rules could ultimately, adversely effect them. As “Arrow argues the way in which codes of ethics come about will influence whether or not they work. Codes which are regularly tested with employees and which adapt to changed circumstances attract a greater sense of ownership and are more robust than mere static injunctions by the executive team” (Sinclair, 1996:99).

What then should be some of the other characteristics of any code derived? Is there anything in the nomenclature - Code of Ethics or Code of Conduct? Whilst a Code of Ethics contains laudatory statements of principle and an outline of aspirations, a Code of Conduct is usually more prescriptive, negative in tone, setting boundaries around acceptable conduct and behaviour (Nancarrow, 1997:6), it is however, not necessary to have both. If a single document is preferred for convenience sake and ease of access, both aspects need to be contained in that document. The ‘laudatory aspirations’ are in fact the publicly expressed values of the organisation and provide the internal motivation for operating correctly in circumstances where one’s wrong actions will go undetected or if reported, disbelieved because of the markedly inferior status of the complainant ie. prisoner / convicted criminal. The ‘laudatory comments’, the symbolic expression of organisational values (Lichtenberg, 1996:24), also act as a guide for those areas not covered by the ‘prescriptive elements’, total coverage being an almost impossible task. Unless such ‘prescriptive elements’ are exhaustively and extensively described some will surely be missed. These missed behaviours then, because they do not appear in such an exhaustively described schedule could mistakenly be regarded as approved, negating in this way the purpose of the code. Also the very extensiveness of the code, the sheer bulk, will detract from its ready use, encouraging at best an index reference mentality, at worst a disregard of the document. “A useful code [then] will be detailed and specific” (Lichtenberg, 1996:20) but not overly so. Hyman et.al. suggests “for ethical codes to work efficiently; they must summarise and illuminate what actually happens in the organisation” (in Mackay, 1991:3) hence they must be credible, something else gained by the widely consultative development phase. As Ruth Sims suggests “to be meaningful, codes of ethics must reflect beliefs and values which [already] exist within the group” (SMH. 5/5/97).
...
Over and above the development and promulgation of such codes something else must occur, they argue, “simply offering a list of rules to memorise will not create moral managers, because no number of rules or policies will add up to a single good act” (Hyman et al. in Mackay, 1991:3). As a consequence they suggest ‘ethical checklists’ should be developed as aids to ethical decision making and as a spur to action. Such aids, through a series of productive, programmed questions, will expose the moral thinking behind the actions being considered, thereby allowing corrections to be made beforehand.

Before leaving the nature of codes the issue of sanctions for misconduct needs to be considered. Whilst there is some division of opinion regarding the frequency of their use it is felt all codes must have some penalty for their breach. Freckelton argues that “an unpreparedness by a profession to impose harsh disciplinary penalties upon miscreant numbers flouting codes of ethics can be said to broadcast a message to all within the profession that [despite protestations to the contrary] certain kinds of misconduct are implicitly tolerated” (1996:144). Ms Kay Lord, Director Human Resource Management Division, NSW Department of Health, stated, when interviewed, that it was not until she appointed a senior serving police officer to investigate code of conduct / ethical behaviour breaches that the medical practitioners and nurses she oversights began to take the code seriously. When the doctors themselves regulated the code a more laissez faire attitude prevailed. With adequate safeguards built in to prevent false accusation and or unintentional breach, penalties should be appropriate to satisfy the declarative nature of the code, that it is something taken seriously by the organisation and is designed to bring about behavioural change in the individual code breaker. Ideally there should be a range of penalties applied to differing individual circumstances, however, the range should not be so wide so as to create the impression of inconsistency and arbitrariness of application. Confidentiality notwithstanding, cases of breach and penalties applied should be publicly reported increasing thereby the general deterrence effects of the code. “However, the deterrent component........must be kept within limited bounds, otherwise its unfairness in singling out an individual........will both perpetuate injustice and detract from the respect accorded to the enforcement of the ethical precepts” (Freckelton, 1996:158). Transparency of penalty both in penalty options provided and the process of their application is the desired state required to engender both credibility and support for the system. Hence a hierarchy of penalty tariffs is preferred, with some greater discretion being afforded first offenders. If done well, effective organisation-wide learning should result.

ETHICAL SKILLS TRAINING MODELS OPERATING ELSEWHERE

“..... if agencies do not ...... explore the potential for ethical skills learning, Codes of Ethics and Codes of Conduct will only ever be so much paper.....collecting dust.”


In the course of this study three organisations currently involved with ethical skills training were canvassed and the Fourth National Conference of the Australian Associate
for Professional and Applied Ethics held in Melbourne from the 28 September to 1 October, 1997, Melbourne University was attended for data gathering purposes. Of the three organisations canvassed two related to ‘disciplinary service’ personnel, the military and police, whilst the third related to the medical and nursing professions. Both the NSW Police Academy, Goulburn and the Australian Defence Force Academy, Canberra were personally visited on the 29 and 30 July, 1997, respectively.

Major Mark Mathews, Operations Officer of the Military Training Wing, Australian Defence Force Academy described the training given to non-commissioned officers as very similar to the first level type instruction given to recruit correctional officers ie. lectures by a ranking officer on the meaning of military ethics and what is expected of them in both peace and war. The ‘collaborative equipping’ approach using ethically ambiguous case studies and scenarios is reserved for officers-in-training at the Defence Force Academy itself, not unlike this department’s Governors’ and Commissioned Officers’ training courses, where the majority of the scenarios are drawn from workplace practice, mostly, in their case, from wartime situations. The participants discuss the scenarios and are ‘coached’ to reach acceptable responses by ethical facilitators. Sometimes the actual officer whose action at the battlefront generated the very scenario is invited to discuss, with the class, the ethical reasoning and morality behind the decisions he/she took.

Apart from these classroom situations, at the end of the various training programs which take several weeks, officers-in-training are taken on retreat by the various serving denominational military clergy, where, with anonymity and confidentiality being preserved, they can discuss personal ethical and moral dilemmas they might be facing as a result of what they are ultimately expected to do in their role as professional military fighting personnel. This counselling adjunct was seen by Major Mathews as an integral part of military officer ethical training.

Superintendent Greg Moore, Officer-in-Charge of Police Management Education at the NSW Police Academy said that until the Wood Royal Commission police officer ethical training used both the lecture style, ‘direct instruction’ and ‘collaborative equipping’ approaches secure, he felt, in the belief that such was sufficient, for the most part, to ‘inoculate’ recruits from corruption and unethical practices in the workplace. The Wood Commission had proved them sorely wrong in this belief and now, as a consequence, a much more radical interventionist ‘workplace learning’ model had been developed which they were trialing. It involves following the Internal Affairs Branch investigation team into a worksite/police station that has just been investigated as a result of specific allegations that were in fact upheld, where the ‘code of silence’ has been broken and the culture ruptured or at least fractured. These ‘ethical change agents’ from the Police Academy, first help to debrief worksite officers and before the culture can regroup by focussing on the trauma occasioned by the Internal Affairs Branch investigators and blaming them, the real culprits, the officers found to be corrupt and those who protected them by their action or inaction, are kept firmly and clearly in sight. Officers at the worksite are challenged to examine their own role in the perpetuation of the unethical practices evident and what they now propose to do about it. A joint plan of ongoing action and group self-monitoring is put in place with an ‘ethics mentor’ (person of acknowledged personal integrity) or local Professional Standards Council established in the workplace to assist in the monitoring and to advise in areas of ethical uncertainty. Superintendent Moore was very hopeful this model would prove successful and be implemented throughout the whole police service. It seems
to be a further refinement and extension of the Guide to 'Ethical Decision Making' in the recently issued NSW Police Service - Code of Conduct and Ethics which establishes specialist ethics advisors outside the chain of command (January 1997:3).

Ms Kay Lord, Director Human Resource Management Division of the NSW Health Department in charge of Staff Records and Management, the disciplinary arm of the department concerned with medical and nursing breach of ethical conduct guidelines and protocols, confirmed that training for ethics had, in the past, been left to the various university medical and nursing schools to provide as part of the students' initial tertiary training. She was concerned that this had proved woefully inadequate and that as part and parcel of the Health Department's development of a new Code of Conduct training strategies needed to be developed to ensure the code was embedded in the workplace using perhaps some form of on-going, In-service training for all current staff. What this might look like, at this stage however, was purely speculative, so she informed me.

A COMPREHENSIVE MODEL FOR ETHICAL TRAINING IN CORRECTIVE SERVICES

"I will do right to all manner of people......without fear or favour, affection or ill-will."

NSW Correctional Officers' Oath of Office.

Whilst 'right action' in a limited sense is inferred the 'right thing to do' in a more extensive sense would be the aim of ethical training. How best to do this drawing upon both the insights gained from the current status, the literature perused and the opinions canvassed? A multi-layered approach is preferred that addresses both the classroom, in relation to primary recruit training, but fundamentally and importantly, must be located in the correctional workplace. An approach that likewise addresses corporate aims for an ethical workforce and supports individual officers willing to break, in Crew's terms "......the unwritten rules, those rules that correspond to the internal politics of the organisation, [which] clash with the defined or desired rules or behaviour such as formal policy, legislation or ethics codes" (1996:37). Finally, an approach that also seeks to build upon the best aspects of organisational culture whilst inhibiting the more negative aspects. In this development, the ever growing complexity of the role of the correctional officer and manager must be increasingly recognised, particularly as the role moves from 'supervising prisoners' to 'managing inmates' and the status of the prisoner changes from 'crim' to 'client', even though this latter change is still contested at an ideological level by some officers as well as conservative media sources and audiences.

If one peruses the flowchart (attached) then one can see, diagrammatically represented, the various stages, I would strenuously argue, organisational learning and workplace training must progress through. Let me briefly deal with the 'off-line strategies' first, stages 2 to 4 as they are more straightforward and build upon existing, successful strategies, already described.
In the first instance, as a departmental wide ‘ethical learning strategy’, the first layer of ethical training staged, should address correctional job applicants. At interview, Stage 3, they should be asked to re-read and sign as having read and accepted the principles outlined in the Code of Conduct, it having already been given or posted to them on initial job inquiry. Penalties for infraction should also be clearly laid out and highlighted at interview, no later claim that a person was unaware of their ethical obligations should be able to be sustained. In this way both the declarative and denunciatory aims of the code are met.

Once at recruit training school, Stage 4, the present mode of ethics training, that of ‘direct instruction’ using both instructive and exploratory techniques by a suitably ranked, respected officer should continue. ‘Collaborative equipping’ approach techniques are not appropriate here because officers, at this stage, are largely unaware of their workplace role in other than a theoretical sense and as a consequence cannot contribute to the ‘ethical debate’ in the way this approach implies - from actual workplace experience. From here recruits will feed into the worksite training strategies, Stage 5, which will act as a reinforcing mechanism.

Returning now to consider Stage 1 - the Organisational Formation stage, which is also a repository of the vision and mission statements of corporate intention - the symbolic beacon so to speak.

Once the new Code of Conduct has been finalised, drawn together as it will have been, by some wide ranging consultative process such as focus groups, questionnaires, invited submissions, it will then need to be ‘sold’ to the groups and individuals not involved in the formation stage.

This then provides the first ‘on-line’ workplace training strategy opportunity. Perhaps a video clip or CD-ROM of the CEO and Assistant Commissioners introducing the Code of Conduct and reinforcing its future importance can be taken to the various correctional centres. Here on a staggered prisoner lock-down basis, area by area, shift by shift, it can be discussed by the Staff Officer, who is usually a credible person respected in the workplace. Obviously to do this effectively Staff Officers will need to be relieved of their other duties during the process. They might also need to be trained for this facilitated discussion duty. As local ownership is critically important the correctional centre itself, through its Staff Officer or other On-site designated trainer of sufficient credibility, should take the lead. Academy and other departmental trainers can certainly assist but to overcome the cultural resistance of “outsiders/Head Office people/non-custodials telling us what to do”, correctional centre personnel themselves must take the primary training role and lead the process.

Both the Regional and Correctional Centre Business Plans represent intermediate stages which must both reflect and monitor the ethical imperatives enunciated in the formation stage and being reinforced in the ‘off-line’ strategies. However it is in Stage 5 in the Area-Managed unit, the basic worksite unit, that the various workplace training strategies must come together in a series of interlocking steps designed to inculcate the corporate ethical imperatives enshrined in the Code of Conduct, into workplace practice. At the same time these strategies should also be providing each member of that workplace with sufficient skills to be able to correctly interpret these imperatives and be able to apply...
The referee can feed the decisions referred to him/her back into the unit as a basis for discussion and 'collaborative learning', with permission having been obtained from the referrer. As part of their 'public education' role, drawing upon the military model discussed, senior departmental managers could be invited to the correctional centre or workplace to share their ethical concerns and discuss some of the scenarios drawn from current departmental practice that will have a system-wide impact on workplace practices.

The 'ethics mentor/referee' would have a reporting role to correctional centre management, feeding back, in a somewhat disguised form, the concerns raised from the cases referred to him/her. Also they could 'feedback' to the Ethics Sanction Monitor body [which might be the Professional Standards Unit or another unit set up to refer ethically breaches to for punishment] behaviour they perceive as not being covered or inadequately covered, by Code imperatives. This feedback acts as a ready mechanism to insure the code's constant contemporaneity and relevance to the workplace.

Hence in these ways, following these steps, adequate workplace training strategies can be put in place to ensure both the development of an ethical perspective, on behalf individual officers and an enhanced ethical climate at an organisational level, the obvious aim of the current CEO whom I'm sure would no doubt agree with the following observation:

“Our practical commitment to moral authority is fragile at best.......[hence] there is a need to establish social ground rules, to co-ordinate human interactions, to execute justice, and to provide incentives for compliance. Governmental authority, with its legislative powers, is one of the institutions that make up for the practical failure of morality in an imperfect world.”

John Kleinig
The Ethics of Policing (1996:7)
**FLOWCHART**

**Ethics Organisational Learning and Workplace Training Strategies**

**Organisational Formation - Stage 1**
- Vision / Mission
- Corporate plan
- Operational Strategic Plan
- Ethical perspective / Code of Conduct promotion eg. Video / CD-ROM by Commission - CEO, ACOPS, ACPPS, ACP&E

**Stage 2**
Job Advertisement

**Stage 3**
Recruitment Interview

**Stage 4**
Academy Primary Training
- Direct Instruction and Exploration

**Stage 5**
Area-managed unit - steps:
1. Rolling staff/shift meetings, led by Staff Officer to introduce Code of Conduct.
2. At regular all-staff meetings, set aside time to discuss ethical issues arising from C of C and their application to the workplace.
3. Provision to refer ethical ambiguities to Referee for determination on a confidential basis - provide basis for further discussion.
4. Referee to lead discussions and foster ethical climate in larger CC.

**Off-line strategies**

**On-line strategies**

**Ethics Sanction Monitor**

**Ethics Mentor & Referee**

**Regional Business Plan**
- reflect / monitor

**Correctional Centre Business Plan**
- reflect / monitor
To: All Staff

Subject: Code of Conduct

I recently advised staff that the Department’s Code of Conduct was in the process of being reviewed.

I intend that all departmental staff members should have the opportunity to be involved in this review process.

Copies of the Code of Conduct (under review) will be forwarded to all workplaces during early November 1997.

The Manager of the Review will be Peter Peters, Acting Director Personnel Services while Paul Nash, Director, Legal Services will be Project Co-ordinator.

Facilitators will visit Correctional Centres, Regional Offices, Corrective Services Academy and Head Office to convene focus groups to discuss relevant issues and provide feedback to the Good Working Relationships Program Manager and eventually the Review Manager.

Arrangements will be made for interested staff members who are unable to travel to one of these locations to have the opportunity to send their written comments on the Code of Conduct to the Good Working Relationships Program Manager.

This consultation process is to commence forthwith and be completed by 31 December 1997. It is my intention to approve the new Code of Conduct by no later than 28 February 1998.

Leo Keliher
Commissioner
17 October 1997
AN OPEN LETTER TO ALL CORRECTIVE SERVICES STAFF

The Criminal Justice System in New South Wales has many problems to overcome, but none are more complex or difficult to resolve than those confronting the Department of Corrective Services. This Department is responsible for the management and security of both convicted and unconvicted persons confined by order of the Court and aims to ensure that, while in our custody, they have the opportunity to develop skills so that they will be better able to live within the law when returned to society.

On your behalf, I am committed to the rigorous pursuit of policies which gain and maintain public confidence in the integrity of the Department, its operations, and in you, its staff.

The Code of Conduct and the Statement of Principles which follow have been formulated to assist all staff by specifying the conduct expected of them in the performance of their duties.

The principles of behaviour contained in this Code of Conduct are essential for the efficiency, well-being and reputation of staff members as well as the Department. The Code provides for an environment which is ethical, free from corruption and which clearly states that unacceptable behaviour will not be tolerated in any circumstances. Your career and reputation will be greatly enhanced by a full commitment to the high standards of conduct demanded.

An understanding and acceptance of these principles is required before completing induction training and for a successful career involving increased responsibility and promotion.

The failure by a member of staff to report promptly any evidence of apparently corrupt behaviour can have very damaging consequences in that it may allow such corruption to flourish. All staff are urged to act decisively in reporting alleged corruption and to maintain the highest personal standards of integrity.

N R Smethurst
COMMISSIONER
April, 1993

NEW SOUTH WALES DEPARTMENT OF CORRECTIVE SERVICES

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Corporate Mission

To protect the community by managing inmates in an environment which is safe, secure, fair and humane and to actively encourage personal development through correctional programs.

PART 1

Introduction

A Code of Conduct rests upon the adoption of values which require personnel to behave with integrity, honesty, fairness, conscientiousness, compassion and loyalty. It also establishes standards of behaviour expected of Corrective Services staff and is a guide to solving ethical issues. Whilst there is no set of rules capable of providing answers to all ethical questions which may arise, a Code of Conduct provides the framework for appropriate conduct in a variety of contexts.

Corrective Services staff should be familiar with their responsibilities as detailed in the various Acts and Regulations which relate to their duties. All staff must adhere to the Code of Conduct and Statement of Principles. They must be aware that sanctions will be applied if there is a proven breach for non-compliance with any Act or Regulation. These sanctions range from a caution, counselling which may lead to retraining in a particular phase of duty, suspension or the preference of criminal or disciplinary charges with the imposition of a range of penalties including dismissal.

Public confidence in the integrity and objectivity of the New South Wales Department of Corrective Services is critical to effective administration and operations in the attainment of the corporate mission. Public employment carries with it a unique obligation to the public interest. This demands that people working in the public sector must exhibit standards of professional behaviour which will maintain public confidence and enhance the stature of the Department and its ability to service the public.

The Commissioner, as the principal officer of the Department, is required by Section 11 of the Independent Commission Against Corruption Act 1988, to report instances of suspected corrupt conduct.
Staff must avoid situations which may give the impression that an association in their private life, whether pecuniary or otherwise, conflicts, or could reasonably be thought to conflict, with their public duty.

In the work situation all staff are accountable for their own acts and omissions. In addition, managers have accountability for the acts and omissions of the staff they supervise in the work situation.

**Statement of Principles**

All staff of the Department of Corrective Services, as public servants, should carry out their duties and responsibilities in a manner which:

1. places integrity and honesty above all else;
2. eliminates unethical work practices;
3. respects and protects the dignity and human rights of all persons regardless of colour, social status or religion;
4. ensures that duties are carried out fairly, impartially and faithfully according to law;
5. demonstrates responsibility by self-discipline, diligence, honesty and restraint in the performance of official duty; and
6. continues to enhance the reputation of this historic and disciplined organisation.

**Relevant Legislation**

The main legislation which is relevant to employees of the Department of Corrective Services comprises the:

- Public Sector Management Act 1988;
- Anti-Discrimination Act 1977;
- Occupational Health and Safety Act 1983;
- Prisons Act 1952;
- Periodic Detention of Prisoners Act 1981;
- Sentencing Act 1989;
- Crimes Act 1900;
- Public Finance and Audit Act 1983;
- Freedom of Information Act 1989; and

**Personal and Professional Behaviour**

Staff should perform their duties diligently, impartially, and conscientiously to the best of their ability.

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When using any discretionary powers staff should ensure that they take all relevant facts into consideration and have due regard to the particular merits of each case.

**Public Comment and the Use of Official Information**

Staff (or former members of staff), should only disclose official information which is normally released to members of the public or other Departments. All other official information or documents acquired in the course of duty should only be disclosed with official approval, or where required by law.

**Use of Official Facilities and Equipment**

It is expected that staff will:

1. be efficient and economical in the use and management of public resources;
2. be scrupulous in their use of public property and services, and not permit abuse by others; and
3. only use official facilities and equipment for private purposes when proper permission has been obtained.

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They should not harass or discriminate on the grounds of sex, marital status, pregnancy, age, race, colour, nationality, ethnic or national origin, physical or intellectual impairment, sexual preference, religious or political convict when dealing with their colleagues, inmates and members of the public. Supervisors should understand and apply E.E.O. principles.

Officers may be liable to dismissal or other sanctions (in accordance with the Public Sector Management Act 1988 and Regulations) for disobedience, neglect or omission of duty, incompetence, intemperance, being under the influence of liquor while on duty or while in uniform, disrespect to any person in authority, insolent or indecent behaviour, any words or actions subversive of discipline or calculated to impair the efficiency of, or bring discredit on, the Department of Corrective Services, or any misconduct punishable by law or contrary to the Act and Regulations.

All staff have a duty to report any instance of suspected corrupt conduct, unethical behaviour or wrong-doing by any other member of staff directly to the Commissioner or other nominated person.

In the performance of their duties staff should:

1. keep up to date with advances and changes in their area of expertise;
2. comply with any relevant legislative, industrial or administrative requirements;
3. maintain adequate documentation to support any decisions made by them;
4. treat members of the public, other staff and inmates with courtesy and sensitivity to their rights;
5. provide all necessary and appropriate assistance when requested to do so by colleagues, members of the public and/or inmates;
6. strive to obtain value for public money spent and be economical in the use of public resources; and
7. only use official information gained in the course of employment for proper and appropriate purposes.

**Fairness and Equity**

Work should be dealt with consistently, promptly and fairly. This involves dealing with matters in accordance with approved procedures, quickly and without discrimination on any grounds. There is an obligation to treat each issue reasonably and with a view to meeting the principles of natural justice.

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**Part 2**

**General Responsibilities of Correctional Officers**

**Governors**

Governors are responsible for the proper performance of duty by correctional officers and other staff under their supervision.

**Other Ranks**

When correctional officers are engaged on duty, the senior ranking officer is responsible for the particular duty, and the other officers must comply with any legal direction by that particular officer.

**General Conditions of Service**

Correctional officers are to comply strictly with the Prisons Act 1952 and Regulations, the Public Sector Management Act 1988 and Regulations and any direction of the Commissioner, and promptly obey any lawful order given by a person having authority to make the order. Correctional officers are presumed to know their duty and, unless otherwise duly directed, are responsible for the due performance of their duty.

Correctional officers are at all times to exercise honesty and truthfulness, and in particular they must not:

1. wilfully or negligently make any false, misleading or incorrect statement;
2. knowingly make or sign any false statement in any official document, record or book; and
3. without good and sufficient cause, destroy or mutilate any official document, record or book, or alter or erase any entry therein.

Correctional officers may be liable to dismissal or other sanctions (in accordance with the Public Sector Management Act 1988 and Regulations) for disobedience, neglect or omission of duty, incompetence, intemperance, being under the influence of liquor while on duty or while in uniform, disrespect to any person in authority, insolent or indecent behaviour, any words or actions subversive of discipline or calculated to impair the efficiency of, or bring discredit on, the Department of Corrective Services, or any misconduct punishable by law or contrary to the Act and Regulations.

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A correctional officer is required to serve wherever the officer is duly directed, and to perform such duty as may be lawfully directed during rostered hours of duty.

A fundamental cause of disciplinary problems is often poor person management practices. An appreciation of the role of a supervisor should be developed early in an officer’s career.

Supervisors should aim to achieve impartiality, integrity, consistency and objectivity in all aspects of their duties.

**Officer’s Conduct**

The Department of Corrective Services needs officers with the necessary qualities to be able to cope with the correctional centre environment.

To work with inmates, an officer needs to be forthright, compassionate and capable of developing supervisory skills sufficient for the duties of the position.

An officer must be fair and consistent and be able to act with firmness and integrity.

An officer must be impartial in dealing with inmates but alert to devious and manipulative conduct intended to ingratiate or to apportion blame on others.

For a disciplined service to function efficiently, the rationale behind instructions must be logical and understood by all officers.

An officer should strive to be respected and trusted by his/her peers and inmates alike. Example and cooperation should be used to achieve results rather than harsh and/or disparaging treatment.

Officers should have an interest in people and their rights, needs and capabilities, but this must be tempered by an awareness and understanding of the human frailties of people imprisoned for offences against society.

**Limits of Authority**

PRINCIPLE 1 Do not impose any extra punishment or constraint on persons in custody except according to law or in the necessary maintenance of discipline.

Officers are imprisoned as punishment, not for punishment. Punishments are determined by the Courts and other sentencing authorities. It is an important principle of justice that there be no unauthorised variations of lawful punishments.

**Appropriate Force**

PRINCIPLE 2 Only use force at the lowest level to obtain compliance to orders by persons in custody, in self-defence and for the protection of others.

Physical force, including the use of any weapon, should only be used at the lowest level necessary to control a situation where there are no other practical alternatives. Detailed departmental instructions and training will assist in understanding the issues.

**Part 3**

PRINCIPLES FOR THE PERFORMANCE OF DUTIES

**Introduction**

Much of the Code of Conduct is self-explanatory. To be humane, honest and truthful should come naturally. However, life in general is complex and officers in the Department of Corrective Services have a particularly heavy responsibility to ensure fairness and equity towards those in custody as well as towards their colleagues. This responsibility extends to all supporting administrative, industrial and clerical functions. The following principles are designed to guide you in key areas.

In this section “officer” refers to all staff of the Department of Corrective Services.

**Personal and Professional Behaviour**

PRINCIPLE 3 Do not harass or discriminate on grounds of gender, marital status, pregnancy, sexual preference, disability, age, race, religion or political conviction when dealing with colleagues, public and offenders.

The principles of Equal Employment Opportunity and the Anti-Discrimination Act 1977 are fully supported.

**Responsibility Financial Management**

PRINCIPLE 4 Ensure that correct procedures laid down by the relevant Treasury and departmental instructions are followed precisely in all matters relating to the security of valuable items or money and all financial transactions.

PRINCIPLE 5 Avoid waste and extravagance in the use of public resources.

Closely controlled procedures in relation to money and property reduce opportunities for corruption. This principle includes services provided by inmates and staff.

**Use of Official Facilities**

PRINCIPLE 6 Do not take unauthorised personal advantage of any goods, services or facilities provided by the Department, including any service or work provided by inmates and staff. Unless official

**Honesty**

Be scrupulously honest.

The tests of honesty are very simple:

- Does this belong to me?
- Is it worth the risk?
- We always give these samples to visitors.
- Nobody will worry about this.
- It's not worth much now anyway.
- Nobody will worry about this.

However, those who would corrupt others are very skilful. Beware of rationalisations such as:

- We always give these samples to visitors.
- It's not worth much now anyway.
- Nobody will worry about this.

The Department is accountable for all goods and services and does not necessarily condone what may have been done in the past.
**GIVING AND ACCEPTANCE OF GIFTS AND BENEFITS**

**PRINCIPLE 11** Do not provide, or arrange to provide, any inducement in exchange for the making of a statement, an action or omission to act.

Testimony made only after an inducement has been offered lacks credibility and may be tender in the future, for departmental business.

Similarly, officers must not accept gifts or benefits from inmates, their families or friends.

**Inducements**

**PRINCIPLE 12** Neither offer, nor receive, any inducement in exchange for the making of a statement, an action or omission to act.

Testimony made only after an inducement has been offered lacks credibility and may be untruthful. Bribery in any form affecting the conduct of public sector duties is illegal.

**PUBLIC COMMENT**

Officers must have official permission to make public statements about their work and the activities of the Department.

**Truthfulness**

**PRINCIPLE 13** Tell the truth. Telling some of the truth does not give an accurate account of the whole situation. The truth is also subject to interpretation in complex situations and is blurred in the memory as time goes by. It is wise to record important information in writing as soon as possible.

**USE OF OFFICIAL INFORMATION**

**PRINCIPLE 14** Treat all information gained in the course of official duties with due care and responsibility for the welfare and confidentiality of others and the proper security of departmental operations.

**PRINCIPLE 15** Ensure that information which law or departmental instruction requires to be kept strictly confidential, is restricted to the appropriate authorised persons.

Information is a valuable resource and can cause harm to innocent persons and departmental operations if misused. Other than in the course of official duty, when called upon to give evidence in Court or when proper authority has been given, an officer should not disclose official information or documents acquired through employment.

Particular care must be taken with information related to:

1. financial matters, whereby the disclosure of information may give an unfair advantage to a person or organisation;
2. the records of inmates and staff, including former inmates and staff, their families, addresses and circumstances;
3. the circumstances of colleagues;
4. the security of a correctional centre building; and
5. future departmental plans.

**CONFLICTS OF INTEREST**

**PRINCIPLE 17** Where any conflict, or potential conflict, of interests with official duties (whether from financial interests, outside activities or personal relationships) arises, it should be declared to a senior officer.

All officers, upon becoming aware that a potential conflict between personal interests and official duty has arisen or could arise, should disclose in writing to the Commissioner or other appropriate senior officer, the circumstances involved.

A senior officer will be delegated to discuss the matter with the staff member to decide whether the matter represents conflict of interest and whether the officers involvement with it should cease. If in doubt the advice of the senior officer should be sought in confidence. Remember that an early disclosure will remove any doubt and protect your interests.

**REPORTING OF CORRUPTION**

**PRINCIPLE 18** Report knowledge or information about corrupt practices, or suspected corrupt practices, in accordance with departmental procedures and the Independent Commission Against Corruption Act.

Corruption has often been aided by the reluctance of decent people to report suspected incidences of fear of being wrong, or hurting a colleague. Failure to report suspected corrupt activity allows corrupt behaviour to continue. Any person acting corruptly is acting contrary to the interests of fellow officers or the Department. They are letting their colleagues, themselves and the "side" down.

Section 11(2) of the Independent Commission Against Corruption Act 1988 requires the Commissioner, as the "Principal Officer" of the
Department, to report suspected corrupt conduct to the Commission. In order to achieve this objective, all officers are directed to report conduct which is not consistent with conduct as defined in this Code.

Reports may be made to the relevant supervisor, to a more senior manager, the Director, Security and Investigations, the Director of Legal Services on behalf of the Commissioner, the Commissioner himself or direct to the Independent Commission Against Corruption according to the circumstances and the concerns of the reporting individual. Officers receiving reports of corruption are to advise the Commissioner immediately.

Specifically this direction targets corrupt conduct which could be or involve a criminal offence or any other conduct that would give reasonable grounds to dismiss or terminate the services of a public official.

It does not include trivial matters which can be dealt with in the ordinary course of work. Reports should be in writing and signed but may be given verbally in some cases. All such reports must be treated as confidential and officers making the report are not to discuss the details of them with any other officer in order to protect innocent parties and to guard against premature disclosures. All officers making reports about corrupt conduct will subsequently be contacted by a senior officer, in confidence, to explain the progress of the case or its resolution.

Knowledge and Professional Responsibilities

PRINCIPLE 19 Maintain and develop professional skills and knowledge of Corrective Services.

Knowledge and skills give an officer a better understanding of their duties and lead to more opportunities for advancement. Every officer should be encouraged and given the opportunity to learn relevant new skills and achieve additional knowledge.

Private Employment

PRINCIPLE 23 Do not undertake any other paid work except that formally approved by the Commissioner or undertake any private employment which might adversely affect performance of duties.

Section 80 of the Public Sector Management Act 1988 generally deals with the obligation of officers seeking outside employment. This section states that except with the permission of the appropriate Commissioner, officers shall not engage in any other employment. Any officer engaging in other employment should take care to avoid any conflict with his/her official duties. In considering whether conflict may arise, particularly where executive positions are involved, officers should consider whether the organisation concerned is in, or entering into, a contractual relationship with the Government, whether the organisations primary purpose is to lobby Government agencies or members of Parliament, or whether the organisation is in a regulatory relationship with the Department. Officers are warned that conflicts of interest can arise even in the most routine of jobs where they may be required to give service to a person with criminal convictions.

Any other employment should be performed in the officer’s private time and should not affect the efficiency or performance of the officer in his/her official duties. For example, tiredness and lack of concentration on the job when driving departmental vehicles or performing primary security duties, may endanger the lives of others.

Lawful Authority

PRINCIPLE 20 Carry out the lawful instructions of senior officers.

PRINCIPLE 21 Be familiar with legislative requirements and any official guidelines applicable to the duties of the position, in particular the limits of authority.

No organisation can operate effectively if individual members make up their own rules at variance with those in authority. Officers may not agree with some instructions but must carry out the reasonable lawful instructions of senior officers. However, all officers are encouraged to bring operational difficulties to the notice of their senior officers so that they can be resolved. All supervisors must provide opportunities for such communication to occur.

Officers who dispute the propriety of any such order may appeal to the Commissioner against being required to carry out the order, but shall, as far as possible, comply with the order until the Commissioner determines the appeal.

Because the Department administers the punishments and other orders of the Courts, it is extremely important that officers are aware of the limits of their authority.

Accountability

PRINCIPLE 22 Accept responsibility for your own acts and omissions.

In the work situation all officers are accountable for their own acts and omissions, including those of the staff they supervise. It is therefore important that the duties of all staff are clarified and that managers exercise appropriate controls and reviews of performance. This does not mean that staff will automatically be held accountable for problems where difficult conditions exist nor that managers will be held responsible for the deliberate or unpredictable behaviour of subordinates. However, it does mean that all officers will be required to fully explain how any unethical behaviour, corrupt practice or neglect of duty occurred in an area of work under their control.

Responsibility for Fairness and Equity

PRINCIPLE 24 Ensure in all matters, when managing programs and making decisions, that equity in procedures and fairness of outcome actually occur.

Fairness and equity simply means acting in a fair manner and achieving fair outcomes. Unfairness in dealing with staff, favouritism, inconsistencies, discrimination in allocating work and indifference to fair outcomes, will have a disastrous effect on morale and efficiency. Similar treatment in relation to inmates and staff supervised leads to discontent, cynicism and general unrest.

The concepts of fairness and equity are fundamental to Corrective Services operations. Procedures for the fair recruitment, employment, selection and promotion of staff, based on equal employment opportunity and anti-discrimination legislation, are already established. The departmental guidelines for tendering emphasise that all parties must be treated fairly. There are established guidelines in relation to other major functions.

Where no established procedure exists for an activity, officers should be guided by the following principles:

- equal knowledge and access to the activity program or work involved;
- each applicant or participant must be tested according to the same criteria or conditions;
- no person or organisation should be given an advantage over others by the procedures;
- selection and decision making must be made on factual information, on a balance of factors and not on the basis of unrepresentative evidence; and
- even when fair procedures have been actively attempted, if the outcomes are generally acknowledged to be unfair, all officers are obligated to check procedures and consider alternatives.
PROFESSIONALISM IN RELATION TO CORRECTIONAL OFFICER’S ROLE;

-a state of mind

-an individual type and style of dignity

-a specific attitude and job approach

-requires consistency and integrity

-requires a sound knowledge of the job

-requires an open mind

-an ongoing commitment to update existing knowledge and procedures

-in it’s strictest sense it refers to communicating and conducting oneself in a manner, that places a person above the level of an amateur
CODE OF ETHICAL AND PROFESSIONAL CONDUCT FOR ACADEMY STAFF

The following code derives from, but is supplementary to, the departmental Code of Conduct which establishes integrity as a primary principle or value governing all aspects of departmental behaviour.

The code seeks to clarify the professional rights and obligations of Academy staff. In the process it regulates their conduct as a collegiate body between each other and hence between themselves and students.

Whilst self and peer regulation of the code is the primary method of enforcement, ultimately the Principal, acting on advice, can discipline offending staff. Such discipline can result in any penalty up to and including the termination of their Academy appointment, if such is warranted. Provision for review of the penalty imposed will be to a committee of the staff of the Academy appointed by the Principal. The committee will make its recommendations to the Principal for consideration.

Where the complained of behaviour is suspected of breaching the criminal code, the matter shall be referred to the appropriate authorities.

To achieve and maintain the professional performance required of all staff at the Academy, the following imperatives are to be applied at all times:

1. Relationships with colleagues should be based on courtesy, mutual respect and professional support.

2. Criticism, particularly of other staff, shall be of a constructive nature directed to improving performance. It will only be offered in private and always with dignity and confidentially being maintained.

3. Relationships with students will be based upon the highest ethical and professional standards.

4. Staff should not fraternise or socialise with students other than at those functions specifically approved by the Principal or division head.

Principal = Director
5. Staff should not enter into emotional relationships with students during training and should a relationship exist prior to the beginning of the training period, such shall be drawn to the attention of the divisional head.

6. Staff will respect the confidentiality of information given by students unless its suppression will jeopardise the standards set by the Academy, the security of the department or breach of criminal law.

7. Staff will, without bias, respect and protect the rights of all students during the training period including the right to challenge decisions made about them by the Academy. They will only impose those forms of discipline consistent with good educational practice and departmental policy.

8. Staff will not use their position for personal gain and will disclose any vested or personal interest which might be liable to affect their professional judgement to the Principal.

9. Staff will respect the importance of rank and adhere to the Academy's dress and grooming policy on campus.

10. Staff will be fair and candid with students in all matters pertaining to their academic performance.

11. Staff will not discuss any examination questions, assignment or assessment with any student in order to advantage that student.

12. All attempts by students to cheat will be reported to the divisional head for appropriate action.

13. Staff will, in the course of preparing gradings, assessments or reports on students, concern themselves with the merit of the candidate and their work and not allow personal like or dislike to interfere with their judgement.

14. Staff will respect the universal academic code regarding plagiarism, acknowledging sources of all material quoted and used.

15. Staff will not breach copyright laws in relation to audio-visual, written and computer software material.

16. Staff will accurately record and preserve students results, leave and other Academy and departmental registers as required.

17. Official staff contact with inmates will be regulated by the Administration Manager or nominated delegate. Staff will not fraternise, socialise or enter into emotional relationships with inmates and any prior or existing relationship is to be reported to the Principal.

Principal = Director
Case 1

A correctional officer has reported the behaviour of an inmate who allegedly refused to carry out a lawful direction and then compounded the offence by muttering allegedly crude and abusive language directed at the officer. The offence occurred on a Friday when the inmate, a Muslim, refused to work. Furthermore, the alleged offensive language was spoken in a foreign language. However, the officer claims that he is certain that he did not misunderstand the intent of the insult.

Case 2

One of your male officers is making advances towards a female employee. There is no indication of harassment, but clearly the productivity of both parties is significantly reduced. They spend a lot of the time talking together and occasionally are absent on the same day.

Case 3

A particularly troublesome inmate, who is thought to have been smuggling drugs into the centre, has complained that one of your officers stood back for some minutes before intervening in a fight where the inmate was the target of a beating.

Case 4

An inmate is due to be released from the correctional centre in a week’s time. Prior to being released, the inmate is identified as being due for a random urine test for drugs. The inmate refuses to be tested.

Case 5

The government has authorised the trial use of condoms in correctional centres. One of your officers approaches you to complain that the provision of condoms (particularly for the use of homosexual acts) is against his most fundamental religious beliefs and that he will refuse to carry out any order to do with their provision, supervision or use. This will include a refusal to stock the vending machine.

Case 6

You are appointed Governor of a correctional centre located in rural New South Wales and take up your duties in late November. It is a few days before Christmas. One of your senior officers comes into the office carrying a carton of Scotch Whiskey. He takes out a bottle and places it on your desk and says “Local custom. Just a Christmas present from the local fruiterer. Good bloke, eh!”.
All of the centre’s supplies are provided by local merchants - although a large provedore has been suggested to the department that there may be some economies of scale if they had a State-wide contract.

What are the ethical issues involved?

What would you do?

What should you do?
CONFIDENTIAL ETHICS QUESTIONNAIRE
(Please tick appropriate response)

Q1 On the Governors’ Course or Commissioned Officers’ Course you attended a lengthy session conducted by a professional ethicist, Dr Simon Longstaff of the St James Ethics Centre, on ethical decision making. Do you remember it?

Yes ( )
No ( )

Q2 If yes - have you ever used any of the information or strategies discussed in this session to help you decide how to act in a situation where what the “right thing to do” was not immediately obvious?

Yes ( )
No ( )

Q3 In 1993 the Department issued all staff with a pocket size booklet of the Departmental Code of Conduct. Do you remember receiving a copy?

Yes ( )
No ( )

Q4 If yes - have you ever refered to it to help you decide what to do in a situation where what the “right thing to do” was not immediately obvious?

Yes ( )
No ( )

Q5 What do you think is the best way to teach ethics in the correctional workplace?

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Departmental

1. Ms Brenda Smith, Assistant Commissioner, Probation and Parole Service.
2. Ms Lyn Chant, Manager, Information Security and Fraud Control.
3. Mr John Clarke, Manager, Professional Standards Unit.

Academic

4. Professor John Jones, Sir Stanford Fleming College, Ontario, Canada (on visit to the CSA).
5. Dr Trevor Jordan, Lecturer in Applied Ethics and Human Change, School of Humanities, Faculty of Arts, Queensland University of Technology.
6. Dr Derek Brookes, Lecturer in Philosophy, School of Humanities and Social Sciences, Charles Sturt University, Wagga Wagga Campus.

Public Sector and Other

8. Superintendent Greg Moore, Officer-in-Charge, Police Management Education, NSW Police Academy, Goulburn.

Conferences Attended

10. Australian Association of Professional and Applied Ethics (AAPAE) - Fourth National Conference, 28 September to 1 October, 1997 - The University of Melbourne.
BIBLIOGRAPHICAL REFERENCES
(in order of appearance in text)


22. Nancarrow, M. 'Why ethics training is vital to healthy workplace practices', ICAC Corruption Matters, March/April 1997, Number 5, ISSN 1326 432X.


